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## 2019 REGULAR LEGISLATIVE SESSION WEEK 3

The House and Senate unveiled initial chamber budget proposals that were lighter on member projects and higher in programmatic spending than years past. The Senate proposed a \$90.3 Billion budget; the House proposed a \$89.9 Billion budget. Both are less than the Governor's \$91.3 Billion recommendations. The House and Senate Appropriations committees will be deliberating the full budgets this week with a full vote on the budget the following week. Many are also watching the watching the priorities of the Senate President and House Speaker in anticipation the outcomes may form the basis of dealmaking and negotiations between the Chambers. The House voted 77-33 to pass the Speaker's priority of repealing Certificate of Need laws that regulate the establishment of new hospitals, while the same bill was Temporarily Postponed in a Senate committee after not having the votes to pass. Meanwhile, the Senate President's priority of construction new tollroads along rural corridors still does not have a House companion despite advancing through its Senate committees.

Next week, we are happy that the House Texting While Driving Bill will finally be heard in its first committee. Micromobility and Motorized Scooters legislation will also be heard in both the House and the Senate. We are working with the City of Fort Lauderdale and the bill sponsors on crafting language that can provide flexibility for the barrier island and downtown.

Below are highlights from the week. Please don't hesitate to reach out with any questions.

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### **BUDGET**

The House proposed a [\\$89.9 Billion dollar budget](#), true to the Speaker's goal of reducing per capita spending. The Senate proposed a [\\$90.3 Billion dollar budget](#), which invests more money in to public education. The Senate President noted that it was a tough budget year due to Senate's inclusion of \$1.8 billion in funding for Hurricane Michael recovery efforts. The House's plan to address Hurricane Michael recovery is less clear, but the Appropriations Chair stated they are still looking at how to access dollars from other sources and partners. Additionally, state economists adjusted estimated revenue slightly downward by \$7.4 million. Below are a few key points and differences to be aware of.

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## **Transportation & Economic Development**

Both the House and Senate recommend fully funding the FDOT Work Program at around \$10 billion. Individual road projects funded by the House and Senate can be found on line 1989A in both budgets. Additionally, the [House Proposal](#) is available separately on the House website.

The House budget eliminates funding for Visit Florida and Enterprise Florida. The Senate proposes funding \$50 million to Visit Florida, however none of the funds can be spent to help local governments that have banned certain forms of sunscreen, targeting Key West's recent ban on certain products to protect coral reef health. It also provides \$25.7 billion for Enterprise Florida.

## **Education**

The House recommends a \$21.6 billion budget, with nearly \$7,597 per full-time student, compared to the current rate of \$7,429.

The Senate recommends a \$22.2 billion budget, that includes \$600 million increase in teacher salaries and a rate of \$7,779 in per student funding. The Senate budget also eliminates the Schools of Hope budget that was established as a Speaker priority last year and which the House budget includes. The Senate plan also includes a \$68 million increase for school safety and a \$30.7 million increase in school mental health services.

## **Environment**

Both budgets include funding for Everglades Restoration similar to that requested by the Governor, but both are also under the \$100 million advocated for by environmentalists for land acquisition.

The House recommends around \$607 million for water programs with \$20 million for land acquisition at DEP.

The Senate recommends \$656 million for water programs with \$45 million for land acquisition through the Department of Environmental Protection. Some of the funding for water programs comes from funds meant for petroleum cleanup.

## **Health Care**

The House and Senate health care proposals are roughly \$500 million apart, with the Senate once again proposing to redistribute funding away from hospitals that provide more charity care, known as Safety Net Hospitals, to other hospital systems. The House would still direct the funding towards Safety Net Hospitals but also reduce it by \$110 million.

The Senate provides \$85.6 to address the opioid crisis, an increase of \$4 million. The House provides over \$2 million in specific opioid epidemic projects along with the \$49 million for the State Opioid Response Grant budget authority through the Federal Government.

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## TRANSPORTATION

### PASSENGER TRAINS

House Criminal Justice Subcommittee unanimously passed a bill that would change law enforcement procedures after a accident involving a passenger train. The bill 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 bill has one more committee of reference in the House. Its Senate companion has two more committees.

[SB 1002](#)

### AUTONOMOUS VEHICLES

Senate Infrastructure & Security and House Transportation & Tourism Appropriations approved a bill that updates statutes to embrace developments in autonomous vehicle (AV) technology and continue to make Florida one of the leading states in the country. The bill is supported by the Florida Chamber of Commerce. The Senate bill adopted amendments that provided responsibility for reporting accidents to law enforcement and clean up unintended consequences for operation of Level 3 AVs, which are not fully autonomous. The bill also authorizes FDOT to work with the Department of Highway Safety & Motor Vehicles on a report that explores implementing efficient, innovative transportation projects and allows the Florida Turnpike Enterprise to enter into contracts for funding and construction of autonomous vehicle facilities. The Florida Justice Association, the legislation’s biggest opponent, supported amendments that ultimately failed or were withdrawn that would have deemed owners, operators, remote operators and manufacturers of AVs liable for damages in cases of bodily injuries, death or property damage if the vehicle failed to perform as a reasonable human operator would in similar circumstances. The amendments would have also required manufacturers to create incident reports and submit within 10 days to the Department of Transportation and require a 4-year storage of data collected by owners and manufacturers, to be made accessible for lawsuits. Disability advocates expressed excitement for the technology and urged Legislators to consider accessibility. The bill has one more committee stop in the House and two more in the Senate.

[HB 311](#)

[SB 932](#)

### VEHICLE FLEET REBATE PROGRAMS

Senate Agriculture unanimously approved a bill that appropriates \$6 million to the natural gas vehicle fleet rebate program each year until FY 2023-24 and creates a \$3 million per

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year hybrid/electric vehicle fleet rebate program, also until FY 2023-24. Applicants are eligible for \$25,000, up to \$250,000 per fiscal year. 40% of the funds are for governmental vehicles, and the remaining 60% are for commercial. The bill has two more committees of reference in the Senate. It does not have a House companion.

### [SB 1368](#)

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

SB 1148 authorizes an electronic copy of motor vehicle certificates to be accepted by law enforcement and also clarifies that car rental transactions, no matter how they are conducted are subject to the rental car surtax. A strike-all was adopted which specifies that this includes traditional car-rental services and peer-to-peer car sharing programs like Turo. Turo's argument was that they are not a rental car company. They shared that rental car companies save \$181 million a year by avoiding sales-taxes on the up-front purchases of vehicles. A representative from Enterprise clarified that their goals are to achieve parity in requirements for agreements with airports and for daily surcharges on rentals. A representative from the airport's council spoke to their desire to have an agreement with these peer-to-peer rental companies. The bill sponsor assured members that the bill will address some of the concerns before its next stop or it will not go any further. Two of the members who voted in favor of the bill, expressed tremendous reluctance to voting up on the bill. The bill has two committee stops remaining, its House companion has yet to be considered in any of its three committees.

### [SB 1148](#)

#### **DEPARTMENT OF TRANSPORTATION PACKAGE**

Senate Infrastructure & Security unanimously approved a package regulating the Department of Transportation after aligning with the House language which removed several provisions that the Department took issue with, including language on the use of capacity funding. The bill now focuses on minimum standards for FDOT Secretary, permissible use for technology in bridges, and asphalt. The bill has two more committees in the House and Senate.

### [SB 1044](#)

#### **SENATE PRESIDENT'S TRANSPORTATION PRIORITY**

Senate Infrastructure and Security passed SB 7068 unanimously. Members raised several concerns but agreed that the bill was an important discussion to have. The Senate plans to continue working out concerns as they continue the concept through the process. The bill brings 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 bill was altered to add in legislative intent to also connect water infrastructure and broadband through this transportation project. The bill now also 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.

The committee substitute delayed the funding transfer to begin in FY 2021-22 and also provided that the TDTF funding will be in the form of grants to community transportation coordinators and Transportation Network Companies. The bill still does not have a House companion.

[SB 7068](#)

### **NONEMERGENCY MEDICAL TRANSPORTATION SERVICES**

House Health & Human Services unanimously approved legislation that would allow Transportation Network Companies to partner with insurance companies or brokers to provide Nonemergency Medical Transportation to Medicaid patients to and from doctors appointments. Medicaid Managed Care plans provide a benefit for transportation services for patients who do not have transportation. Many of the committee members expressed concern that constituents were not being transported in a timely manner, either missing needed appointments or waiting for hours at a medical office for transportation. TNCs would supplement transportation for individuals that do not require an ambulance. Brokers and insurance companies would be in charge of understanding the specific needs of patients, such as wheelchair bound individuals, who would require special vehicles or drivers with special training. Members of the public including representatives from Uber, American Cancer Society, and the Institute for Justice waived in support. The House bill is ready for consideration by the full chamber, the Senate bill has one more committees of reference.

[HB 411](#)

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## INTERGOVERNMENTAL RELATIONS

### PREEMPTION OF LOCAL REGULATIONS

House State Affairs voted 15-7 to approve a watered-down version of HB 3 which now preempts regulations on professions and occupational licensure after the the sponsor removed general regulations on businesses. The bill would sunset all local regulations on professions and occupational licensure by 2021. It would preempt licensure for certain jobs including, but not limited to, painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, and decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation. Members of the committee were concerned the bill is written too broadly by encompassing “any activity undertaken to earn a livelihood” and have unintended consequences, especially as it relates to ordinances banning conversion therapy, discrimination on sexual orientation and gender identity, and fertilizer ordinances. The sponsor stated his main motivation for filing the bill was a Hillsborough County regulation on painting that caused an issue in the county not in other counties with no regulation on the profession of painting. The bill was opposed by local governments, Florida Building Trades, Florida Conservation Voters, stormwater associations, LGBT advocacy groups, and more. The Florida Association of Counties thanked the sponsor for watering down the bill but stated there is still confusion as to how local governments are supposed to interpret the bill, including as it relates to retail pet sales and animal welfare regulations. The League of Cities noted issues related to public health, safety and welfare. They pointed out regulations on adult entertainment, arcades and pain clinics that could be harmed by the bill. The sponsor stated he was willing to work with anyone to continue to narrow the bill to address unintended consequences. We are continuing to work with local government advocates with a focus on the Senate, where we do anticipate a Senate bill but feel more confident that the bill’s chances are weaker in a Chamber that is not controlled by heavy-handed leadership.

### [HB 3](#)

### SMALL CELL PREEMPTION

House Energy & Utilities voted unanimously 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. Local governments argue the Legislature is going back on its compromises with local governments that had been negotiated two years earlier and that the bill would impede the ability to underground and regulate colocation, polls and other right-of-way concerns. Supporters argue that the bill written two years ago did not achieve its purpose of establishing an expedited process for 5G implementation, either through lack of clarity or through intentional misinterpretations by local governments. Wireline companies claim local governments are also interpreting provisions to include them, when that was not the legislative intent. The bill has in

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its second of three committee stops in the Senate next week. It has two more committees in the House. This bill is likely to pass based on its support.

[SB 1000](#) (HB 693)

### **EMPLOYMENT CONDITIONS**

House Workforce Development & Tourism voted 9-5 to approve legislation to preempt “conditions of employment” placed on private businesses by local governments, including: pre-employment screenings, job classification determinations, job responsibilities, hours of work, schedules and schedule changes, wages, payments of wages, leave, paid/unpaid days off, and employee benefits. The bill is in response to Miami Beach’s minimum wage ordinance that supporters of the bill say harmed hourly and shift worker flexibility. Supporters also claim the bill would not preempt local authority to set a minimum wage for its own employees or businesses it contracts with. Opponents argued that the bill is far broader and would affect hard-fought wage theft ordinances and impact jury duty payment requirements. The bill is in its second of three committees of reference next week. The bill has two more committees in the Senate.

[HB 432](#)

### **GOVERNMENT ACCOUNTABILITY**

House Public Integrity & Ethics unanimously approved 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. The bill has one more committee of reference in the House. Its identical Senate companion is ready for a final vote by the full Senate.

[SB 7014](#) (HB 7034)

### **FINANCE & TAX**



## **COMMUNITY REDEVELOPMENT AGENCIES**

House State Affairs voted 16-7 to advance a leadership priority that would phase out existing Community Redevelopment Agencies with no outstanding bond obligations by 2039, unless a 2/3rds vote to continue by the creating local government body. It requires a countywide referendum passed by 2/3rds of eligible voters to create new CRAs. The bill also reforms CRAs, including 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. While opponents support the provisions that reform CRAs, they are concerned about the phase-out provisions and felt a 2/3rds countywide threshold is too difficult to meet for localized municipal CRAs. Supporters argued CRAs drain county resources and should therefore be subject to a countywide vote. The bill is now before the full House. Its Senate companion, which contains the reform provisions but not the phase-out, is scheduled for its first of three committees next week. The Senate bill also contains lobbyist registration requirements for persons that lobby CRAs that are not in the House bill.

### [HB 9](#)

## **IMPACT FEES**

Senate Finance & Tax 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 bill has one more committee in the Senate. Its House companion is before the full House.

### [SB 144](#)

## **LOCAL TAX REFERENDA**

Senate Finance & Tax voted 6-2 to require that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. The Senate bill does not require a surtax be passed by 2/3rds of voters, unlike the House bill. The Senate bill also does not contain House provisions that local governments and school districts that

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adopt a surtax referendum after January 1, 2020 must submit the referendum to OPPAGA at least 180 days before the referendum is held. An amendment was filed, but ultimately withdrawn, that would have forced surtaxes passed after 2021 expire within 6 years. This legislation has one more committee of reference in the House and Senate.

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

#### **RETAINAGE FEES**

House Commerce voted 18-1 to reduce the allowable amount of retainage public entities may withhold from contractors during a construction project that is \$200,000 or more. The legislation reduces the allowable amount of retainage from 10 to 5% until 50% completion of the project and from 5 to 2.5% after 50% completion. Opponents argue the importance of flexibility in retainage rates as they act as an insurance policy to hold contractors accountable. The committee adopted a small compromise amendment that exempted contracts entered into by October 1, 2019 rather than July 1. The amendment also exempted DOT projects. Supporters argue current rates were prohibiting small contractors from participating in public projects who lose working capital when payments are delayed. 31 states have adopted the same caps and supporters claim that Florida is losing talented general contractors as a result. However, opponents point out that those states also have different contract structures than Florida and that data shows states that do have lower rates have greater delays in completion of projects. The bill is now ready to go before the full House. Its Senate companion has one more committee of reference.

### [HB 101](#) & [SB 246](#)

#### **PUBLIC CONSTRUCTION PROJECTS**

House Business & Professions 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 has one more committee in the House and two more committees in the Senate.

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

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

Senate Community Affairs 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.

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[HB 641](#) (SB 1244)

## **Next Week**

[SB 1002](#) - Motor Vehicles and Railroad Trains

[SB 76](#) - Driving While Distracted

[HB 437](#) - Community Development Districts

[SB 1000](#) - Communications Services

[SB 1040](#) - Discretionary Sales Surtaxes

[SB 1054](#) - Community Redevelopment Agencies

[SB 542](#) - Micromobility Devices and Motorized Scooters

[HB 453](#) - Micromobility Devices and Motorized Scooters

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

[HB 107](#) - Use of Wireless Communications Devices while Driving

[HB 1111](#) - Vehicles for Rent or Lease

[HB 905](#) - Department of Transportation