

## An Exciting Week in the CRC

### An Update on Proposal 95, 61, and 26

On Friday, January 26th, the Constitution Revision Commission Local Government Committee met to consider numerous proposals that would directly affect the county's ability to govern.

Proposal 95 would create a constitutional prohibition against any county, municipality, or special district's regulation of any type of commerce, trade, or labor, unless such regulation operated exclusively within the respective entity's own boundaries in a manner not prohibited by law.

In committee, the amendment to Proposal 95 was debated and defeated. As a result, the Sponsor of the proposal, Senator Tom Lee, requested that Proposal 95 be temporarily postponed, allowing the measure to be brought back up to the CRC Local Government Committee Meeting this Friday, February 2.

Proposal 26 would create an Office of Domestic Security and Counter-Terrorism within the Department of Law Enforcement. The current language grants the county sheriff authority for security of county-operated facilities, including courthouses. A pending amendment to the proposal would narrow the sheriff's authority to courthouses and court facilities. FAC opposes both the proposal and the amendment.

Proposal 26 was not heard last week because the sponsor of the proposal was unable to attend the committee meeting. It has been rescheduled for a hearing this Friday, February 2 at 9:00 am.

Proposal 61 would require any proposed bill with a preemption be filed with the preemption portion considered on its own in a standalone bill. This process would prevent preemptions from being buried in large complex bills. Proposal 61 passed the committee and will now go to the CRC Legislative Committee on Friday, February 2.

The CRC process is far from over, but your FAC Team in Tallahassee will remain active with the CRC and continue to keep you informed of any new developments.

#### FAC CONTACT:

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Tampa Bay Times  
**Editorial: Kill This Proposed**



Daytona Beach News Journal  
**CHRISTOPHER CONSTANCE:**

## Amendment that would Hamstring Local Governments in Florida

Trampling on the power of cities and counties to govern themselves is trendy in Tallahassee these days. But a proposal before the powerful Constitution Revision Commission would make pre-emption much more than a passing craze and permanently hinder local governments' ability to sensibly regulate businesses. Home rule is a sacred principle in the state Constitution, but it's under assault in Tallahassee and Floridians should resist wrongheaded attempts to chip away at it.

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## Don't transfer more local power to Tallahassee

Occasionally, bad ideas come in bland packages. There's nothing terribly thrilling about the name "Proposal 95," but this bad idea — formulated and advanced by unelected political appointees — could dramatically reshape Florida's democratic process.

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## Texting While Driving Bills Pass Committee

The Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development and the House Judiciary Committee passed [SB 90](#) and [HB 33](#), moving them one step closer to the floor for a full vote.

The bills amend the current Florida Ban on Texting While Driving Law to change the enforcement of the from a secondary to primary offense. This change will allow a law enforcement officer to detain a motor vehicle operator solely for texting while driving.

Both chambers have added language requiring a law enforcement officer who detains someone for a texting while driving violation to inform the motor vehicle operator of his or her right to decline a search of the person's wireless communications device.

The bill prohibits a law enforcement officer from: 1) Accessing the wireless communications device without a warrant, 2) Confiscating the wireless communications device while awaiting issuance of a warrant to access such device, and 3) Obtaining consent from the motor vehicle operator to search his or her wireless communication device through coercion or other improper method. Consent to search a motor vehicle operator's wireless communication device must be voluntary and unequivocal.

The Senate added requirements for law enforcement officers to record a person's race and ethnicity if the officer issues a citation for the texting while driving violation. Law enforcement agencies must report such information to the Department of Highway Safety and Motor Vehicles, and the Department must report statewide totals annually starting in 2019.

Both bills have one more committee stop.

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## Contamination in Recycling Bill Moves Forward

The Senate Environmental Preservation and Conservation Committee and the House Natural Resources & Public Lands Subcommittee passed [SB 1308](#) and [HB 1149](#) (Environmental Regulation).

The bills include sections aimed at addressing the issue of contamination in residential recycling. As originally

filed, the bills provide that counties and municipalities cannot require recycling of “contaminated recyclable material,” which the bill defines as material containing 15 percent or more contamination (solid waste or non-recyclables).

Both sponsors amended their bills to instead require counties and cities to address the issue of recycling contamination in their contracts with recycling haulers and processors. Specifically, the contracts must define “contaminated recycling material” in a manner that is appropriate for the local community, taking into account available markets for recyclable materials.

The amendment removes the problematic language establishing a 15 percent limit for contamination, and instead allows the local governments to determine the appropriate level. Additionally, the amendment language only applies to future contracts.

FAC is working with the League of Cities and a group of waste haulers on additional changes to address the remaining concerns with the recycling language.

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## Opioid Bills One Step Closer to Full Floor

Both chambers passed opioid-related legislation this week. The Senate and House Appropriations Committees voted "yes" unanimously on Sen. Lizbeth Benacquisto's [SB 8](#) and Rep. Jim Boyd's [HB 21](#), respectively. Both bills look to pass their last committee within the next two weeks and come up for a floor vote pretty quickly.

These bills: 1) require opioid prescriptions for acute pain be limited to a three-day supply, or seven days if a doctor determines it is medically necessary, 2) allow doctors to share the state database of opioid prescriptions with other states, 3) require doctors to check the database before prescribing opioids and 4) require doctors to be trained on proper prescribing techniques.

**FAC CONTACT:**

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### Gainesville Sun House looks to spend \$50 million on opioid battle

The Florida House wants to target \$50 million toward opioid treatment and prevention in the upcoming year and spend about \$1 million on a statewide prescription-drug database, the top House health-care budget writer said Tuesday.

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## Coming Up This Week:

### **HB 521 (Edwards): Tree Trimming, Removal, Harvesting**

The bill would prohibit a local government from regulating the trimming, removal or harvesting of trees and timber on private property or requiring mitigation for tree removal or harvesting on private property. The bill would also preempt local governments from prohibiting the burial of vegetative debris on properties larger than 2.5 acres.

House Local, Federal & Veterans Affairs filed a proposed committee substitute (PCS), which will be heard on Monday afternoon, which narrows the bill significantly. The PCS provides that local governments shall not prohibit, restrict, or require permits, fees, or mitigation for tree trimming or removal in rights-of-way maintained by the state, WMDs, water control districts, CDDs, NIDs, or independent special districts.

### **SB 324 (Young): Impact Fees**

This bill addresses the timing of collection of impact fees. As originally filed, the bill would amend the impact fee statute to clarify that local governments cannot collect impact fees prior to the issuance of a certificate of occupancy for the property subject to the fee. SB 324 was amended in its first committee to instead provide that impact fees cannot be collected prior to the issuance of a building permit; this change is favorable to local governments and in line with common practices.

SB 324 passed in its second committee on Monday (Finance & Tax Approps). There was an additional amendment to clarify that the bill does not apply to water and sewer connection fees.

### **Vacation Rentals PCS (SB 1400 and SB 1640)**

A proposed committee substitute combining SB 1400 (Steube) and SB 1640 (Simmons) will be considered in Senate Community Affairs on Tuesday at 10 am. As of publication, the new language had not yet been filed.



### **Tallahassee Democrat Opinion: Vacation rentals should be regulated on the local level**

More than 110 million people visit our state each year, and vacation rentals are a great way for tourists to experience the Florida those of us who live here love.

However, welcoming visitors into residential settings rather than resort settings leaves Floridians grappling with how best to balance their support for tourism, while preserving the quality of life in the hometowns where they work, raise their families and retire.

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### **SB 308 (Bean): Federal Immigration Enforcement**

SB 308, sponsored by Senator Bean, is scheduled to be heard by the Senate Judiciary Committee on Tuesday, January 30 at 2:00 pm. The bill would require county governments and law enforcement agencies, including their officials, agents, and employees, to support and cooperate with federal immigration enforcement.

Specifically, the bill would prohibit a county government or law enforcement agency from having a law, policy, practice, procedure, or custom which impedes a law enforcement officer from communicating or cooperating with a federal immigration agency. The bill also requires any sanctuary policies currently in effect to be repealed within 90 days of the Act becoming law. If found in violation of the Act, a county or law enforcement agency could be fined by the State or subject to a suspension of state grant funding eligibility for five years.

SB 308 is similar to HB 9, which was passed by the House on the first week of Session.

### **SB 1714 (Perry): Economic Development and Tourist Promotion Agency Accountability**

SB 1714 is a companion bill to HB 3. It would place additional procedural requirements and expense on county tourism development and economic development operations - both internal and external. Some amendments have been filed. FAC is currently reviewing the language.

FAC still has considerable concerns regarding the provisions related to local government economic development activities and will continue to work with the sponsor as the bill moves through the process.

### **SB 1426 (Lee): Local Government Fiscal Transparency**

As a companion to HB 7, SB 1426 would create additional advertising requirements for actions that are deemed tax increases or the issuance of tax-funded debt. It would require certain information be posted on

county websites and would create a debt-affordability ratio to include in advertisements.

#### **FAC CONTACT:**

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## **Other Legislative Issues of Note**

The following provides information regarding legislation that may significantly impact Florida's counties.

**SB 936/HB 509 (Juvenile Justice)** - SB 936 passed the Senate Criminal Justice. The bill covers many issues regarding the Department of Juvenile Justice (DJJ) but the counties concern with the bill lies in the provision that eliminates mandatory direct file and modifies the discretionary prosecution of children as adults (discretionary direct file). This would reduce the number of children transferred to the adult system, which would increase the number of beds in the DJJ population. Counties share this cost 50/50. This issue is still very early in the process and FAC will continue to monitor the bill. The house companion (HB 509) is being sponsored by Rep. Sean Shaw. It has three committee stops and has yet to be heard in committee.

**SB 1392/HB 1197 (Prearrest Diversion Programs/Diversion Programs)** - SB 1392 passed the Senate Criminal Justice Committee. It is the first of three committees for the legislation that requires the establishment of two prearrest diversion programs in each judicial circuit in the state, one for adults and one for juveniles. The bill encourages counties, municipalities, and public or private educational institutions to participate in the prearrest diversion programs created by their judicial circuits but it does not mandate any entity to adopt. The bill does not preempt local governments from enacting noncriminal sanctions for ordinance or other violations, nor does it preempt local entities from using a different model to establish an adult prearrest diversion program. Rep. Larry Ahern's (Seminole) HB 1197 is the companion bill.

**SB 1026/HB 729 (Text-To-911 Service)** - The Senate Community Affairs Committee approved SB 1026. The bill requires all counties to develop a plan for implementing a Text-to-911 system, and to have a system in place to receive E911 text messages by 2021. FAC has spoken with Senator Book to express concerns about mandating counties who may be fiscally constrained. FAC has also reached out to all counties who have not yet implemented a Text-to-911 system to receive feedback on their concerns. Those responses are being collected. The bill has two more committees and Rep. Matt Willhite has the House companion (HB 729). It has not been heard in any of its three committees.

**HB 471/SB 624 (Unmanned Aircraft)** - The House Judiciary Committee passed HB 471. The bill prohibits drone operation over, in contact with, or near a critical infrastructure facility such as state or private correctional institutions, secure and nonsecure juvenile residential facilities and detention centers, and county jails or detention facilities. The bill also prohibits using a drone to introduce contraband into a critical infrastructure facility, making such an offense a second degree felony. The bill has cleared all of its committee references and has been placed on 2nd reading on the House floor. The identical Senate companion sponsored by Sen. Dana Young SB 624 will be heard next week in Senate Criminal Justice. This will be the first of three committees that will hear the Senate bill.

**HB 353/SB 712 (Autonomous Vehicles)** - Both bills passed in their first committees this week. HB 353 was amended to prohibit local governments from imposing taxes, fees, or other requirements on autonomous technology or vehicles, including an operator of an autonomous vehicle. FAC is working with the sponsor to remove the preemption language.

**SB 804/HB 631 (Possession of Real Property)** - These bills specify the process by which a property owner with a superior right of possession can use a cause of action to recover possession of the property. The bill includes a brief, sentence-long section which could preempt local customary use ordinances which have been used to establish a right of public access to beaches. Specifically, the bill states that a common law claim of customary use for the public use of private property must apply to a particular parcel and must be determined by the court. Both bills passed their first committees during the first week of Session. HB 631 passed its second committee this week, as expected, with a handful of no votes.

**SB 174 (Coastal Management)** - SB 174 revises the criteria for the state beach management funding program, and dedicates \$50 million for the program annually. The bill will be heard in its final committee, Senate Appropriations, on Wednesday, January 31.

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