

MEMORANDUM

TO: NAIOP
FROM: GrayRobinson
DATE: December 10, 2017
SUBJECT: 2018 Legislative Session - Committee Week of December 4-7

While the temperate started to drop outside, it was rising inside Florida's Capitol. The final committee week before legislative session has historically been a busy one. The budget process is starting, major pieces of legislation are being teed up for a floor vote and some legislation dies. The final committee week of 2017 was no different with the Senate's higher education priority passing its final committee and some major gun bills being shot down in Senate. All the while, the distraction commonly referred to as "L'Affaire Latvala" continued to burn bright, potentially setting up an expulsion vote. Below are issues related to our work for you and other hot topics addressed during the week.

Activities and Bills related to NAIOP

Permit Reform

A version of Georgia's FAST Act (regarding Permit and Inspection Reform) is in drafting in both the House and Senate. While the NAIOP leadership decides whether to pursue this as a standalone piece of legislation, the GrayRobinson team met with House leadership to discuss the possibility of the Local, Federal & Veterans Affairs Subcommittee hosting a workshop on permit and inspections across the State of Florida. They expressed interest and asked that I send information that they can review. If the House takes this on, they would want NAIOP representatives front and center to talk about the opportunities and challenges in the commercial development world.

Bills of Interest

Community Redevelopment Agencies – SB 432 (Lee) - Representative Raburn filed similar legislation in the House (HB 0017). The bill, among other things, creates scenarios by which CRAs are eliminated creates transparency and lobbying regulations to apply to all CRAs. A

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similar bill passed the House during the 2017 Legislative Session, but fell short in Senate. The Senate bill has four committee references. The House bill is a Speaker priority and has just one committee stop: Government Accountability.

UPDATE: The Senate bill is still waiting on a hearing in Appropriations Subcommittee on Transportation, Tourism and Economic Development. The House bill is waiting on a floor vote.

Tax on Commercial Real Property – HB 409 (Ahern) – This bill would exempt from sales tax the first \$10,000 of total rent in year 2019, the first \$20,000 in year 2020, and continues up to \$90,000 in 2027. This is the same “stair step” approach that Representative Ahern has proposed in previous sessions. The bill has two references: Ways & Means and Appropriations Committee. The Senate companion is SB 902 by Keith Perry and has three references: Community Affairs, Appropriations Subcommittee on Finance and Tax, and Appropriations.

Economic Development and Tourism Promotion Accountability – HB 3 (Grant (M)) – This bill would provide transparency and accountability requirements for local tourism and economic development organizations, similar to those adopted for Visit Florida and Enterprise Florida during the 2017 Special Session A. **Update:** Its next stop is Ways & Means Committee, likely first week of Session.

Florida Building Commission – HB 299 (McClain) – This bill would revise the membership of the Florida Building Commission (from 27 to 11) and qualifications thereof (changes for architects and electrical contractor members). Specifically, the bill removes members representing the following:

- Air-conditioning or mechanical contractors;
- Two of the municipal or district code enforcement officials, including a fire marshall;
- The Department of Financial Services;
- County code enforcement officials;
- The representative for persons with disabilities;
- Manufactured buildings industry;
- Mechanical or electrical engineers;
- Municipal or charter counties;
- Building products manufacturing industry;
- Commercial building owners and managers industry;
- Public education;
- The green building industry;
- The natural gas distribution system; and
- The Department of Agriculture and Consumer Services’ Office of Energy.

The bill also amends:

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- The qualifications of the architect member from an architect who is “registered and actively practicing in the state” to an architect who is “licensed in the state and has at least 5 years of experience in the design and construction of buildings containing Group R occupancy(ies) at or above 210 feet above the lowest level of emergency service access.” A Group R Occupancy is any building containing sleeping units either for permanent dwellings or transient occupancy; and
- The qualifications for the electrical contractor member from an electrical contractor to an electrical contractor “or an electrical engineer.”

UPDATE: The House bill is awaiting a hearing in the Commerce Committee. There is still no Senate companion.

Business Rent Tax – SB 60 (Hukill) – This bill, if passed, would reduce the Business Rent Tax from 5.8 percent to 5 percent. The bill has three references: Community Affairs, Appropriations Subcommittee on Finance and Tax, and Appropriations. We expect other bills to be filed related to the Business Rent Tax. **UPDATE:** On Thursday, Representative Toledo filed the House companion (939). It does not have references yet.

Growth Management – HB 207 (McClain) and SB 362 (Perry) – This bill’s focus is on private property rights. It proposes amending section 163.3167, *Florida Statutes*, to require that local governments address in their comprehensive plans the “protection of private property rights.” It further requires that cities and counties adopt a “property rights element” that will set forth principles, guidelines, standards and strategies to guide the local government’s decision and program implementation. The House bill has three committee references: Agriculture & Property Rights Subcommittee; Local, Federal & Veterans Affairs Subcommittee; and Commerce Committee. The Senate bill has three committee references: Community Affairs, Environmental Preservation and Conservation, and Rules.

Impact Fees – SB 324 (Young) – This bill, if passed, would require that the earliest a government can collect impact fees is the issuance of the certificate of occupancy for the property. There is no House companion yet. The bill has three references: Community Affairs; Appropriations Subcommittee on Finance and Tax, and Appropriations. Representative Mike Miller filed the House companion to this bill (HB 697). It has three references: Local, Federal & Veteran Affairs Subcommittee; Ways & Means Committee; and Government Accountability Committee. **UPDATE:** On Tuesday, the Senate Community Affairs Committee took up and unanimously passed this bill.

Private Property Rights – SB 292 (Rodriguez) – This bill would exempt from the definition of “public utility” property owners that own and operate renewable energy source devices, that produce renewable energy from that device, and provide and sell such renewable energy to users on that property. There is no House companion yet. This bill has three committee references:

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Communications, Energy, and Public Utilities; Community Affairs; and Rules. **UPDATE:** This bill has not yet moved.

Municipal Conversion of Independent Special Districts - SB 84 (Lee) – This bill does not have a direct nexus to NAIOP. However, anything that could affect the formation of a new municipality, and thus, a new regulating entity, is relevant. This bill, if passed, would require that when independent special districts seek conversion into a municipality, they must have at least 1,500 citizens in counties with less than 75,000 citizens, or 5,000 citizens in counties with more than 75,000. This bill has three committee references: Community Affairs; Ethics and Elections; and Rules. **UPDATE:** This bill has not yet moved.

Rural Economic Development Initiative – SB 170 (Grimsley) – This bill makes several changes to the Rural Economic Development Initiative statute. What is relevant to NAIOP is that this bill would remove the limitation on the number of designations available. If passed, it is conceivable that additional REDIs could be established, and that would create a better opportunity for commercial development. The bill has four committee references: Commerce and Tourism; Agriculture; Governmental Oversight and Accountability; and Rules. **UPDATE:** The bill is still waiting for a hearing in Agriculture Committee.

Summary of December 4-7 Committee Week

House Makes Texting While Driving A Priority

House Speaker Richard Corcoran praised legislation (HB 33) filed Wednesday by Rep. Jackie Toledo, R-Tampa, and prime cosponsor Rep. Emily Slosberg, D-Boca Raton, making texting and driving a primary offense while protecting civil liberties.

"Texting and driving presents a real, life-threatening danger to Floridians both on and off the road" said Corcoran said in a press release. "We're proud to unveil a bill that does just that while also addressing legitimate civil liberties concerns. This bill establishes a proper balance between safety and law enforcement and our cherished liberties."

The bill strengthens the current ban on texting, emailing, and instant messaging while driving, by changing the current enforcement of the ban from secondary to primary. Any violation of the ban that causes a crash results in the addition of six points to the offender's driver license record.

With this bill getting the Speaker's early support, it is expected to pass the House during the 2018 Legislative Session. There are no identical Senate companions, but a similar bill filed by Senator Keith Perry (SB 90).

Fantasy Sports Is Moving, But Seminoles Say Don't Bet On It

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The Senate Regulated Industries Committee passed Senate Bill 374 to exempt fantasy sports Thursday, with a high profile "no" vote from the vice chair Senator Dorothy Hukill. The bill, filed by Senator Dana Young, aims to clarify fantasy sports legal status in Florida.

The Seminole Tribe of Florida though is warning that an attempt by legislators to clear up the legal status of fantasy sports could result in the state losing millions in payments from the tribe. This week the Seminoles sent a letter to top legislators regarding pending bills that would declare fantasy sports legal and not subject to regulation.

The letter contends the legislation would violate the deal that allows the tribe to offer blackjack as well as slot machines at several locations. Florida's attorney general in 1991 issued an opinion saying football fantasy leagues were a form of illegal gambling. But fantasy leagues have continued to expand since then.

The House bill, filed by Representative Jason Brodeur, has yet to move.

House Democrats Designate Representative Kionne McGhee As 2018-20 Leader

On Tuesday, House Democrats formally designated Kionne McGhee as the caucus's leader from 2018-2020. After the November 2018 elections, he will officially take over the reins from current Leader Representative Janet Cruz. McGhee is a former prosecutor in Miami-Dade county. His election took place in March, when he narrowly defeated fellow Democrat Bobby Dubose by a vote of 23-17. Despite being in the minority party, upon his designation Representative McGhee, encouraged his fellow Democrats to remain hopeful and not "underestimate the power of the donkey."

Senate Expulsion Looming?

It seemed that each day of this Committee Week had its own side drama regarding the sexual harassment case against Senator Jack Latvala. What started nearly one month ago on November 5, when multiple accusers came forward, including Rachel Perrin Rogers a current Senate staffer, and filed a complaint against Senator Latvala. With each day that has passed, it would seem new information on all sides has come to light. This week was no different as the pressure builds for a final result.

Monday – Senator Wilton Simpson, employer of Latvala accuser Rachel Perrin Rogers, calls for the "smear campaign" against Ms. Rogers to end; On that same day Ms. Rogers requested that the Governor assign a special prosecutor to the case

Tuesday – Early Tuesday morning, it was reported that the first Republican Senator Travis Hutson had called for Latvala to resign; Later that day, Democratic Senator Lauren Book,

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a longtime ally of Latvala, filed a complaint against him for the “scorched earth” tactics against his accuser.

Wednesday – ON CSPAN, House Speaker Richard Corcoran said he believes Latvala will be expelled from the Senate; Later that day, Democratic Senator Annette Taddeo becomes the first Democratic Senator to call for Latvala’s resignation.

Thursday – POLITICO breaks story that Latvala’s star witness Senate staffer Lilly Tysinger in the sexual harassment case is also a political supporter, which may have been a violation of Senate Policy.

Friday – Ms. Tysinger files defamation suit against Ms. Rogers, over allegations made in relation to the Latvala sexual harassment case.

Procedure: The Senate investigation is expected to wrap up before the end of December. Should the Senate choose to seek expulsion of Senator Latvala, it would take 26 votes to do so. With the Democratic Senators likely voting in a block, 15 of the 26 need are covered. That leaves only 11 Republican Senators needed (of the 24) to expel Senator Latvala.

Guns Legislation Shot Down in Senate Committee

The Senate Judiciary Committee on Tuesday voted down three separate gun bills (SB 274, SB 134 and SB 148), including a measure in SB 148 that would have lowered criminal penalties for concealed weapons permit holders who violate the ban on openly carrying guns, which died on a tie vote.

If passed, SB 274 by Kelli Stargel would have allowed for a licensed person to carry their firearm in on a private school property where a religious institution is also located. SB 134 would have allowed individuals with a concealed carry permit to leave their firearm with security at a courthouse. Both died with six of the ten members of the Judiciary Committee voting against the legislation.

The votes means it is unlikely the Senate will consider any gun-related legislation in the annual session that starts in January. Legislators have considered bills to expand gun rights the last several years but like this year, the measures have gotten bogged down due to opposition from Miami-Dade Republicans.

Senate Higher Education Legislation Passes Final Committee, Ready for the Floor

Florida Senate President Joe Negron's signature plan to boost the state's university system is headed to the Senate floor after a unanimous vote in its final committee on Wednesday.

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The committee amended the bill, SB 4, to now include \$130 million in funding tied to the measure's policy initiatives. Nearly \$102 million of that would go toward the planned expansion of Bright Futures, along with \$27.5 million to pay for another change in the bill: extending coverage of the second-level Bright Futures scholarship to pay for summer courses.

Senate President-designate Bill Galvano, who is carrying the legislation, explained that Senate leaders wanted to avoid a situation where the funding gets "cherry-picked" through line-item vetoes even if the policy is signed into law — or, like what happened to the Senate's higher education bill last session, when the policy is vetoed but the funding for the policy initiatives stays in the budget.

The measure has an identical House companion, HB 423 by Majority Leader Ray Rodrigues, that has yet to be scheduled for a committee hearing.

Appropriation Project Bills Update

As of Friday, 1148 House appropriations project bills have been filed, totaling \$1,870,422,617 in funds requested. A total of 94 bills have met the minimum requirements, favorable report in subcommittee, for inclusion in the House's proposed Budget.

Preview of First Week of Legislative Session (January 8)

While there are no formal agendas published for the first week of legislative session, the House has already released its schedule of meetings. It is noteworthy that there are two days of floor session (Thursday, January 11 and Friday, January 12). In total, there are 19 bills eligible for a floor vote in the House and 2 bills eligible for a floor vote in the Senate. Below are a quick listing of legislation that could receive up/down votes on the respective floors of each chamber. If you would like more information on any of these bills, let us know.

House Bills Ready for the Floor

Number	Title	Sponsor
HB 0005	State Officer Post-service Lobbying Restrictions	Metz
HB 0007	Local Government Fiscal Transparency	Burton
HB 0009	Federal Immigration Enforcement	Metz

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HB 0011	Government Accountability	Metz
HB 0013	Sports Franchise Facilities	Avila
HB 0015	Deregulation of Professions and Occupations	Beshears
HB 0017	Community Redevelopment Organizations	Raburn
HB 0019	Motor Vehicle Insurance	Grall
HB 0023	Recovery Care Services	Renner
HB 0025	Labor Organizations	Plakon
HB 0027	Certificates of Need for Hospitals	Fitzenhagen
HB 0035	Patient Safety Culture Surveys	Grant (M)
HB 0037	Direct Primary Care Agreements	Burgess
HB 0041	Pregnancy Support and Wellness Services	Toledo
HB 0067	Florida Slavery Memorial	McGhee
HB 0185	Redirection of Fees to Tax Collectors	Mariano
HB 6001	Traffic Infraction Detectors	Avila
HB 6003	Participant Local Government Advisory Council	White
HB 7003	Local Government Ethics Reform	Public Integrity & Ethics Committee

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HB 7005	Trust Funds/Creation/Local Government Lobbyist Registration System Trust Fund	Public Integrity & Ethics Committee
HB 7009	Workers' Compensation	Commerce Committee
HB 7015	Property Insurance Assignment Agreements	Judiciary Committee

Senate Bills Ready for the Floor

Number	Title	Sponsor
SB 0088	High School Graduation Requirements	Hukill
SB 0004	Higher Education	Galvano

Notably, there are only two bills in the Senate eligible for a full floor vote. Appropriations has historically been the final committee of reference for any bill that has a fiscal impact. All other bills, with few exceptions, have Rules as the final committee of reference. The Senate Rules Committee has not met during the schedule committee weeks. As such, there are now 15 bills that are awaiting a hearing in that committee, before a full floor vote can occur.