



## **2018 LEGISLATIVE SESSION WEEK 8**

We are entering the final week of the Regularly Scheduled Session and the House and Senate have been largely focused on passing a compromise on gun reform, school safety and mental health that each chamber is calling the Marjory Stoneman Douglas Act. The Senate spent all Saturday in an unusual floor session in order to prepare to vote on its act next week. Budget conferees also began meeting this week with a smaller budget than had been anticipated. They continued to meet throughout the weekend and the budget is likely to be finished in time for the Legislature to vote before the Session is scheduled to conclude on Friday. Below are highlights from the week, if you have any questions or concerns please do not hesitate to contact Candice at [954-648-1204](tel:954-648-1204).

### **BUDGET**

The state budget chairs began conference this week with roughly \$670 million less than was expected earlier this month. As its first priority, the House and Senate agreed to fund over \$400 million for school safety and mental health initiatives in response to the Marjory Stoneman Douglas tragedy. Then, earlier this week, state's budget outlook worsened after the corporate tax revenue fell roughly \$170 million short of estimates (attributed to Hurricane Irma) and Medicaid expenses were \$100 million more than estimated. The House and Senate agreed to allocations on Monday night and subcommittees began to conference tuesday night. All items that were not agreed to by Friday morning were "bumped" to the House and Senate Appropriations Chairs that continued to meet through Saturday night and "bumped" all remaining projects to the Speaker and Senate President on Sunday morning.

### **TRANSPORTATION**

#### **HOUSE PASSES TEXTING WHILE DRIVING**

The House voted 112-2 to make texting and driving a primary offense and with almost 70 House cosponsors. The policy would allow law enforcement to pull a driver over solely for texting while driving but does not change penalties. Law enforcement would be required to notify drivers that they have a right to deny officers access to their phones. Search of phones must be voluntary and unequivocal and requires a warrant. The bill requires the drivers race/ethnicity to be recorded and provided to DHSMV to be included in an annual report of statewide totals in order to address racial profiling concerns. The legislation is supported by a wide coalition of private industries, local governments, law enforcement and public safety advocates. However, the Senate bill was not heard in its final committee of reference. The House bill is still eligible to be heard by the Senate.

<https://www.flsenate.gov/Session/Bill/2018/00090>

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<http://flsenate.gov/Session/Bill/2018/00033>

## **HOUSE PASSES ELECTRIC VEHICLES**

The House voted 111-2 to pass a bill that would require the Florida Transportation Commission to study electric and hybrid vehicles for longterm transportation planning purposes once the percentage of registered electric vehicles in the state reaches a certain threshold. The bill allows the FTC to perform the study prior to the percentage threshold being reached. The intention of the bill is to prepare the state for the increased use of the technology, including understanding infrastructure needs and declining gas tax revenues. The bill also requires emergency evacuation/power and advances in autonomous technology to be considered in longterm planning. The bill is now ready to go before the full House. Its Senate companion has two more committees of reference in the Senate.

<https://www.flsenate.gov/Session/Bill/2018/00981>

## **TRANSPORTATION “TRAINS”**

SB 852, SB 1104 and HB 1287 continued to grow as trains through the adoption of amendments that are the substance of other transportation bills. The packages do not contain the same provisions, however. SB 852, which already contained provisions for the Smart City Challenge Grant Program and electric vehicle study by the Florida Transportation Commission, was amended by Senate Appropriations to also include a modified version of the Statewide Alternative Transportation Authority bill previously moving in a separate bill. The language would dedicate \$60 million of Florida Rail Enterprise funding as such: \$25 million to Tampa Bay Regional Transportation Authority and \$35 million to a Statewide Mobility Innovation Program which counties can individually or jointly apply for. Of the \$35 million, \$25 million must go to Miami-Dade and \$5 million to the Jacksonville Transportation Authority. This would leave only \$5 million for all other areas to compete for. It also would provide this funding in addition to each area's work program in perpetuity regardless of if there is a specific project or plan. Supporters of the language contend that the funding is currently dedicated to a concluding SunRail project in central florida, leaving funds unexpended. The amendment explicitly holds South Florida Regional Transportation Authority harmless in the transfer of the rail funding.

Meanwhile, HB 1287 was loaded up while on the House floor on second reading. The bill included priority language for DHSMV, the autonomous vehicle package, specialty license plates, and commercial motor vehicles. The House amendments added a provision that would include term limiting M.P.O. board members to three four-year terms. The sponsor clarified that the term limits would not be retroactive and M.P.O.s would be able to determine for themselves when terms would start and for which members. They would have to update their interlocal agreement/governing documents by July 1, 2019. The amendments also included Florida Turnpike rate calculation changes and allowing

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electronic proof of insurance and driver licenses. Many of the provisions of the unamended HB 1287 are also in SB 1104, which passed Senate Appropriations with a strike-all amendment that would also clarify that central FDOT establishes the policy and procedures for FDOT district offices and would also remove the Florida Transportation Commission from the DOT Secretary selection process. The bills are both now before their full Chambers.

SB 1104: <https://www.flsenate.gov/Session/Bill/2018/01104>

HB 1287: <https://www.flsenate.gov/Session/Bill/2018/01287>

SB 852: <https://www.flsenate.gov/Session/Bill/2018/00852>

### **HOUSE PASSES DOCKLESS BICYCLE SHARING**

The House voted unanimously to pass a compromise preemption of certain local regulation of dockless bicycle sharing companies, which use advanced technology to track the GPS location of bikes and have a locking system that does not require a dock. Local governments couldn't limit or ban bike sharing/rental companies from operating within its jurisdiction but can enter into agreements for placement on public land. A bike sharing company has to meet insurance requirements, register with the Division of Corporations, secure bikes during storms, maintain and rebalance bikes, remove inoperable bikes, provide a way for users to report maintenance issues, ensure bicycles are properly marked, etc. As part of the compromise, all language prohibiting local regulations on business license, entry, rate, operational and other requirements were removed. Local governments can also impose fines on the companies for violating requirements (up to \$5000 and a cease and desist for failing to provide proof of insurance/up to \$1000 for failing to file with the Division/up to \$1000 for not securing bikes during a storm/ \$10 per day up to \$100 for each day a bike is unlawfully parked.) Its Senate companion was not considered in its second of three committees of reference.

<https://www.flsenate.gov/Session/Bill/2018/01033>

### **ALCOHOL ON TRAINS**

Senate Rules voted unanimously to exempt railroad and sleeping car operators from a two ounce bottle size limitation for alcoholic beverages. The bill is now before the full House and Senate.

<https://www.flsenate.gov/Session/Bill/2018/01265>

### **HOUSE PASSES EMERGENCY MANAGEMENT**

The House unanimously passed a bill that incorporated recommendations from a select committee on hurricane recovery and preparedness. The package, among other things, requires counties and the state to develop fuel contingency plans. It directs DOT and DEM to consult with the railroad and fuel industry to plan for supplying fuel during emergencies.

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It prohibits local governments from holding meetings during a state of emergency during an imposed curfew and extends the time period that a state agency employee can be on leave during an emergency. Counties are also required to post shelter locations and indicate pet friendly locations. Finally, it also authorizes CAT funds to be used in local projects for emergency power. The bill has been sent to the Senate.

<https://www.flsenate.gov/Session/Bill/2018/07083>

### **HOUSE PASSES DEVELOPMENTS OF REGIONAL IMPACT**

The House voted 110-1 to pass a DRI revision package supported by the Florida Association of Community Developers. The package, among other things, transfers more responsibilities and authority to local governments. Meanwhile, Senate Rules unanimously voted the bill out of its final committee of reference. The bill is now before the full Senate.

<https://www.flsenate.gov/Session/Bill/2018/01151>

<https://www.flsenate.gov/Session/Bill/2018/01244>

### **FINANCE & TAX**

#### **HOUSE TAX CUT PACKAGE**

The House amended its tax cut package to remove the major preemption language that would have prohibited banning of retail sales of anything covered under Chapter 212 and also removed the reduction to the aviation fuel tax, which could have impacted funding for smaller airport projects. Due to the decrease in estimates, the House and Senate agreed to a smaller tax cut package of \$80 million, however the Senate has not begun work on its unified package. The Senate will likely take up the House bill once it is passed. The package includes typical items such as back-to-school and hurricane supply sales tax holidays, commercial lease tax reduction, and reductions in traffic fines. The package also contains controversial items. The package still contains a controversial provision to allow businesses to get tax credits for funding scholarships to private schools, which is heavily opposed by the House Democratic caucus. Opponents also have concerns that repeated passage of tax cut bills each Session could lead to a budget hole.

<https://www.flsenate.gov/Session/Bill/2018/07087>

#### **GOVERNMENT ACCOUNTABILITY/FISCAL TRANSPARENCY**

Senate Appropriations voted 10-8 to pass an expanded government accountability package that places auditing, budget reporting and transparency requirements on local governments, special districts, school boards and charter schools. The bill requires the establishment of internal controls to prevent and address waste, fraud and abuse. It require tentative budgets to be posted online for 45 days and adopted budgets to be posted

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online for 2 years. Budgets must be submitted to EDR and the clerks of courts. The committee also adopted a financial reporting amendment that is similar to a House bill to require all local governments to conduct audits and submit them on an expedited timeline, which is opposed by CPAs and increases the expenses of reporting. The language allows the clerk of court to withhold salaries from the “head” of the local government, presumably the CFO or city manager. The Chairman asked that the language continued to be worked on with local governments in light of concerns raised. The bill also establishes a statewide travel management system. It is now before the full Senate. Meanwhile, Senate rules voted 7-5 to approve the Senate’s fiscal transparency bill, which would require additional meetings, public notices, and a debt analysis prior to any tax or fee increase. It would also require property tax and commission voting records relating to tax and fee increases be posted on local government websites. The bill is now before the full Senate. Both Senate bills are a potential vehicle for the number of ethics and transparency bills passed by the House earlier in the Session.

Government Accountability: <https://www.flsenate.gov/Session/Bill/2018/00354>

Fiscal Transparency: <https://www.flsenate.gov/Session/Bill/2018/01426>

### **MARJORY STONEMAN DOUGLAS ACTS**

The House and Senate were dominated by school safety, mental health and firearm reform package to address the tragedy at Marjory Stoneman Douglas and prevent future tragedies from occurring. The House moved its plan for a vote likely on Tuesday, while the Senate spent 8-hours discussing the plan yesterday in an extraordinary Saturday floor Session and is set for a vote on Monday. The proposals both call for raising the age limit on purchasing firearms to 21; banning the sale of bump stocks; a “violent threat restraining order” to temporarily block possession or purchase of firearms for persons identified as threats; restriction on possession of firearms for Baker Acted individuals; enhanced penalties for illegally purchasing firearms and making social media threats; funding School Resource Officers at every school; threat assessment teams at each school; enhanced mental and behavioral health counseling; interagency coordination through an MOU for schools that receive Safe Schools Allocation funding; security protocols/emergency plans requirements; and school hardening (metal detectors, bullet proof glass, steel doors, locks). Both proposals also offer funding for mental health initiatives and establish a statewide commission to investigate system failures and offer recommendations for improvement. The bills face opposition from all sides- gun rights advocates feel the bill unfairly punishes law-abiding citizens by restricting access to guns, while gun reform advocates feel the bill does not restrict guns enough. Democratic members continually offered amendments that put votes on record for or against assault rifle bans, which will be sure to come up during the November elections. Each amendment was narrowly defeated, including a moratorium on assault rifles temporarily passing on a voice vote only to be defeated later. An amendment that would have allowed local governments to enact gun restrictions also



failed.

The most controversial provision is the “School Marshal Plan.” The plan would allow teachers and other school personnel to complete 136 hours of training to become certified law enforcement and carry firearms. To be eligible to become marshals, personnel would also be required to pass a psychological test and substance abuse test as well as background checks. The House and Senate plans are “opt-in” for school districts and voluntary for teachers. The House amended its package to mandate sheriffs or, if the sheriffs fail to, municipal police chiefs to develop a training program regardless of if their district opts-in. Proponents argued mandating the creation of the program was necessary to be prepared for needed security in the event the districts do opt-in later as the training takes a long time to complete. The Senate plan does not mandate the creation of the program and allows the sheriff to appoint the marshals after they complete the necessary training. Supporters of the program argue that the program allows schools to have a level of security that would otherwise be cost-prohibitive. The black caucus is aggressively opposed to the program, fearing it could lead to incidents that disproportionately impact minority children. The Senate adopted an amendment that would require 12 hours of diversity training for marshals. An amendment to strip the program out entirely narrowly failed with three Republicans siding with Democrats. Another amendment that would have allowed parents to choose to remove students from armed teacher classrooms if their school district opted-in to the program also failed.

Both plans are roughly \$400 million, which includes funding for SROs, school facility safety improvements, mental health, building a new high school and creating a memorial. The funding also includes dollars for training as part of the marshal plan.

Senate: <https://www.flsenate.gov/Session/Bill/2018/07026>

House: <https://www.flsenate.gov/Session/Bill/2018/07101>

Governor’s Proposal

[https://www.flgov.com/wp-content/uploads/2018/02/MajorActionPlan\\_02.23.18.pdf](https://www.flgov.com/wp-content/uploads/2018/02/MajorActionPlan_02.23.18.pdf)

House and Senate Press Release:

[https://www.flsenate.gov/PublishedContent/Offices/2016-2018/President/Documents/2\\_23\\_18\\_Florida\\_School\\_Safety\\_Proposal.pdf](https://www.flsenate.gov/PublishedContent/Offices/2016-2018/President/Documents/2_23_18_Florida_School_Safety_Proposal.pdf)