



April 26, 2019

## Action Alerts:

### *Counties Exposed to Frivolous Lawsuits with HB 829 & SB 1140*

[HB 829 \(Attorney Fees and Costs\)](#) passed off the House floor on Thursday, April 25. However, as is the bill differs slightly from its Senate companion, [SB 1140 \(Attorney Fees and Costs\)](#) by Sen. Hutson, and is therefore expected to be bounced back.

SB 1140 was heard and passed in its final committee, Rules, on Tuesday, April 23 but has yet to be placed on the Special Order calendar for the Senate. FAC expects to see it on the Senate floor next week.

At their core, HB 829 / SB 1140 would subject every local law to endless lawsuits, simply by would-be plaintiffs claiming a law is "expressly preempted" by state law. Yet, the bill provides no enumerate list of statutes that constitute express preemptions.

Essentially, if passed, this legislation could become a golden goose for lawyers seeking to make a quick buck, while leaving local governments stuck in court and local taxpayers stuck with the bill.

FAC has created a [resource webpage](#) designed to provide counties with additional background information on these bills and with more detailed examples.

Please contact your delegation members both in the House and the Senate and urge them to not consider these bills any further.

### *Counties Ability to Develop Affordable Housing Threatened*

[HB 7103 \(Property Development\)](#) by Rep. Fischer passed off the House floor on Thursday, April 25 and has been referenced to the Senate Community Affairs and Rules committees. The bill contains many problematic changes to current growth management law, including restricting local governments' ability to enforce inclusionary housing ordinances and imposing a 120-day shot clock for local governments to review applications for development orders and permits. The bill also expands the scope of work for private providers who review site plans and inspect buildings.

While on second reading, the bill was amended to prohibit local governments from charging fees for building inspections if the owner or contractor hires a private provider. It would also allow owners and contractors to pay no fees related to building permitting requirements when using a private provider.

FAC is primarily concerned with three components:

#### ***Inclusionary Ordinances:***

- The bill prohibits counties from using inclusionary zoning to develop affordable and workforce housing. Inclusionary zoning is the practice of requiring that some large developments include a variety of housing types and homes at a range of prices, including housing that is affordable.

#### ***Impact Fees & Credits:***

- The bill artificially inflates the value of the credit, resulting in a reduction of the revenue stream to local government to pay for the infrastructure. By inflating the value of credits, it throws more of the cost of new infrastructure onto new development and the general taxing public.

**Private Providers & Inspectors:**

- The bill shortens the time-frame from 30 days to 5 days for a local government to review a permit application from a private provider. If the local government fails to provide notice within five days, then the permit application shall be deemed approved.

FAC has created more detailed talking points for your use [here](#).

### *Multiple Preemptions Included in HB 1299*

[HB 1299 \(Governmental Powers\)](#) by Rep. Roach seeks to dump **MULTIPLE** unrelated preemptions in one mass bill with an amendment adopted that adds an **ADDITIONAL** preemption. The bill was heard on second reading on Friday, April 26 and subsequently placed on final reading for Monday, April 29.

Of importance to counties, current preemptions in HB 1299 include:

- Marketing of tobacco and nicotine products - without offering substitute state regulations, essentially creating an unregulated market
- Regulations of single-use plastic straws
- Over-the-counter proprietary drugs and cosmetics (sunscreen)
- Requirement for generators

The new amendment prohibits local governments from authorizing or approving a school board's impact fee if the fee results in an increase of 5% over a two year period.

If your county has an ordinance that will be preempted, please reach out to your House delegation members encouraging them to VOTE NO on this bill.



Click here to visit the Florida Association of Counties  
**PREEMPTION TRACKER**

## Health & Safety

### *Incarcerated Women Bill Passes Off The House Floor*

[HB 49 \(Incarcerated Women\)](#) by Rep. Jones passed in the House this week. CS/HB 49 requires county detention centers to provide certain healthcare products at no cost to each incarcerated woman. The bill prohibits male correctional officers from conducting a pat-down, strip-search, or body cavity search on an incarcerated woman unless the woman presents an immediate risk of harm to herself or others and a female correctional employee is not available.

Senate companion, [SB 332 \(Incarcerated Women\)](#) by Sen. Pizzo, is on the Special Order Calendar for Friday, April 26.

### *911 Services Bill Passes in House, Considered by Senate on Monday*

[SB 536 \(911 Services\)](#) by Sen. Brandes has been placed on Special Order Calendar for Monday, April 29. SB 536 requires each county to develop a plan to implement countywide text-to-911 service by January 1, 2022, and to enact a system that allows for text-to-911 service. The bill also provides for direct radio communication between each public-safety answering point (PSAP) and first responders outside the PSAP's normal service area, for which the PSAP may reasonably receive 911 communications. The bill addresses recommendations from the Marjory Stoneman Douglas High School Public Safety Commission concerning inter-agency communications and 911 call routing.

Similar bill, [HB 441 \(E911 Systems\)](#) by Rep. DuBose passed in the House on Thursday, April 25.

# STATEWIDE OPIOID TASK FORCE

The Task Force will develop a statewide strategy and identify best practices to combat the opioid epidemic through education, treatment, prevention, recovery, and law enforcement.

To learn more and apply today, please click here.

**FAC Contact:**

For additional information, contact Tonnelle Graham at [tgraham@flcounties.com](mailto:tgraham@flcounties.com).

## Growth Management, Agriculture, Transportation, and Environment

### *Tree Trimming Bill Passes Full House, FAC Now Neutral*

[HB 1159 \(Private Property Rights\)](#) by Rep. La Rosa passed the full House by a 77-36 vote. In its final format, the bill provides that a local government may not require a notice, application, approval, permit, fee, or mitigation for tree pruning, trimming, or removal on residential property of the owner obtains documentation that the tree presents a danger to persons or property from a certified arborist or landscape architect. The bill also prohibits local governments from requiring replanting of trees removed per the provisions of the bill. Additionally, the bill clarifies that it does not apply to local governments with delegated mangrove protection authority.

The amendment significantly limited the scope of the bill and therefore FAC is now neutral on HB 1159. HB 1159 was sent to the Senate and is now the vehicle as [SB 1400 \(Private Property Rights\)](#) has been laid on the table. The bills were briefly taken up today, but temporarily postponed on third reading after the sponsor withdrew a pending amendment.

### *Small Cell Preemption Passes Off Senate Floor*

[SB 1000 \(Communications Services\)](#) by Sen. Hutson was passed off the Senate floor by a vote of 34-3. Under the 2017 law, small cell facilities were required to be approved or denied within 60 days, or otherwise deemed approved. This bill will extend this so-called "shot clock" to all communications infrastructure in the public rights-of-way. The bill also changes the ability of local governments to require place requirements on communications services providers to protect the public's rights-of-way from damage.

It's House companion, [HB 693 \(Communications Services\)](#) by Rep. Fischer, was placed on the Special Order Calendar for Friday, April 26 but was temporarily postponed.

### *House Water Quality Improvements Bills Temporarily Postponed*

[HB 973 \(Water Quality Improvements\)](#) by Rep. Payne, the House Water Quality Improvements bill, was on Special Order in the House for Friday, April 26 but was temporarily postponed. The bill combines various provisions of the original HB 973 which dealt primarily with septic tanks, and provisions from [SB 1758 \(Water Quality Improvements\)](#), Sen. Mayfield's water quality improvements bill, along with a handful of other water quality related bills that were filed this session.

The bill would transfer the septic tank program from DOH to DEP by July 1, 2020 and direct the two departments to submit recommendations for the transfer to the Governor and Legislature by December 1, 2019. The bill would also allow use of certain advanced septic systems that have been approved by a national sanitation foundation as of July 1, 2019. The bill would require a Basin Management Action Plan (BMAP) for a nutrient Total Maximum Daily Load (TMDL) to include a wastewater treatment plan and an Onsite Sewage Treatment and Disposal System (i.e. septic tanks) remediation plan, which would identify cost-effective and financially feasible projects. Such plans

would be developed by DEP along with DOH, water management districts, local governments, and wastewater facilities. The bill also includes a provision on sewage spill notifications, which would require local governments to publish notice of an unauthorized spill of sewage or partially treated wastewater on a public website; the section does not contain the penalties or certified mail requirements that were in the separate standalone bill on spill notifications. The bill also establishes a wastewater grant program, subject to legislative appropriation.

Several floor amendments have been filed to HB 973. FAC recognizes the House's efforts to advance legislation on water quality improvements this session and appreciates that the proposal does not include some of the onerous penalty sections that have been proposed this session.



**SAVE THE DATE**  
The next Water Policy Committee meeting will be at the  
**2019 Annual Conference & Education Exposition**  
**HYATT REGENCY ORLANDO | ORANGE COUNTY**  
**On Wednesday, June 12, 2019**

### *Tobacco and Nicotine Product Preemption Attempted in Senate*

An attempt to amend language preempting the regulation of marketing of tobacco and nicotine products and dispensing products was thwarted this week in the Senate. The language, which has thus far only been in House bills, including [HB 1299 \(Governmental Powers\)](#), was filed as part of a strike-all amendment to [SB 1618 \(Tobacco Products\)](#) by Sen. Simmons when the bill was up for consideration in Senate Rules. SB 1618, or the Tobacco 21 Act, would raise the legal smoking age to 21, except for a cigars. The amendment adding the preemption was withdrawn by the sponsor.

**FAC Contact:**

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