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## 2019 REGULAR LEGISLATIVE SESSION WEEK 4

We have reached the halfway mark of the Legislative Session. “Bills are dying” is the typical refrain heard in the Capitol at this point in time with House subcommittees concluding their final meetings. All bills in a subcommittee that have not been heard or are not re-referenced are now considered “dead.” However, the Senate President and House Speaker are now advancing the other Chamber’s priorities- the Senate Certificate of Need repeal bill is now advancing and a House committee voted to file a companion to the Senate President’s transportation corridor bill. Texting While Driving also has finally advanced in the House after the Senate scaled back its bill. Below are highlights from the week. Please don’t hesitate to reach out with any questions.

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### TRANSPORTATION

#### TEXTING WHILE DRIVING

The House bill that would make texting while driving a primary offense was finally heard in its first House committee this week after many feared it would die with the end of subcommittees. House Transportation & Infrastructure unanimously approved the bill in a 13-0 vote. Meanwhile, the third of four Senate committees unanimously approved the Senate bill, but only after significantly narrowing the bill from the wide-ranging distracted driving bill back down to a texting while driving bill. Members of the public who have lost loved ones to distracted driving incidents expressed disappointment at the change. They claimed the move away from a hands free policy conveyed the Legislature’s lack of understanding of the urgency of the situation and pointed to other states, such as Georgia, where a hands free policy has shown success. The bill sponsor, a future Senate President, stated he still hoped to pass a hands free bill once it reaches final passage. The Senate bill also has one more committee of reference.

[SB 7046](#)

#### PASSENGER TRAINS PASSES FINAL HOUSE COMMITTEE, ADVANCES IN SENATE

Senate Criminal Justice and House State Affairs unanimously passed a bill that would change law enforcement procedures after a accident involving a passenger train. The bill

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gives law enforcement discretion in interviewing “witnesses” to the accident. Current law treats passenger trains as motor vehicles and therefore all passengers must be interviewed as witnesses whether they actually witnessed the events or not. The process is lengthy and causes unnecessary delays in getting trains back up and running. The House bill is now before the full House. Its Senate companion is in its final committee of reference.

[SB 1002](#)

### **MICROMOBILITY DEVICES AND MOTORIZED SCOOTERS**

House Transportation & Infrastructure voted 11-1 and Senate Infrastructure & Security voted unanimously to advance a bill that would define motorized scooters and micromobility devices and place them under the same road requirements as a bicycle. Both committees adopted significant amendments, with the Senate language allowing local governments to retain regulatory authority over roads and sidewalks and removing insurance requirements. The House bill moved close to removing preemptions, but still would require local governments to allow for staged parking at each city block and provide insurance requirements. Both amendments would require persons offering the devices to secure them during a storm. The sponsors of both the House and Senate stated that they are working with stakeholders on further revisions. The House bill has one more committee of reference. The Senate bill has two more committees of reference.

[SB 542](#)

[HB 453](#)

### **VEHICLES FOR RENT OR LEASE**

House Transportation & Infrastructure voted 10-3 to facilitate private, peer-to-peer car sharing and rental services. The bill clarifies that car rental transactions, no matter how they are conducted, are subject to the rental car surtax. It also allows for electronic documentation, changes license verification and requires sharing platforms to have an agreement with a public airport in order to provide services there. The bill attempts to create parity between traditional car-rental services and peer-to-peer car sharing programs in requirements for agreements with airports and for daily surcharges on rentals. The bill is supported by major rental car companies and the airports council. Opponents include disruptive companies, such as Drift. The bill has two committee stops remaining in the Senate and one in the House.

[HB 1111](#)

### **DEPARTMENT OF TRANSPORTATION PACKAGE**

House Transportation & Tourism Appropriations unanimously approved a package regulating the Department of Transportation that focuses on minimum standards for FDOT Secretary, permissible use for technology in bridges, and asphalt. Several provisions that

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the Department took issue with, including language on the use of capacity funding, were removed at previous committee stopped. The bill has one more committee in the House. Its Senate companion is in its second of three committees of reference next week.

[HB 905](#)

## **SENATE PRESIDENT’S TRANSPORTATION PRIORITY**

House Transportation & Tourism Appropriations voted 9-3 to file a committee bill as a House companion to SB 7068. The bill creates taskforces and a budget nest egg to advance significant tolled-road projects to three rural corridors in western Florida, termed Multi-use Corridors of Regional Economic Concern (MCORES):

- 1) Southwest-Central Florida Connector, extending from Collier County to Polk County
- 2) Suncoast Connector, extending from Citrus County to Jefferson County
- 3) Northern Turnpike Connector, extending from the northern terminus of the Florida Turnpike northwest to the Suncoast Parkway

The Senate President’s intent is to also connect water infrastructure and broadband through this transportation project. The bill directs FDOT to convene a task force to study the feasibility and environmental impacts that must report by June 30, 2020, with construction to begin 2022, and the corridors to be open by 2030. FDOT must also consider public transit and protection of wildlife in the corridors. It partly funds the projects by a phased-in redirection of portions of license fees currently going towards General Revenue to the State Transportation Trust Fund and then using that increase directly for the projects via a formula laid out in the bill with specific increases to the Small County Outreach Program (SCOP), Transportation Disadvantaged (TDTF), Small County Road Assistance Program (SCRAP) and an FDOT Workforce Development program created in the bill. Other funding sources include toll revenue bonds, bridge and right-of-way construction bonds, and advances from the State Transportation Trust Fund (that must be paid back) for the FDOT Financing Corporation to use through P3s or other similar partnerships.

Some South Florida members stated they were voting for the bill because it would study the issue and asked if the Chair would be amenable to including “urban sprawl” in the taskforce considerations as well. Other South Florida members voted against the bill as a major hit to general revenue that does not benefit their districts and possibly harms the environment, arguing that the nest egg the bill creates is more than just a study. The Senate language also states that the TDTF funding will be in the form of grants to community transportation coordinators and Transportation Network Companies, which is a concern for the Florida Public Transportation Association. The bill has not received committee references. The Senate bill is in its final committee of reference.

[SB 7068](#)

[HB 7113](#)



## **INTERGOVERNMENTAL RELATIONS**

### **SMALL CELL PREEMPTION**

Senate Community Affairs voted 4-1 to pass a bill that would further preempt local government ordinances as it relates to the implementation of small cell wireless technology (5G). The bill's original intent was to reduce the CST by 1%, on which cut the sponsors say they are working with appropriations chairs to afford out of state funds and hold local governments harmless. The committee adopted an amendment that would prohibit permits and fees for upgrading, maintaining, repairing, etc. aerial or underground wireline communications facilities; suspend local ordinances related to communications facilities in the right-of-way not sent to the Department of State; and would award attorneys fees to the prevailing side in any civil action suit. Under the new language, local governments could request updates from communications services companies during the five year registration period. . The bill has in its second of three committee stops in the House next week. It has one more committee in the Senate. This bill is likely to pass based on its support.

[SB 1000](#) (HB 693)

### **SENATE PASSES GOVERNMENT ACCOUNTABILITY**

The Senate unanimously passed a bill that implements recommendations from the Auditor General's office. It requires various entities (including local governments, water management districts, charter schools, public defenders, state attorneys, school districts, Guardian Ad Litem, etc.) and others to establish internal controls to prevent and detect waste, fraud and abuse. It requires local governments to maintain budget documents on websites for specified times. Allows for Governor, Commissioner of Education or designee to notify the Legislature of failure to comply with audit reporting requirements. It requires water management districts to file financial disclosures in a specific form to increase transparency. It gives the Auditor General authority to audit county tourist development councils and county tourism promotion agencies. It revises membership for local government, school district and charter school audit committees. Finally, the bill would make it a first degree misdemeanor to fail to provide access to a person, document or agency to the Auditor General. The bill allows an employee of the local government on the auditor selection committee in an advisory capacity. Its identical House companion is ready for a final vote by the full House.

[SB 7014](#) (HB 7034)

## **FINANCE & TAX**

### **COMMUNITY REDEVELOPMENT AGENCIES**

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Senate Community Affairs voted 4-1 to advance CRA reform that includes a phase out of CRAs with no outstanding bond obligations by 2039 or by the date adopted in its charter by October 1 2019, whichever is earlier. A creating local government can extend the life of the CRA by a unless a 2/3rds majority vote. The bill also includes ethics training for CRA commissioners; procedures for board appointments and procurement; and reporting requirements. It requires CRAs to stick to an annual adopted budget and requires CRAs created by a municipality to send adopted budgets and amendments to the County within 10 days of adoption. It also authorizes a creating local government to establish the amount of Tax Increment Financing (between 50-95% of the increment) available to the CRA and removes a three-year limit on rollover funding for adopted projects. The bill has two more committees of reference. Its House companion, which would controversially require a countywide referendum passed by 2/3rds of eligible voters to create new CRAs, is now before the full House.

### [HB 9 & SB 1054](#)

## **HOUSE PASSES IMPACT FEES**

The House voted 101-12 and Senate Appropriations voted unanimously to codify court requirements that impact fees bear a rational nexus to needs for additional capital facilities, expenditures of collected revenue, and benefits to new construction. It would prohibit any local government from requiring payment of impact fees any time prior to issuing a building permit. Impact fee revenues would be designated for acquiring, constructing, or improving the capital facilities to benefit the new users. Impact fees collected by a local government could not be used to pay existing debt or prior approved projects unless there is a rational nexus to the impact generated by the new construction. It excludes fees charged for connecting to water and sewer systems. The Senate bill is now before the full Senate.

### [SB 144](#)

## **LOCAL GOVERNMENT FISCAL TRANSPARENCY**

House State Affairs unanimously approved a bill to increase fiscal transparency for local governments. The sponsor has been working with local government advocates on the bill for the past three years. The Florida League of Cities and Florida Association of Counties still have concerns as it relates to “debt ratio” requirements. The bill requires local governments to make certain information easily accessible relating to votes on tax increases, votes on tax supported debt, TRIM notices, 4-yr property tax history and generated revenues. The bill also: expands public meeting and public notice requirements for tax increases, requires local governments to conduct a debt ratio analysis prior to tax increases, and gives the Auditor General authority to take corrective action on local governments found to not be in compliance. The bill also requires local governments report to the Office of Economic and Demographic Research on incentives given to private

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businesses. The bill is now before the full House. Its Senate companion has not yet been heard.

## [HB 15](#)

### **LOCAL GOVERNMENT FINANCIAL REPORTING**

House Local, Federal & Veterans Affairs voted 12-1 to require local governments provide a report to the Office of Economic and Demographic Research (EDR) that includes: Government spending per resident (for the past five years), government debt per resident (for the past five years), median income of residents, salaries of government employees, and number of special taxing district within local boundaries. The bill has two more committees in the Senate and is scheduled for its second of three committees in the House.

## [HB 861 & SB 1616](#)

### **LOCAL TAX REFERENDA**

House State Affairs voted 14-7 and Senate Finance & Tax voted 4-1 to require that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. The House bill would also require the surtax be passed by 2/3rds of voters and requires local governments and school districts that adopt a surtax referendum after January 1, 2020 must submit the referendum to OPPAGA at least 180 days before the referendum is held. This legislation is now before the full House and has one more committee of reference in the Senate.

## [SB 336 & HB 5](#)

### **PUBLIC CONSTRUCTION PROJECTS**

House State Affairs voted unanimously to approve legislation requiring local governments to use generally accept cost accounting methods when determining whether it should complete a construction project using in-house employees, services and equipment instead of bidding for a contract. The determination must consider all costs- including salaries and benefits of employees. The requirement applies to roads and bridges funded by the gas tax. The bills is now before the full House and has two more committees in the Senate.

## [SB 806](#) (HB 167)

### **COMMUNITY DEVELOPMENT DISTRICTS (CDD)**

House Ways & Means and House State Affairs each voted to advance HB 437, which looks at process of establishing and growing Community Development Districts. Local governments would identify parcels of land adjacent to the CDD that may be annexed over the next ten years. The committee adopted a strike-all amendment that laid out a process to petition

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local governments to adding parcels. It would allow for CDDs to merge with other CDDs and with Special Districts. It would retain the one-acre, one-vote elections process for CDD boards. The bill is now before the full House. Its Senate companion was not considered in its second of three committees in the Senate this week due to time constraints.

HB 641 increases voted unanimously to increase the vote threshold to authorize bonds on a CDD board to a 2/3rds majority. The sponsor said that it would increase input from the community on fiscal responsibility. The bill has two more stops in the Senate and one more stop in the House.

[HB 641](#) (SB 1244)

[HB 437](#) (SB 728)

### **Implementation of Constitutional Amendments:**

Amendment 2- This amendment made permanent what was a temporary limitation on the growth of property taxes. This amendment required no implementing language and did not change the status quo, as it simply made permanent a limitation that has been on the books since 2008.

Amendment 3- Of all the amendments, the interpretation of the language has probably caused the most confusion. There is much discussion over how this will impact the Seminole Indian Gaming Compact, sports betting and pari-mutuels. The Senate has taken the lead on much of the discussion regarding gaming, however what is unknown is whether any action by the legislature will be classified as an expansion of gaming, thereby triggering a voter referendum as approved under this amendment.

Amendment 4- Probably the most discussed and contentious amendment this legislative session restores the rights of convicted felons to vote. Both chambers had filed proposed committee bills which would implement what they both claim to be the full intent of the law. What has emerged as the pivotal, contentious issue focuses on the obligation to pay fines or fees prior to restoration of voting rights. Both the House and the Senate require paying obligations which has motivated significant outcry from advocates who claim that this obligation is akin to a modern-day poll tax. The House Speaker issued this press release in response to the concerns: [https://static-s3.lobbytools.com/docs/2019/3/28/117270\\_florida\\_house\\_dismantles\\_poll\\_tax\\_canard.pdf](https://static-s3.lobbytools.com/docs/2019/3/28/117270_florida_house_dismantles_poll_tax_canard.pdf)

Amendment 5- While specific legislation is not needed to implement this amendment, legislators have made it a point to adhere to the provisions in the bill, particularly filing any increases as standalone bills. While no bills have been voted down simply because it had a standalone fee increase, it has forced legislators to consider policies that would increase or impose fees, which was one of the main intentions of the amendment.

Amendment 6- Senator Lauren Book filed SB 1426 which would implement the amendment which provides a victim's bill of rights, more commonly known as "Marsy's Law". A House companion has not been filed and Senator Book's bill has not been considered in a committee

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yet.

Amendment 7- Like many of the other amendments, Amendment 7 did not need implementing legislation.

Amendment 8- This amendment was struck by the supreme court and was removed from the ballot. However, legislators have acted on the original intent of the amendment and have worked to impose term limits on school board members with HB 229/SB 274. These bills propose amendments to the constitution which would impose limits of eight consecutive years. The House bill is ready for full consideration by the full chamber, the Senate bill has two committees of reference remaining.

Amendment 9- While the offshore drilling prohibition does not need implementing legislation, there has been much discussion about prohibiting various types of fracking as well. What did need implementing legislation is the prohibition on vaping in the workplace. The Senate has successfully and unanimously passed its bill [SB 7012](#) through all committees and the full chamber, and the House's bill, [HB 7027](#), is awaiting consideration by the full chamber.

Amendment 10- Provisions in this amendment which modifies state and local government structure and operations do not need legislation to implement. However, the Broward Legislative Delegation has approved a local bill, [HB 1183](#), which will allow county voters to transfer the duties of the clerk of courts as ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds to the Broward County Administrator. If adopted by voters, this will save residents upwards of \$10 million in administrative costs.

Amendment 11- One of the key parts of Amendment 11 was the modification of the "Savings Clause" which limited prosecution to the statutes and guidelines that were in place at the time of the offense. Amendment 11 made it so that only the repeal of a criminal law may not be retroactively applied. This will allow prosecutors to re-sentence or sentence offenders in accordance with current guidelines. To implement this, the legislature has filed [SB 1656](#) & [HB 7069](#). The senate bill will be considered next week and then will have one more committee remaining, the House bill is awaiting consideration by the full chamber.

Amendment 12 (lobbying and abuse of office by public officials) and amendment 13 (ends dog racing) require no implementing bills.

The legislature has considered various proposals which would limit the constitutional revision commission to placing amendments on the ballot with strict obligations to be single-subject proposals. Other bills would have the entire constitutional revision commission process entirely abolished. In addition, other bills are being considered which would change the processes for citizen-petition driven ballot initiatives and would change thresholds for passing amendments.

**Next Week**



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[SB 310](#) - Off-highway Vehicles

[HB 797](#) - Public Utility Storm Protection Plans

[HB 5001](#) - General Appropriations Act

[SB 1400](#) - Private Property Rights

[SB 608](#) - Railroad-highway Grade Crossings

[SB 622](#) - Traffic Infraction Detectors

[SB 1638](#) - Commercial Motor Vehicles

[SB 1792](#) - Towing and Immobilizing of Vehicles and Vessels

[SB 2500](#) - Appropriations

[SB 7016](#) - State-administered Retirement Systems

[HB 347](#) - Towing-Storage Operator Liens

[HB 6011](#) - Alligator Alley Toll Road

[HB 691](#) - Special Neighborhood Improvement Districts

[HB 693](#) - Communications Services