

MEMORANDUM

TO: NAIOP
FROM: GrayRobinson
DATE: February 11, 2018
SUBJECT: 2018 Legislative Session – Week 5 Summary

The mid-point of the 2018 Legislative Session is behind them and legislators now face the negotiations that define the following year’s budget and the policy that will both shape it and be shaped by it. In other words, all eyes are on the state budget.

Both chambers passed their proposed spending plans on Thursday. The House budget totals \$87.2 billion and the Senate’s budget comes in at \$87.3 billion. Historically, the cash gap is minimal in terms of state budgets, but there are big differences in the line-item makeup of each proposal. As the two chambers advanced their budgets, the revenue estimators provided their Q1 projection of revenue for the rest of this fiscal year and 2018-19. The numbers are \$461 million higher in nonrecurring revenue. This increase will be included in the budget. The only question is where.

The House budget, for example, is directly linked to a conforming bill that doesn’t exist in the Senate. The bill (HB 7055) would create a scholarship program to help bullied public-school students transfer to private schools. The “Hope Scholarships” are a Speaker priority and are being shepherded by Naples Republican Byron Donalds. His wife, Erika Donalds, sits on the Collier County School Board and is a member of the Constitution Revision Commission. The provision passed the House and now heads to the Senate where it’s future is uncertain.

Legislators also are continuing the longtime fight over designated “free-speech zones” on college campuses. A Senate committee supported a bill (SB 1234) that would prohibit state universities and colleges from restricting free speech to certain areas on campuses. The House version, (HB 909), has one more committee stop before heading to the floor.

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

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Activities and Bills related to NAIOP

NAIOP in Washington, D.C.

GrayRobinson worked with Christina Acosta to ensure that NAIOP representatives from Florida spent time with both Senators Nelson and Rubio this past week. Congrats to all that made the trip and carried the flag for commercial real estate in our nation's capitol.

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 Commerce Committee passed it 26-0 on Thursday. The Senate version passed the Appropriations Subcommittee on Transportation, Tourism and Economic Development also on Thursday by a vote of 8-0.

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 January 12 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 January 25. The Senate Bill is awaiting a hearing in Appropriations Subcommittee on Transportation, Tourism and Economic Development Committee.

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 bill is awaiting a hearing in Appropriations. The House Government Accountability Committee passed the bill 20-0 on Thursday. It is now awaiting a floor vote.

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 bill is on the special order calendar for February 14. The Senate version passed the Finance & Tax Committee 5-0 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.

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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 bill is awaiting a hearing in its final committee Rules. The House bill has not yet moved.

Summary of Week 5

Health Care

In terms of health care spending, the House appears hesitant to work with a Senate plan that would slash Medicaid rate enhancements for safety net hospitals, often a last resort of health care providers in some communities.

The Senate seeks to eliminate rate enhancements paid to hospitals with higher Medicaid caseloads and instead shift that money to spending more on base Medicaid rates for all hospitals. In contrast, the House version maintains a higher reimbursement system and House Appropriations chair Carlos Trujillo has said he favors the rate enhancement system.

Technology

In separate meetings, lawmakers also have been busy with legislation addressing changes in technology.

The Senate Criminal Justice Committee forwarded legislation on Tuesday that would prohibit law enforcement officers obtaining audio from microphone-enabled appliances— think the Amazon Alexa or Google Home. The bill is sponsored in the Senate by St. Petersburg Republican Jeff Brandes and in the House by Tampa Republican Jamie Grant, both advocates of ‘disruptive technologies.’

Seeking to address the rapid growth of transportation tech, the Senate Transportation Committee advanced a bill (SB 1200) that would set aside \$60 million annually for alternative transit

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projects in Miami-Dade County and the Tampa area. Those projects would include funding for autonomous (or self-driving) vehicles and buses and rapid bus transit.

Environment

The House is moving on a proposal (HB 7063) that funds Florida Forever, the state's land acquisition trust fund, at \$57 million for the next fiscal year. Under the plan, that number would gradually increase to \$200 million by 2029.

But that plan conflicts with a Senate measure (SB 370) that funds Florida Forever at \$100 million annually. The Senate already has passed that bill, a priority of Senate Budget Chief Rob Bradley. Expect these funding discrepancies to play a major role in negotiations.

On the note of environmental priorities, a key Senate committee this week forwarded a bill that would create a state ban on fracking—an oil and gas excavation method that involves stimulating wells with a mixture of water, sand and chemicals. Critics say it causes groundwater contamination. The bill (SB 462) cleared its first committee unanimously, but the House version (HB 237) has not been heard and historically has stalled in the chamber.

Medical Marijuana

Outside of legislative work, lawmakers are addressing administrative issues that have surfaced since the 2017 Session. As the state grapples over regulating medical marijuana, members in both chambers are continuing their criticism of the state Health Department's Office of Medical Marijuana Use.

A committee of senators and representatives voiced anxiety over the fact that office director Christian Bax has not responded formally to objections to the office's handling of medical marijuana regulations. Bax said he intends to respond to the complaints within the given 30-day time period.

Pending objections range from the department's issuing "contingent licenses" and requiring the submission of a \$60,830 nonrefundable application fee, to its listing of more than 40 distinct and perhaps arbitrary operations violations.

Constitution Revision Commission

Outside of the capital city this week, the Constitution Revision Commission has embarked on another statewide tour. A public meeting in South Florida drew hundreds of citizens, who expressed positive and negative opinions on the 37 proposals that remain under consideration by the panel. Later in the week, Chairman Carlos Beruff joined GrayRobinson's Orlando office for a Community Leader Forum to discuss the 37 proposals that are eligible for the Commission's floor session in March. The next tour stop takes place in Melbourne on Monday.

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Preview of Week 6 (February 12-15)

House and Senate Set for Floor Sessions

Both the House and Senate are set for floor sessions this Wednesday and Thursday. With the respective budgets passed, policy bills will begin to take center stage. The bills on special calendar are listed below.

House Special Order

HB 1013	Daylight Saving Time	Nunez
HB 7021	Florida Statutes	Rules & Policy Committee
HB 7023	Florida Statutes/General	Rules & Policy Committee
HB 7025	Florida Statutes/Non-current Repeals or Expiration	Rules & Policy Committee
HB 7027	Florida Statutes/Rulemaking Repeals	Rules & Policy Committee
HB 7037	Election Dates for Municipal Office	Government Accountability Committee
HB 7041	OGSR/Ethics Complaints and Investigations	Oversight, Transparency & Administration Subcommittee
HB 0155	State Symbols	Magar
HB 1015	Florida Keys Mosquito Control District, Monroe County	Raschein
HB 1115	Indian River Farms Water Control District, Indian River Coun...	Grall
HB 0631	Possession of Real Property	Edwards-Walpole
HB 0271	Bankruptcy Matters in Foreclosure Proceedings	Rommel
SB 0220	Bankruptcy Matters in Foreclosure Proceedings	Passidomo
HB 1011	Homeowners' Insurance Policy Disclosures	Cruz
HB 1113	Palm Beach County Housing Authority	Silvers
HB 6515	Relief/Cathleen Smiley/Brevard County	Altman
HB 6517	Relief/Robert Allan Smith/Orange County	Cortes (B)

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HB 0483	Unfair Insurance Trade Practices	Yarborough
HB 0585	Tourist Development Tax	Fine
HB 0891	St. Lucie County	Harrell
HB 0725	Permit Fees	Williamson
HB 0365	Standards for Correctional Officers	Gonzalez
HB 6059	Department of Corrections' Direct-Support Organization	Plakon
HB 0029	Military and Veterans Affairs	Ponder
HB 0333	Temporary Employment or Appointment of Officers	Burgess
HB 0057	Appointment of Attorneys for Dependent Children with Special...	White
SB 0146	Appointment of Attorneys for Dependent Children with Special...	Bean
HB 1009	Closing Gap Grant Program	Brown
HB 0577	High School Graduation Requirements	Silvers
HB 1175	Early Learning Coalitions	Sullivan
HB 0449	Children's Initiatives	Stafford
HB 7017	Child Exploitation	Criminal Justice Subcommittee
HB 7019	Pub. Rec./Minor Victims of Sexual Offenses	Criminal Justice Subcommittee
HB 0335	Marriage of Minors	Nunez
SB 0140	Marriage Licenses	Benacquisto
HB 1153	Pretrial Release in Cases Involving Minor Victims	La Rosa
HB 0417	Pub. Rec./Child Advocacy Center Personnel and Child Protecti...	Jenne
HB 0411	Public Records and Public Meetings/Firesafety Systems	Clemons
HB 0755	Pub. Rec./Nationwide Public Safety Broadband Network	Williamson
HB 0315	Telephone Solicitation	Ausley
SB 0568	Telephone Solicitation	Young
HB 0487	Residential Treatment Center Requirements	Olszewski

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HB 0551	Pub. Rec./Health Care Facilities	Burton
HB 7059	Optometry	Health & Human Services Committee
HB 0855	Genetic Information Used for Insurance	Brodeur
HB 6033	Volunteer Florida, Inc.	Ponder
HB 0381	Venezuela	Stark

Senate Third Reading

HB 0085	Voter Registration List Maintenance	Spano
SB 0800	Infectious Disease Elimination Pilot Programs	Braynon II
HB 0193	Mortgage Brokering	Stark
SB 0510	Reporting of Adverse Incidents in Planned out-of-hospital Bi...	Young
SB 0162	Payment of Health Care Claims	Steube
HB 0405	Linear Facilities	Williamson
SB 1048	Firearms	Baxley
HB 0087	Pub.Rec./Statewide Voter Registration System	Spano
SB 0660	Florida Insurance Code Exemption for Nonprofit Religious Org...	Brandes
HB 0055	Sale of Firearms	White

Workers Comp for First Responders

On Tuesday, the House Government Operations & Technology Appropriations Subcommittee will take up House Bill 227 by Matt Willhite. The bill would provide indemnity benefits for a mental or nervous injury (aka PTSD) of a first responder. The bill also applies retroactively if the PTSD is accompanied with the witnessing of a triggering event (e.g., murder) and the injury is determined by clear and convincing evidence by a psychiatrist. If passed, the bill will have one more stop in the House – Government Accountability.

Excess Credit Hour Surcharges

On Tuesday, the House Higher Education Appropriations Subcommittee will hear HB 565 by Amber Mariano. 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

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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 only Education Committee remaining. The Senate Bill 844 by Aaron Bean has passed one committee and is set to be heard by the Appropriations Subcommittee on Higher Education on Wednesday.

Omnibus Environmental Regulation Bill Moving in the Senate

On Tuesday, Senate Community Affairs will hear Senate Bill 1308 by Keith Perry. The bill addresses water management district evaluation of consumptive use permits, requires DEP to develop criteria for the application of an impact offset or a substitution credit to a consumptive use permit and provides criteria by which counties and municipalities must address the contamination of recyclable material in contracts for the collection, transportation and processing of residential recyclable material. The last issue is perhaps the most controversial as contamination of recycled materials is a constant struggle at the local level.

Affordable Housing Bill Up in House

On Tuesday, the House Transportation & Tourism Appropriations Subcommittee will hear House Bill 987 by Bob Cortes. The bill prohibits a county or municipality from charging impact fees and mobility fees for the development of affordable housing for a five-year period beginning July 1, 2018. The bill also provides for an expedited local permit approval process for affordable housing by reducing the time a government has to approve or deny a permit application from 120 days to 60 days. If passed, the bill will have only the Government Accountability Committee remaining.

Senate Anti-Fracking Measure Continues to Move

On Wednesday, during the afternoon committee slots, the Senate Appropriations Subcommittee on the Environment and Natural Resources 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.