

## MEMORANDUM

**TO:** NAIOP  
**FROM:** GrayRobinson  
**DATE:** March 11, 2018  
**SUBJECT:** 2018 Legislative Session – Week 9 Summary – Sine Die

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Lawmakers worked through the weekend to finish their annual Legislative Session today, adjourning at 4:16 p.m., two days after Friday's scheduled ending.

While “sine die” came late, it appears that most sticking points that caused delays are settled, and a landmark budget, along with several key pieces of legislation, were passed and are set for consideration by Gov. Rick Scott.

Legislative leaders negotiated budget issues throughout last weekend and into the first half of this past week. Leadership delivered an \$89 billion state budget -- up \$6 billion from last year -- to all members on Thursday afternoon and debated its merits on Friday. This began the constitutionally mandated 72-hour “cooling off” period ending with today's final vote.

Budget highlights include \$53 million to combat the opioid crisis, significant increases in higher-education funding, and new money for criminal justice and environmental programs.

In addition to completing a final spending plan, lawmakers held floor sessions each day this week to move bills. This week saw the passage of, or set up votes for, several high profile proposals:

- A \$168.6 million tax package (HB 7087) was approved on Sunday during the extended session. The overall cost is about \$150 million and includes tax-free holidays and cuts to help the agriculture industry after Hurricane Irma. Also included in the tax package is a broad expansion in the eligible expenditures of the tourist development tax. This new statutory language will allow local governments, upon 2/3 vote recommendation from the County Tourist Development Council and a 2/3 vote of the County Commission, to utilize tourist development tax revenue for traditional infrastructure projects, so long as those investments

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are tied to increasing tourism. However, this expansion is only available to counties already spending at least 40% of their existing tourist development tax revenue on tourism marketing. Also included is a cut to the business rent tax from 5.8% to 5.7%. This marks the second year in a row that the Legislature has cut this tax, which only exists in Florida.

- Legislation (SB 376) that would extend workers' compensation benefits to first responders who suffer from post-traumatic stress disorder passed both chambers and is expected to be approved by Scott.
- The Senate passed a two-thirds 'supermajority' requirement (HJR 7001) for future Legislatures to raise taxes or fees, meaning any prospective increases must get the backing of at least two-thirds of each chamber on the floor. The Senate initially wanted a three-fifths majority but ultimately passed the House version. The amendment now heads to the November statewide ballot.

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

### **Activities and Bills related to NAIOP**

#### **Business Rent Tax Reduction in Tax Package**

The House tax package (HB 7087) passed on Sunday, March 11 during the extended special session. It includes a reduction of the business rent tax from 5.8% to 5.7%. This is the second year in a row for the reduction and sets a strong precedent for reductions in future sessions.

#### **Developments of Regional Impact – HB 1151 (La Rosa) and SB 1244 (Lee) –**

Developments of Regional Impact (DRIs) are defined as “any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county.” Given their size, DRIs are subject to a special review process and often require an amendment to a comprehensive plan. The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs.

The bill eliminates state and regional review of existing Developments of Regional Impact (DRIs), eliminates the Florida Quality Development (FQD) program, and transfers the responsibility for implementation of, and amendments to, DRI and FQD development orders to the local governments in which the developments are located.

The bill preserves existing DRI letters, development orders, agreements, and vested rights.

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The bill transfers the DRI exemptions and partial exemptions currently found in s. 380.06, F.S., to s. 380.0651, F.S., which contains the statewide guidelines and standards for determining whether a proposed development is a DRI-sized development subject to state coordinated review.

The bill deletes the criteria for determining when two or more developments must be “aggregated” and treated as a single development for the purposes of DRI review and deletes the substantial deviation criteria for development order changes.

The bill ends all DRI appeals to the Florida Land and Water Adjudicatory Commission except for decisions by local governments to abandon an approved DRI. However, no changes are made regarding the authority of the Commission to review development orders in areas of critical state concern.

The bill repeals the Department of Economic Opportunity’s DRI and FQD rules in Chapter 73C-40, F.A.C., and Administration Commission rules related to DRI aggregation.

**UPDATE: PASSED** - The House passed this on the floor 110-1. The Senate passed it on Friday, March 9 by a vote of 36-0. This bill now heads to the Governor.

Local Government – HB 883 (Ingoglia) – Senate Perry has the Senate companion. This bill was a bill aimed at reforming community development districts. Based on an amendment adopted in its last committee, it now includes the CRA legislation (SB 432), the DRI legislation (HB 1151) and a rural area boundary revision. **UPDATE: DIED** – The House bill passed on the floor Wednesday, but languished in the Senate. The Senate companion passed on the Senate floor, but was never taken up in the House.

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: DIED** - The Senate bill was never heard in its final committees. The House passed it on the floor on January 12 by a vote of 72-32. **NOTE:** The bill was amended onto HB 883, but that bill also died.

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

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Committee. The Senate companion is SB 902 by Keith Perry and has three references: Community Affairs, Appropriations Subcommittee on Finance and Tax, and Appropriations. – **UPDATE: DIED**

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: DIED** - The House took up and passed its bill by a vote of 87-20 on January 25. The Senate Bill never made it out of 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.”

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**UPDATE: DIED IN COMMITTEE.**

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:** In the final tax package at a reduction from 5.8 to 5.7%.

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. **UPDATE – DIED** – Neither bill was heard.

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: DIED** - The House passed this bill 108-5 on Thursday, March 1. The Senate bill was on calendar, but was never taken up.

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: DIED** - The House passed this bill 113-0 on Wednesday, February 14. The Senate never took this bill up on the floor.

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: DIED** - This bill never 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: DIED** - This bill never 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: DIED** - The Senate was never heard in the Rules Committee. The House bill never moved. **Summary of Week 9**

### **Week 9 Stats**

In total, the week had zero (0) committees meeting (which is par for the last week of legislative session). On the floor of the House and Senate, they saw 378 amendments on 192 bills. As expected for the last week of session, many bills passed both chambers. In total, 164 general bills passed both chambers and can be sent to the governor.

See the full breakdown of the weekly stats below:

- Amendments Filed: 378
- Bills with Actions: 723
- Texts Filed: 192
- Committee Meetings: 0
- Bills Seen in Committee: 0
- Floor Sessions: 12

### **Healthcare**

An agreement was reached on health care funding, the main reason for delay in this year's budget process. Safety net hospitals, which handle large numbers of Medicaid patients, will be funded at \$319 million. Nursing homes received a \$130 million bump in funding, an increase concurrent with the Legislature's ratification of new rules requiring nursing homes to buy generators and have 72 hours-worth of fuel on hand.

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This Session may also result in the end of a longstanding battle over trauma centers in the state. Both chambers this week unanimously backed legislation that would make a series of changes to rules and regulations governing the centers, including changing the number of service areas in the state to 18 and making it more difficult to spawn new centers—a move expected to end costly litigation.

### **Parkland**

The Senate met during a rare Saturday floor session last weekend to debate a \$400 million post-Parkland package (SB 7026) that includes record funding for mental health and school ‘hardening’ initiatives, along with reforms to gun laws to prevent another mass shooting in the state.

The school safety bill was narrowly supported in both chambers. On Friday, Gov. Scott met with parents of students from Broward County’s Marjory Stoneman Douglas High School, where 17 were fatally shot on Valentine’s Day, and signed the sweeping proposal into law.

Following the signing of the bill, the National Rifle Association (NRA) filed suit against the state of Florida. The suit was filed primarily because part of the new law would raise the minimum age to purchase a long barrel firearm to 21 from 18, and the NRA claims this violates the second and 14th amendments of the U.S. Constitution.

### **Commercialization of Technology**

On the last day of regular session (Day 60), an amendment was placed onto HB 1285 that will create the Institute for Commercialization of Florida Technology, replacing the Institute for the Commercialization of Public Research, to increase the availability of seed and early stage investment capital in Florida without requiring an ongoing state expenditure for such support.

The Institute will be operated by a private fund manager, who will be paid from fees based on the Institute’s investment activities, rather than a professional staff. This enables the Institute to expand the scope of investment activity in Florida technology beyond only public university research, and it ensures the Institute will be more nimble and able to attract private seed capital to help grow Florida’s innovation economy.

### **VAB Appeals for Condo Owners**

Controversial language relating to the legal representation of individual condominium owners in value adjustment board ("VAB") appeals was stripped from from the omnibus condominium bill on Day 60 of the Legislative Session, and out of the tax package on Day 62. This last minute

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change prevented an attempted overreach against condominium owners in seeking or preventing appeals of their property values.

### **Post Session Preview**

#### **Constitution Revision Commission**

Soon after sine die, the Constitution Revision Commission (CRC) will go into its own Session.

The CRC, which meets every 20 years to draft proposals to amend the state's governing document, is considering a March 19 - May 10 Session. The body has been meeting since last year and has whittled down the amount of possible ballot amendments to 36.

Planning ahead, the Legislature sent a bill to the Governor this week that would bump the 2020 Legislative Session to start in January, instead of March that year.