



# CAPITOL UPDATE

December 16, 2019

## Final Committee Week Wraps Up

Last week concluded the last committee week before the start to the 2020 Legislative Session. The Florida Legislature will reconvene on January 14, 2020 to kick off the official start of session.

Having formally adopted FAC's policy priorities at the Legislative Conference last month, the Association is energized and prepared to tackle the upcoming session. We hope you remain engaged with the Association. Maintaining a relationship with your delegation, coming to Tallahassee, and coordinating with FAC are powerful tools in advancing home rule.

During session, FAC will send a weekly "Legislative Bulletin" as well as periodic "Action Alerts" on key legislation. FAC will also hold weekly calls with county lobbyist and the Legislative Executive Committee. In addition, to stay up-to-date on the legislation FAC is tracking, please visit our [Bill Tracker](#). This page will be regularly updated during session.

Be sure to register for the 2020 Legislative Day on January 29th! This is a great opportunity to show legislators the impact you are having at home and remind them of the importance of preserving and strengthening home rule.



FLORIDA ASSOCIATION OF COUNTIES  
**2020 LEGISLATIVE DAY**  
Wednesday, January 29, 2020 Challenger Learning Center | Leon County  
[REGISTER NOW!](#)



## Community, **Health** & Safety

### ***Independent Living Task Force Bills Move Forward***

Both the Senate and House companion bills for the Independent Living Task Force had their second committee stop last week. If created, the task force would develop and evaluate policy to promote low-cost assistive housing for the developmentally disabled. [HB 39 \(Independent Living Task Force\)](#) by Representative Gottlieb was heard in the House Children, Families, & Seniors Subcommittee while [SB 364 \(Independent Living Task Force\)](#) by Senator Rader was heard in Senate Community Affairs; both bills were passed unanimously and both include a Florida Association of Counties appointee on the task force.

Both bills were amended to reflect the federal definition of disability. SB 364 was amended to delay the first meeting of the task force until August 1, 2020, and HB 39 to require the task force to give preference to individuals with developmental disabilities or mental illness when evaluating policies.

### ***One of Handful of Public Smoking Ban Expansions Passes First Committee***

[SB 670 \(Smoking on Public Beaches and in Public Parks\)](#) by Senator Gruters was heard and amended in the Senate Community Affairs Committee. It would allow counties and cities to further restrict smoking on beaches and in parks within their jurisdiction. Cities may also restrict smoking in county parks so long as it would not conflict with county ordinance. Furthermore, smoking would not be allowed within the boundaries of state parks. The bill passed unanimously. A direct companion, [HB 457 \(Smoking\)](#), has been filed by Representative LaMarca.

### ***Senate Committee Proposes Emergency Staging Measures in Wake of Major Hurricanes***

[SB 7020 \(Emergency Staging Areas\)](#) by the Senate Infrastructure & Security Committee had its first committee stop. The bill allows the Department of Transportation to establish emergency staging areas for supplies and evacuations during declared emergencies on the turnpike system. Preference is given to counties on the new M-CORES routes with populations of less than 200,000. The bill passed unanimously. No companion has yet to be filed.

### ***Clarification for Government-Run Child Recreation Programs Clears First Committee***

[SB 668 \(Government Recreation Programs\)](#) by Senator Book had its first committee stop in the Senate Children, Families, & Elder Affairs Committee. It would distinguish programs run by counties and cities differently from child care centers. It was subsequently amended to allow for programs to be certified by school districts in addition to cities and counties. Another amendment was passed clarifying that such programs are identified differently but are not exempt from the same requirements as child care facilities for purposes of federal regulations. The bill passed unanimously. A companion, [HB 83 \(Government-sponsored Recreation Programs\)](#) by Representative Duran, has not been heard.

### ***Drug Possession & Mandatory Minimum Reform Passes Second Committee***

[SB 346 \(Criminal Justice\)](#) by Senator Bradley was heard in its second committee stop in the Senate Appropriations Subcommittee on Criminal & Civil Justice. Relating to local government, the bill reduces penalties for drug possession under two grams, except fentanyl, to less than one year of incarceration with some exceptions. The bill also allows judicial discretion in lieu of mandatory minimums as long as certain criteria are met amongst other provisions. The bill was amended to take into consideration Chapter 921 of Florida Statute and its points system when conducting sentencing. The bill passed unanimously. Similar bills have been filed but no direct companion bill has yet to be brought forth.

#### **FAC Contact:**

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Growth, Agriculture,  
Transportation, & Environment

### ***Local Government Recycling Contract Legislation Moves Forward***

Two bills related to the contamination of recyclable material in local government contracts were heard during the committee week. The bills require counties and cities to address the contamination of recyclable material in contracts entered into for the collection, transport and processing of residential recycling materials. The bills apply to contracts executed or renewed after 10/1/2020.

[HB 73 \(Environmental Regulation\)](#) by Representative Roach passed unanimously during the House Agriculture & Natural Resources Appropriations Committee. [SB 326 \(Environmental Regulation\)](#) by Senator Perry passed unanimously during the Senate Community Affairs Committee. Both bills have one more committee stop before heading to the floor.

### ***Bill Amended to Create Florida Recycling Working Group***

Another bill regarding recycling goals, [SB 724 \(Local Government Recycling Programs\)](#) by Senator Albritton, was heard for the first time during the Senate Environment and Natural Resources Committee. The bill was replaced by a Committee Substitute and amended to establish the Florida Recycling Working Group to compile a report recommending programs and statutory changes

necessary for achieving future recycling goals based on current progress. FAC is one of 11 members to the working group. The bill still provides an exemption for fiscally constrained counties meeting recycling deadlines. The bill passed unanimously. Currently, there is no companion legislation.

## ***Bill Limiting Local Government Construction Clears First Committee***

[SB 504 \(Local Government Public Construction Works\)](#) by Senator Perry was heard for the first time in the Senate Community Affairs Committee. The bill requires local governing board to consider estimated costs using cost-accounting principles when making a determination to use own services and disclose costs after completion to the Auditor General. Senate language also prohibits local governments from using its own services, employees, and equipment if the project requires an increase employees or capital expenditures. The bill passed unanimously. Similar legislation, [HB 279 \(Local Government Public Construction Works\)](#) by Representative Smith (D), has not been heard.

## ***Clean Waterways Act Clears First Committee Amended***

[SB 712 \(Water Quality Improvements\)](#) by Senator Mayfield was heard for the first time during the Senate Community Affairs Committee. A Strike-all amendment replaced the original bill. The bill passed unanimously. DEP Secretary Noah Valenstein supported the legislation during committee. The legislation will serve as the Governor and DEP's "water package" legislation. Companion legislation is expected to be filed soon by Representatives Payne and Ingoglia which will incorporate similar language as well as [CS/CS/CS/HB973](#) from 2019.

Below are some of the highlights of the legislation:

- Onsite Sewage Treatment and Disposal System (OSTDS) program transfer from DOH to DEP
- Establishes requirements for adoption of wastewater treatment plans and/or OSTDS remediation plans as part of a BMAP if DEP determines that wastewater facilities or septic tanks are contributing at least 20% of the nutrient pollution, or if the DEP otherwise determines that remediation is necessary to achieve the TMDL
- Lines 1131-1156 address wastewater treatment plans
- Lines 1157-1184 address OSTDS remediation plans
- Wastewater grant program established (subject to appropriation) – projects to convert septic systems to sewer are prioritized; 50% local match required, but can be waived by the department for projects located within rural areas of opportunity
- Grants authority to DEP to proactively address issues contributing to sanitary sewer overflows

## ***Presentations from DEP***

The Senate Environment and Natural Resources Committee heard two presentations from DEP. Julie Espy presented on implementation of the Florida Springs and Aquifer Protection Act. John Truitt updated the committee on Perfluorinated Alkyl Substances (PFAS) monitoring. To view the presentations, [click here](#). To watch the committee meeting, please [click here](#).

## ***Environmental Matching Grant Programs Clear Senate Environment and Natural Resources Committee***

[SB 640 \(Indian River Lagoon State Matching Grant Program\)](#) by Senator Harrell was heard for the first time. The bill provides that certain projects identified in Indian River Lagoon Comprehensive Conservation & Management Plan are eligible for state matching funding consideration. Potential projects include advanced waste treatment upgrades, water treatment facility expansions, and sewer system connections. The bill passed unanimously. [HB 153 \(Indian River Lagoon State Matching Grant Program\)](#) by Representative Fine has cleared one committee.

[SB 648 \(Sargassum Seaweed Matching Grant Program\)](#) by Senator Berman was heard for the first time. The bill directs DEP to develop a grant program for the removal of Sargassum seaweed in coastal communities. According to [DOH](#), Sargassum seaweed is a floating, marine brown alga (seaweed) that floats freely in the ocean (does not attach to the bottom). It provides an important habitat for migratory organisms, however, when decaying onshore exhibits a pungent odor, a nuisance to coastal communities, and attracts flies and other insects. The bill passed unanimously. Currently, there is no companion legislation.

## ***Bill Establishing Statewide Office of Resiliency Clears First Committee***

[SB 7016 \(Statewide Office of Resiliency\)](#) by Infrastructure and Security was heard for the first time. The bill establishes the Statewide Office of Resiliency (SOR) within the Executive Office of the Governor, headed by a Chief Resilience Officer appointed by and serving at the pleasure of the Governor. The proposed bill creates the Statewide Sea-Level Rise Task Force adjunct to the SOR for the purpose of recommending consensus projections of the anticipated sea-level rise and flooding impacts along the state's coastline. The bill authorizes technical advisory groups to inform its decision-making and directs DEP to assist in developing baseline projections. Recommended projections will be submitted

to the Environmental Regulatory Commission for adoption or rejection by 1/1/2021. The bill passed unanimously. Currently, there is no companion legislation.

### ***Electric Vehicle Infrastructure Legislation Clears First Committee***

[SB 7018 \(Electric Vehicle Charging Station Infrastructure\)](#) by Infrastructure and Security was heard for the first time. The bill requires the Public Service Commission (PSC), in coordination with the DOT and the DACS Office of Energy, to develop and recommend a plan for the development of electric vehicle charging station infrastructure along the State Highway System by 7/1/2021. The bill passed unanimously. Currently, there is no companion legislation.

### ***Bill Requiring Sea-Level Rise Study Before Construction Passes Second Committee***

[SB 178 \(Public Financing of Construction Projects\)](#) by Senator Rodriguez was heard in its second committee stop in the Senate Infrastructure & Security Committee. The bill requires a DEP study on sea-level rise for buildings with potential to be affected that are financed with public funds. The bill was amended to include official baseline projections into consideration, as well as delay implementation so that the bill would work in concert with SB 7016 establishing the Statewide Office of Resiliency. The bill passed unanimously. Representative Alopis has filed [HB 579 \(Public Financing of Construction Projects\)](#) as a companion.

### ***Voluntary Sanitary Sewer Inspection Legislation Clears Second Committee***

[SB 150 \(Sanitary Sewer Laterals\)](#) by Senator Brandes was heard in its second committee stop during the Senate Judiciary Committee. The bill encourages counties and municipalities to establish a sanitary sewer lateral inspection program by 7/1/2022. The bill also requires a seller of real property to disclose any known defects in the property's sanitary sewer lateral to a prospective purchaser. Local governments may experience a fiscal impact when implementing the suggestions. The bill passed unanimously. Currently, there is no companion legislation.

### ***Towing Reform Bill Passes Second Committee***

[HB 133 \(Towing and Immobilizing Vehicles and Vessels\)](#) by Representative McClain was heard in its second committee stop in the House Business & Professions Subcommittee. The bill was amended to allow notices up to ten feet away from the road, push back the effective date of the bill to Oct. 1, 2020 to allow for implementation, restores current law to the bill regarding liability of attorneys' for improper towings, and removes the statewide preemption regarding attorneys' fees for towing. The bill passed 10-2 (Alexander, Gottlieb). No companion bill has been filed at this time.

#### **FAC Contact:**

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Finance, **Tax**, & Administration

### ***Public Records Prohibition Ready for House Floor***

[HB 195 \(Public Records\)](#) by Representative Ray Rodrigues was heard in its final committee stop, State Affairs Committee, before the House floor. The bill prohibits an agency or local government from responding to a public records request by filing a civil action against the individual or entity making the request. FAC raised concerns with the bill's complete prohibition on local governments filing declaratory judgment actions against requestors, particularly in those cases the release of the documents is contingent upon a court order. The bill passed unanimously. Comparison legislation, [SB 162 \(Public Records\)](#) by Senator Perry, has cleared two committees in the Senate and is in the Rules Committee.

### ***Bills Repealing/Amending the Constitution Revision Commission***

[HB 301 \(Repeal of the Constitution Revision Commission\)](#) / [HB 303 \(Constitution Revision Commission\)](#) by Representative Drake was heard in its second committee stop during the House State Affairs Committee. The bills propose a constitutional amendment that would abolish the



Constitutional Revision Commission. Legislators want to abolish the commission or limit proposed amendments to a single subject limitation similar to the legislature. The bills passed unanimously.

### ***Single Subject Limitations to the State Constitution***

Two bills that would limit amendment proposals to a single-subject were heard for the second time. Senator Rodriguez filed [SB 176 \(Single-subject Limitation for Constitution Revision Commission Proposals\)](#) and [SB 396 \(Single-subject Limitation for Taxation and Budget Reform Commission\)](#) to prevent bundled amendments proposed to the Constitutional Revision Commission as well as the Taxation and Budget Reform Commission. Both bills passed the committee unanimously.

### ***Public Records Protection Bills Move Forward***

[SB 248 \(Public Records/County Attorneys and Assistant County Attorneys\)](#) by Senator Hooper was heard in its second committee stop during the Senate Governmental Oversight & Accountability Committee. The bill provides an exemption from public records requirements for the personal identifying and location information of current and former county attorneys and assistant county attorneys, including the names and personal identifying and location information of the spouses and children of such attorneys. FAC adopted a support statement at the Legislative Conference in support of this legislation. FAC, Broward, Charlotte, and Pasco counties offered support for the measure in committee. The bill passed unanimously. [HB 63 \(Pub. Rec./County Attorneys and Assistant County Attorneys\)](#) by Representative Maggard has not been heard.

[HB 479 \(Pub. Rec./Judicial Assistants\)](#) by Representative Fetterhoff was heard for the first time during the House Civil Justice Subcommittee. The bill creates a public records exemption for personal identification information for current or former judicial assistants and their spouses and children. The bill passed unanimously. [SB 128 \(Public Records/Judicial Assistants\)](#) by Senator Wright has one more committee stop.

### ***Bills Impacting the Florida Commission on Human Relations***

Two bills impacting the Florida Commission on Human Relations cleared the Senate Governmental Oversight & Accountability Committee.

[SB 374 \(Housing Discrimination\)](#) by Senator Rouson was heard in its second committee stop. The bill clarifies that complainants alleging housing discrimination do not have to exhaust administrative remedies by filing a complaint with the Florida Commission on Human Relations prior to filing a civil case in court. Federal funding for FHCR is tied to passage of the bill. The bill passed unanimously. Companion legislation, [HB 174 \(Housing Discrimination\)](#) by Representative Davis, has cleared one committee.

[SB 726 \(Florida Commission on Human Relations\)](#) by Senator Rouson was heard for the first time. The bill makes several changes to the Commission including quorum requirements, changes to notices, civil action limitations, and timelines for resolving complaints. The bill does not appear to have a fiscal impact on state or local governments. The bill passed unanimously. Companion legislation, [HB 255 \(Florida Commission on Human Relations\)](#) by Representative Antone, has not been heard.

### ***Modifications to the Regional Rural Development Grant Clears Second Hurdle***

[SB 426 \(Regional Rural Development Grants Program\)](#) by Senator Montford was heard for the second time during the Senate Innovation, Industry, and Technology Committee. The bill modifies the grant program to reduce matching requirements, increases the maximum grant to RAOs from \$150,000 to \$250,000, and allows grant funds to build the professional capacity of Opportunity Florida, Florida's Heartland Economic Region of Opportunity, and North Florida Economic Development Partnership. FAC adopted a support statement at the Legislative Conference in support of this legislation. FAC and Okeechobee County along with Commissioner Burroughs offered support for the legislation. The bill passed unanimously. Companion legislation is expected to be filed before the start of the legislative session in January.

### ***Amendment 12 Implementing Legislation is Introduced***

[PIE1 \(Prohibition Against Abuse of Public Position\)](#) was heard as a committee bill during the House Public Integrity & Ethics Committee. The legislation implements Amendment 12 approved by the voters in 2018. The amended constitutional language prohibits a public officer or public employee from abusing his or her public position in order to obtain a disproportionate benefit. The bill passed unanimously and has been re-filed as HB 7009. Companion legislation, [SB 7006 \(Penalties for Violations of the Constitutional Prohibition Against Abuse of Public Position\)](#), has one more committee stop.

## ***Tax Refunds for Job Training Organizations Clears First Committee***

[SB 654 \(Sales Tax Refund for Eligible Job Training Organizations\)](#) by Senator Lee was heard for the first time during the Senate Commerce & Tourism Committee. The bill provides a sales tax refund for job training organizations that are 501(c)3 organizations who offer services to low income persons, individuals who have workplace disadvantages, or individuals with barriers to employment. Organizations are entitled to a refund of 10% of the sales tax on sales of goods donated to the organization for these job training programs. REC determined that similar legislation (2019) would reduce GR by \$1.6 million and that local government revenue would be reduced by \$0.4 million. The bill passed unanimously. Currently, there is no companion legislation.

## ***Film Incentives Clear First Senate Committee***

[SB 530 \(Entertainment Industry\)](#) by Senator Gruters was heard for the first time during the Senate Commerce & Tourism Committee. The bill creates the Film, Television, and Digital Media Targeted Rebate Program within DEO under the supervision of the Commissioner of Film and Entertainment. The bill authorizes applicants to receive rebates up to 20% of qualified expenditures with the requirement to make a good faith effort to use existing providers of infrastructure or equipment and employ residents of Florida. The Florida Film and Entertainment Advisory Council must determine a score for each qualified project. Hillsborough and Miami-Dade offered support for the legislation. The bill passed unanimously. Companion legislation, [HB 497 \(Entertainment Industry\)](#) by Representative Buchanan, has not been heard.

## ***Fireworks Bills Move Forward***

Two bills related to the regulation of fireworks were heard during the committee week. The bills seek an additional exception to the prohibition of the sale and use of fireworks to allow their use on Memorial Day, Independence Day, New Year's Eve, and New Year's Day.

[HB 65 \(Fireworks\)](#) by Representative Ana Maria Rodriguez was heard during the House Local, Federal & Veterans Affairs Committee. The bill passed with a 10-1 vote.

[SB 140 \(Fireworks\)](#) by Senator Hutson was heard during the Senate Banking and Insurance Committee. The bill passed unanimously.

## ***Bills Related to the Clerks of the Court Heard During Judiciary Committee***

[SB 590 \(Clerks of the Court\)](#) by Senator Hooper was heard for the first time. The bill deletes the requirement that the Justice Administrative Commission provide funds to the clerks of the court to compensate jurors and pay for certain expenses and certain jury-related personnel costs. The bill passed unanimously. Currently, companion legislation has not been filed.

[SB 790 \(Clerks of the Circuit Court\)](#) by Senator Brandes was heard for the first time. The bill provides that the clerks of court must remit certain fees to the Department of Revenue only if those fees are collected for performing "court-related" functions, and allows the clerks to retain certain fees collected for performing "county-related" functions. Specifically, the bill requires that \$20 of \$100 service charges/filing fees for appeals from the county or circuit courts to the district courts of appeal or the Supreme Court. The Clerks of Court Operations Corporation identifies this as a "glitch" bill intended to clarify 2008, 2017, and 2019 modifications to the service charge and filing fee statutes, without reversing those modifications. The bill passed unanimously. Companion legislation, [HB 591 \(Court Service Charges\)](#) by Representative Clemons, has not been heard.

## ***Firefighter Cancer Grant Program Clears First House Committee***

[HB 487 \(Fire Prevention and Control\)](#) by Representative Fetterhoff was heard for the first time during the House Insurance & Banking Committee. The bill creates the Firefighter Cancer Decontamination Equipment Grant Program within DSFM to provide financial assistance in an effort to help protect firefighters from acquiring cancer. Funds allocated through this program can be used for equipment, supplies, and education training related to mitigating exposure to hazardous fire contaminants. The program will award grants on a need-based basis and require a minimum of 25 percent non-state funding. The bill does not contain an appropriation and does not have a fiscal impact on local government revenue or expenditures. The bill passed unanimously. [SB 1092 \(Fire Prevention and Control\)](#) by Senator Bean has not been heard.

## ***Bill Impacting Public Procurement Process Clears First House Committee***

[HB 441 \(Public Procurement of Services\)](#) by Representative DiCiglie was heard for the first time during the House Oversight, Transparency, & Public Management Subcommittee. The bill amends the

Consultant's Competitive Negotiation Act (CCNA) to increase the maximum limit for contracting cost of \$2 million to \$5 million. The bill also increases the maximum limit for procuring a study using a continuing contract from \$200,000 per study to \$500,000. The bill may have a positive fiscal impact on state and local government expenditures by allowing the state or local government to enter into larger continuing contracts under the CCNA, thereby possibly reducing the amount of money and time expended on procuring services on a per-project and per-study basis. The bill passed unanimously. [SB 506 \(Public Procurement of Services\)](#) by Senator Perry has not been heard.

### ***Bill on Local Government Retainage Clears Second Committee***

[HB 101 \(Public Construction\)](#) by Representative Andrade was heard for its second committee stop in the House Oversight, Transparency & Public Management Subcommittee. The bill reduces the cap amount of payment retainage by local government entities for construction contracts from 10% to 5%. The bill also removes any provisions relating to lowering of retainage to 5% at 50% completion as the cap has already been lowered from the start of the contract. The bill was passed unanimously. The bill's companion, [SB 246 \(Public Construction\)](#) by Senator Hooper, has passed through its first two committees.

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FAC Data Point

### **Sales Tax Competitiveness**

In 2018, the U.S. Supreme Court ruled that states may impose taxes on entities that have a “substantial nexus” to the taxing state regardless of whether the entity has a physical presence within that state. This overrules previous Supreme Court precedent that had prevented states from levying sales tax on sellers without a physical presence.

- Florida does not currently tax entities without a physical presence in the State.

The U.S. Supreme Court's 2018 ruling in *South Dakota v. Wayfair* took the unusual step of receding from a previous decision, *Quill Corp. v. North Dakota*, which had required a physical presence for a business' sales to be taxed in a state. Since the Court's *Quill* decision in 1992, interstate transactions such as catalog sales and later, internet sales, were not taxable without the seller having some sort of physical nexus in the taxing state. The Court did not expressly provide a new rule in place of the physical presence rule, but it did say that a sufficient nexus was established if a seller availed itself of the substantial privilege of carrying on business in the jurisdiction. The Federal Government Accountability Office has estimated that between \$8.5 billion and \$13.4 billion in sales taxes revenues on remote transactions went unrealized in 2017.

In response to *Wayfair*, numerous groups have called for Congress to enact federal sales tax collection legislation to standardize sales tax collections across the states so that sellers can avoid a “regulatory free-for-all.” Any federal law would likely seek to minimize the number of taxing entities within a state and require state and local sales tax uniformity.

