



March 22, 2019

Finance, Tax, & Administration

Local Tax Referenda (SB 336) Passes Second Senate Committee

[SB 336 \(Local Tax Referenda\)](#) by Sen. Brandes would require that local referenda be held at a general election. The bill passed through its second of three Senate committees on Wednesday, March 20. During that meeting, the effective date of the bill was moved to July 1 so that the bill would not apply to elections held before that date. FAC continues to work with the sponsor so that all currently scheduled elections can be held under existing law. This bill does not change any of the performance audit requirements adopted in 2018.

[HB 5 \(Discretionary Sales Surtaxes\)](#) by Rep. DiCeglie would increase the thresholds to adopt local option surtaxes. 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.

The bill would also 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 – requiring a 2/3 vote of the board and voters at a general election – would take effect upon becoming law (10 days from approval by the Governor).



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MARCH 27, 2019

• **LEON COUNTY**

HB 3 Sent to House Floor, Amended to Include Only Preemption of Licensing Requirements

[HB 3 \(Preemption of Local Professional and Occupations Regulations and Licensing\)](#) by Rep. M. Grant was heard in the House Commerce Committee, its final committee stop, on Thursday, March 21. 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 as amended includes a broad preemption of any local government licensing requirements that are not expressly authorized by law and most special licenses.

Attorney Fee Bills Pass First Committee in House & Senate

[SB 1140 \(Attorney Fees and Costs\)](#) would mandate that courts award attorneys' fees and damages in actions where an aggrieved party has brought an action against a local government alleging that a proposed or adopted local government ordinance is expressly preempted by state law. Fees and damages could also be sought in cases brought against existing ordinances. The bill does not enumerate statutes that constitute express preemptions for purposes of awarding fees and damages.

As amended, only the prevailing party may be granted fees and damages. If the local government "withdraws" an ordinance from consideration or repeals the ordinance within 21 days from a court determining it was preempted, attorneys' fees cannot be granted. This bill was passed through the Senate Judiciary Committee, its first of three committee stops, on Monday, March 18.

[HB 829 \(Attorney Fees and Costs\)](#) would require courts to assess attorneys' fees and costs against a local government if an ordinance is determined to be preempted (whether expressly or implied) by state law. A party may notify the local government that it believes an ordinance, whether adopted or under consideration, is preempted. If the ordinance is withdrawn or "appropriately corrected" the motion for fees must be withdrawn. The bill does not provide for reciprocal fees if the local government prevails. This bill would apply to existing ordinances that may be challenged as preempted.

HB 829 passed favorably through its first of three House committees, the Civil Justice Subcommittee, on Thursday, March 20.

Local Government Fiscal Transparency Passes Second House Committee

[HB 15 \(Local Government Fiscal Transparency\)](#) by Rep. Burton would require significant additional notice requirements for consideration of tax increases and issuance of tax-supported debt. The bill also requires local government to maintain a 5-year voting record of every vote on an action that would result in a tax increase or new debt; and requires additional notices must be provided on the web.

The bill includes additional public hearing requirements. A preliminary public hearing must be held 14 days prior to the public hearing to vote on a tax increase or issuance of new debt and the public hearing to take the action must be noticed by a quarter page ad in a newspaper of general circulation with a newly created notice inconsistent with the existing notice requirements for ordinances. It creates a "debt affordability ratio" that must be calculated and included in notices.

HB 15 passed the House Ways & Means Committee on Monday, March 18. This was its second of three committee stops. It is scheduled to be heard next in the House State Affairs Committee.

FAC Contact:

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NEWS ARTICLES ON LOCAL TAXES

[Central Florida officials blast bill as assault on home rule that could impede sales-tax measures](#)

Orlando Sentinel

Health & Safety

School Safety Measure to Include Teacher's Option to Carry Guns

After an intense debate and public testimonies, the House Education Committee passed [HB 7093 \(School Safety\)](#) on Thursday, March 21. This legislation is an additional layer to the MSD Public Safety Act from last year's session that will now offer teachers the option to carry guns on school grounds.

Because of the mass shooting on February 14, 2018, the Marjory Stoneman Douglas High School Public Safety Commission was established to address school safety and security. The Commission was tasked to investigate system failures in the Marjory Stoneman Douglas High School shooting as

well as prior mass violence incidents and develop recommendations for system improvements. The Guardian program was a result of the MSD Public Safety Act.

HB 7093 increases access to school guardians by allowing private schools and charter schools to employ school guardians and allows law enforcement academies and school districts that employ school resource officers (SROs), in addition to sheriffs, to offer guardian training adopted by the Criminal Justice Standards Training Commission.

In the Senate, [SB 7030 \(School Safety and Security\)](#) is on the agenda for the Infrastructure and Security committee meeting next week.

Text-to-911 Passes Second Committee in Senate

[CS/SB 536 \(911 Services\)](#) by Sen. Brandes requires each county to develop a countywide implementation plan for text-to-911 services and have a system in place to receive enhanced 911 (E911) messages from providers by January 1, 2022. CS/SB 536 was amended and requires:

- All Public Safety Answering Points (PSAP) be able to directly communicate by radio with first responders
- Every sheriff to enter into a written agreement with each agency in that respective county to create protocols under which a PSAP that does not dispatch calls for a first responder agency will directly notify the first responder agency's on-duty personnel of an emergency by radio.
- Every PSAP to install, in at least one dispatch console within its emergency operations center, the primary radio dispatch channels of each first responder in the county it serves. If there are multiple PSAPs in a county, each PSAP must have this capability.
- Every sheriff, by January 1, 2020, must certify in writing to the Department of Law Enforcement that all PSAPs in that county follow set requirements

The bill passed favorably through its second Senate committee, Infrastructure & Security, on Wednesday, March 20. Similar bill, [HB 441 \(E911 Systems\)](#) by Rep. DuBose has been referenced to three committee stops.

Firefighters' Bill of Rights Passes Final Senate Committee

[SB 494 \(Firefighters' Bill of Rights\)](#) provides specific rights when a firefighter is under investigation and subject to interrogation for a reason which could lead to disciplinary action, including reprimand, suspension or dismissal. The bill revises the definition of "interrogation" to include questioning linked to informal inquiries. In addition, the bill requires all witnesses be interviewed prior to beginning the interrogation of the firefighter when possible. It also requires that the firefighter be provided with a copy of the interrogation within a specified time frame, upon request. A firefighter must be notified and provided certain information before disciplinary actions are taken and be given an opportunity to address such findings. Local agencies employing firefighters may have to amend internal policies and procedures to reflect the changes.

SB 494 passed through its final committee, the Senate Rules committee, on Thursday, March 21.

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NEWS ARTICLES ON SCHOOL SAFETY

[Florida House advances school security bill that would allow armed teachers](#)



Growth Management, Agriculture, Transportation, and Environment

Tree Trimming Bills Are Back Again This Session

[HB 1159 \(Private Property Rights\)](#) by Rep. LaRosa passed its first committee this week. FAC has

serious concerns with this bill, which prohibits local governments from requiring permits for trimming or removing trees if a property owner determines that the tree needs to be trimmed or removed as a result of a severe storm or state of emergency. However, the bill is so unclear it could thwart local tree protection efforts and encourage people to create free flying debris in advance of a storm. FAC is working to educate policymakers and staff to ensure that the bill is more narrowly tailored.

The companion measure, [SB 1400 \(Private Property Rights\)](#) by Sen. Albritton, has not been heard to date.

Small Cell Infrastructure Preemption Passes First House Committee

[HB 693 \(Communication Services\)](#) by Rep. Fischer passed the House Energy and Utilities Subcommittee this week. The bill is a companion measure to [SB 1000 \(Communication Services\)](#), which expands the 2017 Advanced Wireless Infrastructure Deployment Act. Among the bill's provisions, HB 693 places all new utility poles under the 60-day "shot clock"; prohibits local governments from applying any regulatory standard regarding the placement of wireless facilities on private property; restricts administrative remedies by allowing wireless providers to access courts sooner; prohibits local governments from requiring communications facilities location maps within certain distances; and, prohibits local governments from requiring undergrounding of wireless facilities, even in areas where existing utilities are required to be placed underground.

SB 1000 is scheduled to be heard in Senate Community Affairs on Tuesday, March 26.

Impact Fee Bills Continue to Move in Both House & Senate

This session's primary impact fee bills continue to make their way through both chambers. While [HB 207 \(Impact Fees\)](#) is on the Special Order Calendar for Wednesday, March 27, [SB 144 \(Impact Fees\)](#) by Sen. Gruters passed 8-0 out of the Senate Finance and Tax Committee on Wednesday, March 20.

Few changes have been made to the bills and both are centered on two primary issues: (1) codifying in statute the so-called Dual-Rational Nexus test – a standard applied by the courts to test whether an impact fee ordinance is legal; and, (2) establishing the collection point for impacts to occur no earlier than at the time a building permit issued. FAC remains opposed to the bills.

Construction Industry Targets Home Rule Authority in Multiple Bills

This week, the construction industry continued its assault on local home rule, supporting no fewer than seven bills that undermine locally-adopted regulations. The following bills passed their committees with little to no opposition:

[HB 101 \(Public Construction\)](#) by Rep. Andrade and [SB 246 \(Public Construction\)](#) by Sen. Hooper reduce the amount of payment retainage a local government can hold from public construction projects from 10% to 5% (for the first half of the project) and from 5% to 2.5% (for the balance of the project. HB 101 is now ready for the floor, while SB 246 has one more committee stop (Appropriations).

[HB 167 \(Local Government Public Construction Works\)](#) by Rep. Andrade and [SB 806 \(Local Government Public Construction Works\)](#) by Sen. Perry specify the manner in which the estimated cost of a public building construction project must be determined when a local government governing board is deciding whether it is in the local government's best interest to perform the project using its own services, employees, and equipment. Specifically, the bills require the estimated cost of the project to be determined using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment costs and maintenance, insurance costs, and the cost of materials. For county construction and reconstruction projects of roads and bridges utilizing proceeds from the constitutional gas tax, the bills specify that total construction project costs must include all costs associated with performing and completing the work, including employee compensation and benefits, equipment cost and maintenance, insurance costs, and the cost of materials. SB 806 passed unanimously out of Community Affairs, while HB 167 glided easily through the House Business and Professions Subcommittee.

[HB 715 \(Florida Building Code Enforcement\)](#) by Rep. Robinson prohibits a local government from carrying forward a budget balance greater than its average cost for enforcing the Building Code for the preceding four fiscal years. The bill requires each local government to use any excess funds to rebate and reduce fees, and provide funding to non-profit organizations that expand training opportunities for the construction industry. The bill passed the House Business and Professions Subcommittee

unanimously.

Zoning Restrictions on Affordable Housing Passes First Committee in Both Senate & House

[SB 1730 \(Community Development and Housing\)](#) by Sen. Lee passed the Senate Community Affairs Committee on Wednesday, March 20. The bill prohibits local governments from implementing any form of "inclusionary zoning" to address affordable housing.

Specially, the bill prohibits a local government from: (1) mandating or establishing a maximum sales price or lease rental for privately produced dwelling units; (2) requiring the allocation or designation, whether directly or indirectly, of privately produced dwelling units for sale or rental to any particular class or group of purchasers or tenants; (3) requiring the provision of any on-site or off-site workforce or affordable housing units or a contribution of land or money for such housing, including, but not limited to, the payment of any flat or percentage-based fee, whether calculated on the basis of the number of approved dwelling units, the amount of approved square footage, or otherwise.

A similar measure, PCB COM1 passed the House Commerce Committee on Wednesday, March 20. FAC is opposed to both bills.

Restrictions on Displacing Waste Haulers Passes First House Committee

[HB 1169 \(Displacement of Private Waste Companies\)](#) by Rep. McClure passed its first committee this week. As filed, the bill requires local government to create a new system for displacing waste haulers. It contained onerous and burdensome administrative requirements. The bill was amended with a strike-all in committee that now requires local governments to give three years notice and pay 18 months of gross receipts to a displaced hauler.

Current law requires three years notice or the payment of 15 months gross receipts. Current law also allows the parties to work out a different arrangement. That flexibility would be stricken under the bill as amended. This would make the process significantly more time consuming and expensive for local governments, and would essentially require taxpayers to subsidize private companies.

Because most local governments do not have an open system for solid waste collection, the bill would apply to a very small number of counties. However, FAC will continue to express our concerns regarding this policy shift. [SB 1572 \(Displacement of Private Waste Companies\)](#) by Sen. Albritton has not been heard to date.

Water Quality Improvement Bill Passes First Senate Committee with Significant Requirements on Local Governments

[SB 1758 \(Water Quality Improvements\)](#) by Sen. Mayfield passed its first committee this week. The bill creates the "Clean Waterways Act". It requires the Department of Environmental Protection (DEP) to work with the Department of Health (DOH) to prepare a report detailing how the transfer of the septic tank program would work.

The bill also revises the requirements for Basin Management Action Plans (BMAPs). It requires that each BMAP include a plan, with specific timelines, to be submitted by each local government within the BMAP area for each wastewater treatment plant project and each onsite sewage treatment and disposal system (OSTDS) remediation plan. The bill expands and revises the OSTDS remediation plans required for the Outstanding Florida Springs to apply to all BMAPs. It also imposes penalties for a local government's failure to meet the deadlines required under the plan, including a moratorium on local government approval of building permits for new construction, a moratorium on DOH approval of new OSTDSs, and existing civil and criminal penalties for pollution.

However, the bill authorizes DEP to grant an extension of time upon a showing of good cause or to reduce penalties based on expenditures for improvements and upgrades. The bill also requires local governments within a BMAP or with impaired waters to adopt the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.

The House companion, [HB 1395 \(Water Quality Improvements\)](#) by Rep. Raschein, has not been heard to date.

FAC Contact:

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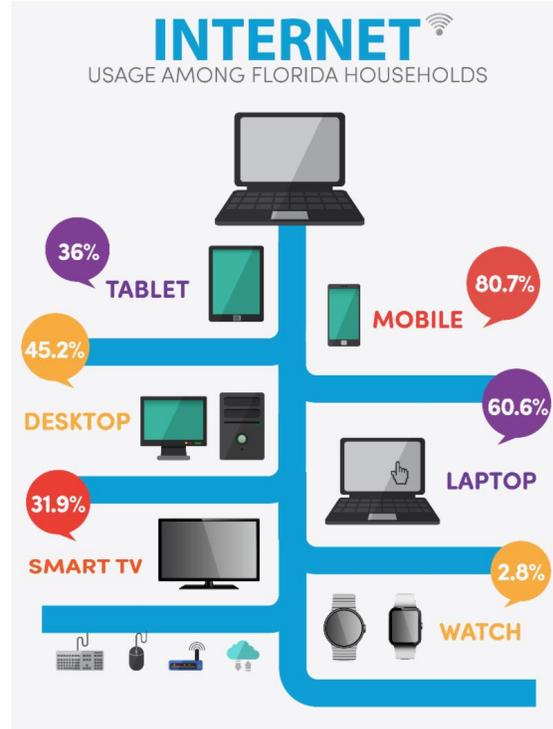
FAC Data Point

Internet Usage Among Florida Households

This data point shows that cell phones (or smart phones) are the primary means by which Florida households access the internet. It comes from U.S. Census Bureau data.

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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!](#)



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