

MEMORANDUM

TO: NAIOP
FROM: GrayRobinson
DATE: November 13, 2017
SUBJECT: 2018 Legislative Session - Committee Week of November 6-9

Stranger Things could be the theme for this legislative session, because it would appear everything is upside down. The third committee week brought on a new interim Senate Appropriations Chair, the revival of bills that were believed dead and gone (Gaming and Workers Compensation), a new Senate Democratic leader, another resignation in the House and the amending of statutes for autonomous vehicles. The Governor also debuted his proposed tax package on Monday, before the House and Senate conducted their regular committee meetings (although many were cancelled). Below are issues related to our work for you and other hot topics addressed during the week.

Activities and Bills related to NAIOP

State Conference – Chris Carmody attended the State Conference in Jupiter, Fla. The two-day event allowed for the NAIOP leadership to discuss issues of importance, both at the local and state level. During the Monday legislative update portion, Danielle Scoggins of the Florida Realtors gave a briefing on the state’s current real estate market. As well, House Ways & Means Chairman Paul Renner dialed in to the meeting to discuss the current state budget picture as well as potential for a tax package.

On Tuesday, the group discussed Georgia’s FAST Act, which is a measure that seeks to speed up the permitting and inspection process by tying building departments to their public deadlines with financial penalties. The group agreed to discuss it with their respective local chapters and Chris Carmody would place the bill into legislative drafting. Thereafter, the group can decide whether to seek this legislation in a bill, seek an amendment or wait until 2019.

All of these issues and more are covered below and will continue to be important as we head towards the 2018 Legislative Session.

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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 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: Senate Community Affairs passed this bill 5-1. Its next stop is Appropriations Subcommittee on Transportation, Tourism and Economic Development. As well, the House bill is on the November 14th Government Accountability agenda.

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. **Update:** The bill has two references: Ways & Means and Appropriations Committee.

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:** The bill received two references: Commerce and Way & Means Committees. It has been placed on the Commerce Committee Agenda for Tuesday, November 14.

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;

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- The green building industry;
- The natural gas distribution system; and
- The Department of Agriculture and Consumer Services' Office of Energy.

The bill also amends:

- 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 bill is back on the House Careers & Competition Subcommittee agenda for Wednesday, November 15.

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:** The bill is waiting for a hearing in Community Affairs.

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 does not have references yet. **UPDATE:** Neither bill moved this week.

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. **UPDATE:** This bill has not yet moved.

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

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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: 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 Senate Commerce and Tourism Committee took up and unanimously passed this bill on Monday, November 6.

Summary of November 6-9 Committee Week

Senator Rob Bradley Takes Over as Appropriations Chair

Senate President Joe Negron, on Monday, removed Senator Jack Latvala as budget chairman while he is investigated after six women accused him of sexual harassment. This news was released in a memo to all Senator. Latvala's replacement is Senator Rob Bradley. It is unclear how long Bradley will hold as Senate budget chief as former chair Jack Latvala is investigated for sexual harassment. But he says the chamber's spending priorities won't change much while he is in charge.

Bradley called the situation "awkward," but said the Senate will be able to transition for as long as is needed. One of the early budget friction points between the House and Senate has been whether to spend budget reserve funding to help fund the aftermath of Hurricane Irma. The House has said that it wants to save reserves, while senators have been pushing the idea of dipping into that funding.

Gaming Bill Filed in the Senate

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Travis Hutson filed on Thursday a gaming bill (SB 840) for the 2018 session that's more "limited" than previous attempts. Unlike previous comprehensive gaming bills, Senate Bill 840 focuses on just four areas of gaming reform: fantasy contests, greyhound and horse racing decoupling, slot machine taxes and designated player games at pari-mutuel card rooms.

The bill says fantasy sports require relative knowledge and skill in order to win, rather than a game of chance. The bill allows race track operators to downgrade or eliminate their racing schedules and keep licenses for other types of gambling. The bill also seeks to lower taxes on slot machines, which are currently 35 percent of revenues. By July 2020, they would be just 25 percent.

The bill also authorizes "designated player games," a point of contention over the years. However, they can't constitute more than half of games in a cardroom.

Workers Compensation Reform Introduced (OIR Approves Rate Decrease)

On Tuesday, the House Commerce Committee filed a committee bill (COM1) that brings back much of the House's final version of the workers compensation reform legislation that died on the last day of the committee. While the Senate has not filed a bill yet, this does offer hope for reform.

In related news, Florida Insurance Commissioner David Altmaier has approved decreases in the workers' compensation rate levels forwarded and amended by the National Council on Compensation Insurance.

The new rate decrease applies to both new and renewal policies in Florida, beginning Jan. 1. The statewide decrease will be 9.5 percent, while the premium level decrease will be 9.8 percent, according the Office of Insurance Regulation's final order issued on Wednesday.

Altmaier rejected the initially proposed decreases offered by NCCI on Oct. 3 because they would have allowed insurance companies to make too high a profit. NCCI had proposed a statewide decrease of 9.3 percent and a premium level decrease of 9.6 percent. NCCI had until Nov. 7 to file an amended proposed rate level decrease.

Senator Audrey Gibson Elected New Minority Leader

Senate Democrats, on Monday, picked Audrey Gibson to replace Jeff Clemens as incoming minority leader. Clemens resigned late last month after admitting having an affair with a Broward County lobbyist.

The vote was narrow (8-7), but Senate Democrats for the remainder of the week appeared united behind their newly minted leader. She will succeed current Senate Democratic Leader Oscar Braynon (D-Miami Gardens) next November, after his term concludes.

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Representative Combee Selected As State USDA Director

On Tuesday, it was announced that Representative Neil Combee had been appointed as state director of the U.S. Department of Agriculture's Farm Service Agency. He plans to start his new job later this month.

Combee said he learned of President Donald Trump's appointment Friday. He said he'd sent the White House biographical information several weeks ago. He was elected to House District 39 in 2012 and said he plans to resign that position.

Josie Tomkow, the executive secretary for the Senate Majority Office, will run for his seat as a Republican. Tomkow will finish her bachelor's in political science from the University of Florida in December. She spent the 2017 session working for the Florida Cattleman's Association.

Autonomous Vehicle Legislation Moving

On Wednesday, the House Transportation & Infrastructure Subcommittee passed House Bill 353, relating to autonomous vehicles. Who is liable for accidents continued to be a contentious issue. Representative Jason Fischer, the sponsoring of the bill, said that "product liability laws" would be in place if there is a defect, but that was not enough for some skeptics.

The Florida Justice Association, which represents state trial lawyers, reiterated its concerns over whom to sue in the case of an accident. They testified against driverless vehicle legislation during the 2017 session.

The bill, among other things, would not require someone have a valid driver's license to operate an autonomous vehicle; deems "autonomous technology" — not a person — as the operator of an autonomous vehicle when in autonomous mode; and makes an exemption to driver licensing requirements when an autonomous vehicle is operated in autonomous mode without a human operator physically present in the vehicle.

The bill has two more committee stops before the House floor. The Senate bill is awaiting committee references.

Governor Scott Proposes Just \$180 Million Tax Cut

The Governor on Monday announced his budget plan will include \$180 million in tax cuts, his smallest request since taking office.

Scott's average tax cut request has been more than \$670 million since being reelected in 2014. Historically, lawmakers have passed large tax cuts, but much smaller than those requested by the governor.

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It's the clearest sign yet that the state's revenue picture is not as rosy as it has been in the past few fiscal years. The state was expecting just a \$52 million surplus — a small portion of the \$83 billion budget — but that was wiped out after Hurricane Irma, which devastated the state and will dominate the 2018 legislative session.

The biggest portion of Scott's request is two sales tax holidays, one 10-day period for back to school supplies, and another one focused on disaster preparedness items. Both have been common features of tax cut packages he previously requested. Last year, he requested four sales tax holidays, including 10 days for school supplies and nine days for disaster preparedness items.

Because sales tax holidays are one-time tax cuts that don't impact future budget years, they have become popular among lawmakers concerned about burdening future state budget writers.

Another \$87 million of the request is a cut in fees for driver's licenses, including dropping the renewal fee from \$48 to \$20. Scott has pushed the cuts in the past for motorist-related fees, which were raised in 2009 as the state was grappling with the massive budget shortfalls.

Scott's proposal also includes \$4 million to reinstate an optional 18-percent reduction in some traffic citations if drivers take improvement classes.

Preview of November 13-17 Committee Week

The “fourth” committee week is the penultimate week before the Legislature officially begins its session in January. Below are the highlights of what will be another jam packed week.

Monday, November 13

Senate Education Committee – Will take up SB 540, related to Postsecondary Education. This is the Senate President priority, filed by Dorothy Hukill, that will realign the state college system into a community college system.

Tuesday, November 14

House Commerce Committee – Will take up two major bills. The first is HB 3, by Byron Donalds. This is a Speaker priority that will put the same transparency measures placed on Visit Florida and Enterprise Florida last year onto local economic development and tourism marketing agencies. As well, the committee will take up COM1, the workers compensation committee bill that picks up where the House left off in 2017.

House Government Accountability Committee – Will take up the Community Redevelopment Agencies reform bill. This is also a Speaker priority and expected to pass the House.

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Wednesday, November 15

House Health Quality Subcommittee – Will get an update from DOH on the implementation of last session’s Medical Marijuana legislation.

Careers & Competition Subcommittee – Will take back up the Florida Building Commission bill that was previously “temporarily postponed.”

Thursday, November 16

House Selection Committee on Hurricane Response and Preparedness – House Committee will continue its work and take up issues related to debris removal, agriculture, expenditures and emergency management issues.