

MEMORANDUM

TO: NAIOP
FROM: GrayRobinson
DATE: February 4, 2018
SUBJECT: 2018 Legislative Session – Week 4 Summary

With the halfway point of the Legislative Session approaching, many bills are dying (never heard in committee), many bills have passed one of the chambers and lawmakers in both chambers are hastily advancing the remaining legislation in hopes of beating the 60-day clock. But many House and Senate proposals still aren't lining up and we anticipate more compromise ahead.

For example, an initiative to make it more difficult for future lawmakers to raise taxes or fees looks starkly different in the House than it does in the Senate. HJR 7001, which would require a two-thirds 'supermajority' vote (roughly 66 percent) to pass future tax and fee increases, cleared the House chamber in an 80-29 vote on Jan. 25.

Across the hall, the Senate continued advancing its version, which instead would require a three-fifths supermajority (or 60 percent). That proposal, SB 1742, cleared the Senate Appropriations Subcommittee on Finance and Tax last Monday. Gov. Rick Scott said he hopes the Senate will adopt the House's version.

In another bill, the issue of beach access has become a source of media and local government discussion. In the House, Representative Edwards-Walpole's HB 631 is a standard property law bill pushed by the Florida Bar's Real Property Probate and Trust Law, but there is one section that addresses customary use. This section requires that any ordinance establishing a customary use of a beach must have a court determine that the use is indeed authorized. The bill also grandfathered ordinances established before January 2016.

In the Senate, the bill requires a court to determine customary use parcel by parcel, and does not yet provide any grandfather clause. Senate bill 804 still has two committee stops left and has some long odds with both the Rules and Appropriations Chair voting against the bill in its first committee.

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Those issues are a sampling of differences between the House and Senate (not to mention the actual budget) that will either get sorted out or have to wait for another session.

Below are issues related to our work for you and other hot topics addressed during the week.

Bills related to NAIOP

Developments of Regional Impact – HB 1151 (La Rosa) and SB 1244 (Lee) – The House bill repeals, creates, and revises provisions for statewide guidelines, standards, & requirements for developments of regional impact relating to authorizations to develop; applications for approval of development; concurrent plan amendments; preapplication procedures; preliminary development agreements; conceptual agency reviews; local notice & regional reports; developments inside & outside areas of critical state concern; local government development orders; construction of mitigation facilities; impact fee & exaction credits; comprehensive development applications & master plan development orders; abandonment of developments; dense urban land area exemptions; Florida Quality Developments & Quality Developments Review Board; Administration Commission guidelines & standards; state land planning agency agreements; Florida Land & Water Adjudicatory Commission requirements; local government permit approvals & extensions, reviews & certifications; and uniform reviews of developments by state land planning agency & regional planning agencies. **UPDATE:** The House Local, Federal & Veterans Affairs Subcommittee on Monday. The Senate version is awaiting a hearing Appropriations Subcommittee on Transportation, Tourism and Economic Development.

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: The Senate bill is still waiting on a hearing in Appropriations Subcommittee on Transportation, Tourism and Economic Development. The House passed it on the floor by a vote of 72-32.

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.

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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 House took up and passed its bill by a vote of 87-20 on Thursday. The Senate Commerce & Tourism passed this bill 8-0 on Monday. Its next stop is Appropriations Subcommittee on Transportation, Tourism and Economic Development.

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:

- 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.

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Business Rent Tax – SB 60 (Hukill) and HB 939 (Toledo) – 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 House workshopped this bill on Monday in Ways & Means Committee.

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:** The Senate Finance & Tax Committee approved this bill on Monday by a vote of 6-0. The House Bill is awaiting a hearing in Government Accountability Committee.

Permit Fees - HB 725 (Williamson) and SB 1144 (Perry) – The bill requires certain counties & governing bodies of municipalities to post their permit & inspection fee schedules & inspection utilization reports on their websites; requires certain governing bodies of local governments to post their building permit & inspection utilization reports on their websites by specified date; and provides reporting requirements for the same. **UPDATE:** The House Government Accountability Committee passed this bill 19-0 on Thursday. The Senate version is set to be heard in Finance & Tax on Monday.

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: 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

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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 Governmental Oversight and Accountability Committee passed it 5-0 on Tuesday, January 30. The House bill has not yet moved.

Summary of Week 4

Florida House Activities: Sanctuary Cities Top of Mind

A House priority of passing a ban on sanctuary cities — defined as local governments that do not cooperate with federal immigration authorities — has a doubtful chance of advancing in the Senate.

The House passed the ban, (HB 9), in the first week of Session, but Senate sponsor Aaron Bean, a Fernandina Beach Republican, postponed his version (SB 308) this week to avoid a vote in the Judiciary Committee.

Two South Florida Republicans, Sens. Rene Garcia and Anitere Flores, sit on the Judiciary Committee and will likely continue to halt the bill's progress.

Florida Senate: Florida Forever Fund

A Senate priority, which includes earmarking \$100 million annually to fund a land conservation trust known as Florida Forever, doesn't seem to have traction in the House.

Senate Appropriations Chair Rob Bradley, a Fleming Island Republican, has championed the Florida Forever proposal (SB 370) and saw it pass the Senate floor on Wednesday. The House version (HB 1353) has not received a committee hearing.

Constitution Revision Commission and Ballot Initiatives

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The Constitution Revision Commission, charged with drafting proposals that would revise the state's governing document, was busy this week in committee hearings ahead of its second statewide tour.

Commissioner (and St. Petersburg state senator) Darryl Rouson withdrew Proposal 21, which provided for the restoration of voting rights for some felons. A similar voter-backed amendment already has secured enough signatures to appear on the November 2018 ballot, where it must receive 60 percent approval to become part of the state's governing document.

Health Care

The fourth week of Session also saw the advancement of proposals that would change facets of health care in the state.

For years, legislators have filed legislation aiming to do away with a cap on the number of trauma centers in the state. Two proposals, (HB 1165 and SB 1876), would authorize the Health Department to allocate additional trauma centers. The House version this week unanimously cleared the Health Quality Subcommittee.

The Senate is contemplating a move that would redistribute more than \$300 million in Medicaid funds and provide \$50 million in new funding for hospitals. An analysis shows the budget proposals would result in reductions for community-owned hospitals, but help for-profit hospitals.

Alcohol

Two bills sponsored by Rep. Daniel Perez passed the House Careers & Competition Subcommittee this week with almost unanimous support. The bills seek to modernize Florida statutes relating to alcohol delivery and repeal overbearing regulation.

The first, HB 667, clarifies current alcohol delivery law by providing that a licensed retailer may deliver alcohol away from their place of business for sales made by "electronic" orders. The second, HB 669, repeals size limitations for individual wine and cider containers in Florida and simplifies the required meal specifics to allow a restaurant patron to take home a partially consumed bottle of wine.

Vacation Rentals

In what's been a years-long, hotly contested battle between local governments wanting more ability to regulate vacation rentals, it appears the state — and the vacation rental industry — scored a victory.

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SB 1400, sponsored by Sarasota Republican Sen. Greg Steube, cleared the Senate Community Affairs Committee on Tuesday. The bill would preempt the regulation of vacation rentals, like those provided through Airbnb's services, to the state.

In effect, local governments would not have the ability to enact laws, such as routine safety inspections, of the rental properties. Future regulations of vacation rentals under Steube's proposal would be preempted by the state.

Preview of Week 5 (February 5-8)

House and Senate Set for Floor Sessions

Both the House and Senate are set for floor sessions this Wednesday and Thursday. While there are other bills included in the special order calendars, the primary focus of these floor sessions are to debate and pass their respective budgets. The other bills on special calendar are listed below.

House Special Order

<u>HB 5001</u>	General Appropriations Act	<u>Appropriations Committee</u>
<u>HB 5003</u>	Implementing the 2018-2019 General Appropriations Act	<u>Appropriations Committee</u>
<u>HB 5005</u>	Collective Bargaining	<u>Appropriations Committee</u>
<u>HB 5007</u>	State-Administered Retirement Systems	<u>Appropriations Committee</u>
<u>HB 0517</u>	State Employees' Prescription Drug Program	<u>Magar</u>
<u>HB 5301</u>	Judges	<u>Justice Appropriations Subcommittee</u>
<u>HB 5201</u>	Information Technology	<u>Government Operations & Technology Appropriations Subcommittee</u>
<u>HB 5203</u>	Statewide Travel	<u>Government Operations &</u>

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		Technology Appropriations Subcommittee
HB 7055	Education	Education Committee

Senate Special Order

SB 2500	Appropriations	Appropriations
SB 2502	Implementing the 2018-2019 General Appropriations Act	Appropriations
SB 2504	State Employees	Appropriations
SB 7014	State-administered Retirement Systems	Governmental Oversight and Accountability
SB 0152	Sale of Firearms	Steube
SB 0444	Pregnancy Support Services	Bean
HB 0041	Pregnancy Support and Wellness Services	Toledo

Change of Use for Tourist Development Tax Revenue Up in Senate Finance & Tax

On Monday, the Senate Finance and Tax Committee will take up Senate Bill 658 by Jeff Brandes. The measure proposes to significantly expand the allowable uses of TDT revenue for public facilities that are “needed to increase tourist-related business activities.” The House companion also proposes this increase and is waiting for a full floor vote. While it is too early to say whether this bill will pass, if it does, it will mark a major shift in the tourism promotion landscape.

Senate to Hear Anti-Fracking Measure

Also on Monday, the Senate Environmental Preservation and Conservation Committee will hear SB 462 by Dana Young. This bill would prohibit the performance of advanced well stimulation treatments (fracking). This measure has been attempted many years, but has yet to find daylight in either chamber. The House version is sponsored by Kathleen Peters and has yet to be heard in committee.

Excess Credit Hour Surcharges

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On Tuesday, the Senate Education Committee will hear SB 844 by Aaron Bean. This bill would provide an exception to the excess credit hours surcharge applied to university students that exceed 120 hours for their degree. The goal of the legislation is to avoid penalizing students that are efficiently advancing through college, yet have exceeded 120 hours either because of availability of classes or change of major. If passed, the bill will still have two committee stops. The House Bill 565 by Amber Mariano has passed one committee and is awaiting hearings in its final two.

Other Bills on the Week's Agenda

— On Tuesday, the House Higher Education Appropriations Subcommittee will take up HB 423 by Ray Rodrigues. This is the companion bill to Senate President Negron's priority higher education reform that fully funds Bright Futures Scholarships.

— Also on Tuesday, the Senate Community Affairs committee will take up Senate Bill 574 by Greg Steube which would preempt to the state regulation of the trimming, removal, or harvesting of trees and timber on private property. This bill, opposed by both cities and counties, would also prohibit local governments from prohibiting the burial of vegetative debris on certain properties. The House companion (HB 521) has one more committee stop.

— At the end of the day on Tuesday, the House Ways & Means Committee will workshop the following tax reduction concepts:

- Aviation Fuel Tax
- Brownfields Cleanup Tax Credits
- Community Contribution Tax Credits
- Documentary Stamp Tax - Spousal Transfers
- Sales Tax - Donations to Charities
- Save Our Homes Portability Adjustments Related to Hurricanes
- Tax Credit Flexibility & Information - Florida Tax Credit Scholarship Program
- Traffic Fines - 18% Discount