



March 18, 2019

ACTION ALERT

Bill Imposing Restrictions on Local Government's Ability to Displace Private Waste Companies To Be Heard in First Committee

[HB 1169 \(Displacement of Private Waste Companies\)](#) by Rep. McClure is on the House Local Affairs Subcommittee agenda for Tuesday, March 19 at 8 am. This bill would substantially amend the "Fair Competition Act", which imposes restrictions and requirements on local governments intending to displace private waste companies in the provision of solid waste and recycling services. HB 1169 would impose new requirements on both solid waste and recycling collection services. The bill provides that a local government may displace a private company that provides collection service only by adopting an ordinance or resolution.

Before adopting an ordinance or resolution, a local government must do all of the following:

1. adopt a resolution of intent at least 180 days prior that: includes stated goals and justification for any franchise fees, is published at least once, is subject to public hearing, and invites service providers to participate in the planning and establishment of the collection service;
2. within 90 days of adopting the resolution of intent, develop a plan for organized collection service with the assistance and participation of existing service providers within the jurisdiction; and
3. provide 30 days' notice before a public hearing on the proposed plan to all existing service providers in the jurisdiction.

The bill specifies requirements for the local government's plan for organized collection service, including efforts to minimize displacement and economic impact to current collectors and justification for any proposed tax, franchise or similar fee. It prohibits a local government from commencing collection service for at least 5 years after adoption of an ordinance or resolution establishing such service. If the local government does not commence service within 1 year of adoption of a resolution of intent, the local government must re-initiate the notice and planning processes required by the bills.

Please contact the members of the [Local Affairs Subcommittee](#) to let them know your concerns with the bill.

Finance, Tax, & Administration

HB 5 Passes 2nd Committee, Senate Companion to be Heard Tuesday

[HB 5 \(Discretionary Sales Surtaxes\)](#) by Rep. DiCeglie increases the thresholds to adopt local option surtaxes authorized under 212.055. For those levies required to be adopted by referendum, the bill would require a two-thirds vote of the county governing body to place the surtax on the ballot, the referenda could only be on the general election ballot, and would be required to be approved by 2/3 (66.66%) of the electors voting on the question.

An amendment to the bill adopted by the committee would make procedural changes to the

performance audit requirement adopted in 2018. These changes would require the county or school board to notify OPPAGA of the pending referendum at least 180 days before the referendum is held. As amended, the bill would render any referendum that does not comply with the performance audit requirements invalid. The 2018 law was silent as to a notification timeline and penalty for non-compliance. The bill as amended also creates a process for citizen-initiated referenda to undergo the performance audit and be placed on the ballot.

The new provisions related to the performance audit would apply to referenda held after January 1, 2020. The remaining portions of the bill take effect upon becoming law (10 days from approval by the Governor).

The bill passed favorably out of House State Affairs Committee on Tuesday, March 12 with Reps. Cortes, Eskamani, Hart, and Silvers voting in opposition. Similar bill, [SB 336 \(Local Tax Referenda\)](#) by Sen. Brandes is scheduled to be heard in Senate Finance and Tax on Tuesday, March 20.



COME LOBBY AGAINST HB 5

Register for the 2019 Legislative Day now!

MARCH 27, 2019

LEON COUNTY

HB 3 Passes Committee with Amendment Removing Preemption of Businesses

[HB 3 \(Preemption of Local Professional and Occupations Regulations and Licensing\)](#) by Rep. M. Grant was heard in the House State Affairs Committee on Thursday, March 14. An adopted amendment deleted much of the language concerning preemption of business regulations and the bill no longer includes any requirements for a reauthorization process for business regulations or the extensive economic analysis.



However, the bill still includes sweeping terms to preempt local government regulation and licensing of professions and occupations, unless those regulations are "expressly authorized by law". The bill passed committee along party lines, with Reps. DuBose, Good, Hart, Hattersley, Newton, Polsky, and C. Watson voting against the bill.

Regional Rural Development Grants Bill Passes 2nd House Committee

[SB 596 \(Regional Rural Development Grants\)](#) by Sen. Albritton was heard in the Senate Innovation, Industry, and Technology Committee on Tuesday, March 12 and received unanimous support. The bill is now in its final stop in the Senate, Appropriations. Its companion bill, [HB 671 \(Regional Rural Development Grants Program\)](#), by Rep. Clemons was reported favorably by the House Workforce Development and Tourism Subcommittee on Thursday, March 7. This was its first of three stops in the House.

The bill would increase the annual grant awards for regional economic development organizations, which are defined in the bill to be those economic organizations located within a designated rural area of opportunity. It would also reduce the local match requirement. The bill would increase the maximum allowable expenditure from the Regional Rural Development Grant Program from \$750,000 to \$1 million. The bill would have no fiscal impact on state funds, however, because the appropriation for the Rural Community Development Revolving Loan Fund, which funds the grant program, remains unchanged. The bill would also increase the percentage of the project costs that could be covered by the Rural Infrastructure Fund and clarifies that eligible infrastructure projects include access to broadband internet service. Finally, the bill would require contracts associated with funding from both programs include certain provisions and be posted online at least 14 days prior to execution.

MOBILE APP LAUNCH

NACo has partnered with the Local Initiatives Support Corporation (LISC) and the Rural Community Assistance Partnership (RCAP) to develop a mobile app designed to identify areas with low or no connectivity to help ensure adequate funding for broadband infrastructure is provided.

[Click here to learn more!](#)



PRIORITY: Apprenticeship Programs Passes Second Senate Committee

[SB 522 \(Apprenticeship Programs\)](#) by Sen. Diaz was passed unanimously out of Senate Appropriations Subcommittee on Education on Tuesday, March 12. Its final committee stop is Senate Appropriations. This bill would create a new funding source to expand apprenticeship and pre-apprenticeship opportunities.

Also last week, the House Higher Education & Career Readiness Subcommittee unanimously approved Committee Bill HEC 19-02 which adopts numerous measures aimed at promoting apprenticeships, including the creation of the Florida Apprenticeship Grant Program to provide grants to career centers and other institutions authorized to sponsor apprenticeship programs.

These bills are in alignment with FAC's priority to support apprenticeship programs.

Bill Preventing TDC Dollars to be Used Towards Sports Facilities Passes Second Committee in the House

[HB 0791 \(Sports Franchises and Facilities\)](#) by Rep. Avila deletes provisions authorizing counties to use tourism development taxes to pay debt service on bonds related to sports facilities. The bill specifies that starting on July 1, 2019, tourist development tax revenue (authorized under 125.35) or convention development taxes (authorized under s. 212.0305) are prevented from being used to acquire, construct, or generally be used towards a facility that will be used by a sports franchise as defined in s. 288.11633. The bill repeals several programs that fund sports facility projects; requires sale or lease of a facility on public lands for certain purposes to be at fair market value. This bill was heard in Ways & Means, its second of three committees of reference on Tuesday, March 12.

Similar bill, [SB 414 \(Sports Development\)](#) by Sen. Lee has been heard in two of its three committees of reference. SB 414 would only repeal s. 288.11625, which was created in 2014 to allow another procedure to for professional sports franchises to receive a distribution of state sales and use tax revenue. Since its creation, no applicant has been approved by the Legislature and no distributions have been approved by the Legislature in any year.

Up This Week in Finance, Tax, & Administration

[HB 7053 \(Taxation Transparency\)](#) by the House Ways & Means Committee was filed on March 6. The bill would re-designate several state and local revenue sources, requiring the names of those source to be changed from "fee" to "tax." The bill would require the following local revenue source re-designations:

- Special assessments or non-as valorem assessments would be retitled "special benefit tax";
- Impact fees and mobility fees would be retitled "development impact tax";
- Franchise fees would be retitled "franchise tax";
- Charges to pay the cost of regulation must be titled "in a manner reasonably consistent with the type of regulation and change in question."

The bill provides that it does not affect a county's power under the constitution to impose non-tax levies and expresses the Legislature's intent that such levies only be "titled and represented to the public as taxes." The bill is scheduled to be heard by the House Appropriations Committee on Monday, March 18 at 1:00 pm.

[SB 1140 \(Attorneys' Fees\)](#) by Sen. Hutson is on the agenda in Senate Judiciary Committee on Monday, March 18 at 4:00 pm. This bill would award attorneys' fees to parties that successfully challenge a local government action on the grounds that it is preempted by the State Constitution or by state law. Attorneys' fees and costs could not be awarded by the court if the local government withdraws or repeals an ordinance.

FAC Contact:

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NEWS ARTICLES ON LOCAL TAXES

Legislators seek to curb local tax hikes



Health & Safety

First Bill of Session is on the Governor's Desk

Following suit of the Senate, and two days shy of Governor DeSantis' deadline before litigation, the Florida House passed [HB 7015 \(Medical Use of Marijuana\)](#). This bill sponsored by Rep. Rodrigues will repeal the ban on smoking medical marijuana allowing patients to receive up to 2.5 ounces of the drug every 35 days as recommended by their skilled physician. It prohibits smoking in public and in areas such as drug-free workplaces.

In 2016, approximately 71 percent of Florida's citizens supported a constitutional amendment to legalize medical marijuana. Though the 2017 bill signed into law by Gov. Rick Scott legalized the drug in edible, oil, pill, and vape form, it made smoking it illegal.

The provision, known as the "smoking ban," was challenged in circuit court in July 2017. In May 2018, Leon County Circuit Judge Karen Gievers ruled the smoking ban to be unconstitutional, but the Department of Health appealed the ruling. Once Governor DeSantis announced his intent to dismiss the appeal, both parties filed a motion to stay the appeal until this month.

On Monday, March 18, Governor DeSantis signed the bill into law.

Courthouse Security Bill Amended to Include Counties

[HB 639 \(Security in Trial Court Facilities\)](#) by Rep. Perez requires each sheriff to coordinate with specified entities to develop a comprehensive plan for security of trial court facilities; specifies that sheriffs and chief judges retain certain authority; specifies that sheriffs & their deputies, employees, & contractors are officers of court under specified circumstances.

An [amendment](#) to this bill adopted by the Criminal Justice Subcommittee requires each county sheriff to coordinate with the board of county commissioners and the chief judge of the judicial circuit to develop a comprehensive security plan for trial court facilities. The sheriff retains authority over the implementation and provision of law enforcement services under the plan. The chief judge retains decision making authority to protect due process rights, such as in the scheduling and conduct of judicial proceedings. The bill explains that sheriffs and their deputies, employees, and contractors are officers of the court when providing security for court facilities.

Companion bill [SB 762 \(Trial Court Security\)](#) by Sen. Gruters has been assigned to four stops in the Senate but has not been heard yet.

Expansion of Guardian Program Receives Support

Currently, it looks like the legislature is going to expand the Guardian Program to include teachers as eligible candidates. The Speaker, President and the Governor have all gone on record supporting the expansion.

Right now, school boards are not mandated to implement a Guardian Program, but they are strongly being encouraged to do so. On March 6, the Marjory Stoneman Douglas Commission sent letters to school superintendents encouraging them to “maximize the use of the school Guardian program,” stating that not using “willing school personnel” as Guardians was a “self-imposed limitation.” It also mentioned that the application period for school boards to apply for Guardian Program funding has been extended by Governor DeSantis via Executive Order until April 1, 2019.

Regarding [SB 7030 \(School Safety & Security\)](#) by the Senate Education Committee, it mainly seeks to implement the recommendations of the Marjory Stoneman Douglas Commission. To read more on SB 7030, please [click here](#).

FAC Contact:

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NEWS ARTICLES ON MEDICAL MARIJUANA

Florida House Rescinds Medical Marijuana Smoking Ban

Forbes

Growth Management, Agriculture, Transportation, and Environment

Small Cell Infrastructure Preemption Passes First Senate Committee

A new measure to address small cell infrastructure has started to move in the Senate. [SB 1000 \(Communications Services\)](#) by Sen. Hutson is being presented as a measure to ensure local governments comply with legislation passed in 2017.

That year, the legislature passed the Advanced Wireless Infrastructure Deployment Act, which precludes local governments from prohibiting, regulating, or charging for the collocation of small wireless facilities in the public rights-of-way, except as authorized under the law. However, the 2017 law provides conditions for denial and allows local governments to address safety and aesthetic concerns regarding collocations. It also provides limited location standards for the placement of a new, free-standing poles when collocating is not feasible.

Under SB 1000, several changes to the 2017 law are made, including: allowing applications for new utility poles to fall under the 60-day “shot clock”; prohibiting local governments from applying any regulatory standard regarding the placement of wireless facilities on private property; restricting administrative remedies, allowing wireless providers to access courts sooner; prohibiting local governments from requiring communications facilities location maps within certain distances; and, prohibiting local governments from requiring undergrounding of wireless facilities, even in areas where existing utilities are required to be placed underground.

The House bill, [HB 693 \(Communication Services\)](#), by Rep. Fischer is scheduled to be heard in the House Energy and Utilities Subcommittee on Tuesday, March 19.

Impact Fee Bill Continues to Move in the House

One of this year’s impact fee bills moved closer to early passage. [HB 207 \(Impact Fees\)](#) by Rep. Donalds passed the House State Affairs Committee this week and is now ready for the floor. The Senate bill, [SB 144 \(Impact Fees\)](#), by Senator Gruters is scheduled to for the Senate Finance and Tax Committee on Wednesday, March 20.

As reported previously, FAC contends that the bills are not necessary, as they aim to codify in statute some of the basic provisions that have settled in case law. Specifically, the bills require local government impact fee ordinances to include the so-called Dual-Rational Nexus test provision. This provision was laid out in several landmark court rulings and requires impact fees to (1) be based on a

reasonable connection, or nexus, between the need for additional capital facilities and the growth generated by the project, and (2) a reasonable connection, or nexus, between the expenditures of the funds collected from the impact fees and the benefits accruing to the subdivision or project.

On its face, codifying what has been settled by the courts does not seem problematic, as likely every enacted impact fee ordinance includes this provision. However, FAC has real concerns that including this provision in law simply opens the door for standardizing other provisions in statute that should be county-specific, including: determining how the fee is calculated; what credits should be applied; what level of service standards are used; for transportation fees, what trip rate, length, and capture rates must be used; and, how construction costs are determined. In other words, while the courts have set forth the legal test for imposing impact fees – namely, satisfying the Dual Rational Nexus Test – all other provisions are locally determined following professionally accepted practices.

FAC Contact:

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FAC Data Point

Irish Ancestry by County

In the spirit of St. Patrick's Day weekend, this week's data point is on the Irish ancestry as a percentage of each county's population. Data comes from the 2013-2017 5-Year American Community Survey conducted by the U.S. Census Bureau. For a map of Irish ancestry in each county, please [click here](#).

Irish Ancestry

IN FLORIDA COUNTIES



LARGEST:
WAKULLA COUNTY
18.6%



SMALLEST:
DADE COUNTY
1.9%



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