

MEMORANDUM

TO: NAIOP
FROM: GrayRobinson
DATE: March 17, 2019
SUBJECT: 2019 Legislative Session – Week Two Summary

During Week 2 of the Legislative Session, lawmakers sent welcome legislation to the desk of Gov. Ron DeSantis.

Now, the new Republican Governor is expected to sign a major change to Florida’s medical marijuana law. The bill (SB 182) would allow some patients who have been prescribed medical marijuana to smoke the medicine, something previously banned by statutes.

With a Wednesday bill-signing deadline, it will likely be the first thing DeSantis authorizes into law while in office.

Repeal of the no-smoke ban happened early on during the 60-day lawmaking process, but that shouldn’t come as a surprise. In January, DeSantis told lawmakers that if they didn’t send him a bill by March 15, he’d drop the appeal to a lower-court ruling that found the ban on smokable marijuana unconstitutional.

The Senate approved the measure two weeks ago and the House sent the bill to DeSantis last Wednesday. Through the legislative process, lawmakers wrote some restrictions to the proposal. For example, in order for minor patients to smoke, they must be terminally ill and a second doctor must confirm the first physician’s recommendation of smokable cannabis.

As well, the legislation permits “a 35-day supply of marijuana in a form for smoking” but not to “exceed 2.5 ounces unless an exception to this amount is approved” by the Department of Health.

That wasn’t the only things that occurred during Week 2. Those additional items and our efforts on your behalf are summarized below.

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Activities and Bills related to NAIOP

Lobbying Activities –

Business Rent Tax – The Senate Commerce and Tourism Committee on Tuesday took the first step in leveling the playing field between brick and mortar businesses and online retailers by passing SB 1112 by Joe Gruters. Under this bill, online businesses that conduct 200 or more transactions or sales of over \$100,000 in Florida will be required to register with the Florida Department of Revenue (DOR) and collect and remit sales tax. Alternatively, the bill allows for marketplace providers, like Ebay or Amazon, to collect and remit the sales tax. With the increased revenue and in order to be revenue neutral, the bill proposes reducing the Business Rent Tax by 1.5 percent and includes a sales tax holiday for hurricane supplies.

Background: In June 2018, the U.S. Supreme Court issued an opinion in *South Dakota v. Wayfair* which paved the way for states to begin collecting the sales tax on internet purchases if a company has a significant economic presence in the state. Over 40 states have adopted rules or passed legislation to implement the *Wayfair* decision and set minimum requirements to establish an economic presence. In Florida, this is a tax that has always been due, but the burden has been on the taxpayer to submit the tax to the DOR for online purchases.

FAST Act – On Tuesday, the House Local, Federal & Veterans Affairs Subcommittee passed the FAST Act (HB 1139) on a vote of 12-2. Thank you to NAIOP members that engaged in an email campaign to support the legislation. Momentum is on NAIOP's side as this bill is on its second committee agenda Tuesday (Business & Professions Subcommittee).

Lease Signatory Changes – House sponsor of Electronic Legal Documents (HB 409) Daniel Perez met with GrayRobinson's lobby team on Monday and agreed to include language regarding e-signing commercial leases. This bill is moving in the House and will begin moving in the Senate during Week 3.

Bills of Interest

Promote Business Friendly CRE Regulations

Permit Fees – SB 142 (Perry) and HB 127 (Williamson) –These identical bills would require the governing bodies of counties and municipalities to post their permit and inspection fee schedules and building permit and inspection utilization reports on their websites; require certain governing bodies of local governments to post their building permit and inspection utilization reports on their websites by a specified date.

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Notes: This is the same bill filed last year. If not for Parkland and the ensuing legislation that followed, this bill would have passed.

Senate Committee References: Community Affairs; Innovation, Industry, and Technology; and Rules

House Committee References: Local, Federal & Veteran Affairs Subcommittee; Business & Professions Subcommittee; and State Affairs Committee

UPDATE: On Wednesday, the Senate Rules committee passed the Senate bill 16-0. On Thursday, the House bill was added to the Special Order Calendar for March 20.

Impact Fees – SB 144 (Gruters) and HB 207 (Donalds) –These similar bills would require that the earliest a government can collect impact fees is the issuance of the certificate of occupancy for the property. This bill would exempt water and sewer connection fees from the Florida Impact Fee Act. The effective date is July 1, 2019.

Notes: This bill is nearly identical to the legislation filed by former Senator Dana Young last session. The addition of the water and sewer connection exemption is new. Also like the Permit Fees legislation, this bill had momentum and likely would have passed if not for Parkland last session.

Senate Committee References: Community Affairs; Finance & Tax; Appropriations

House Committee References: Local, Federal & Veterans Affairs Subcommittee; Commerce Committee; and State Affairs

UPDATE: On Thursday, the State Affairs Committee passed the House bill 22-0. The Senate bill is scheduled for a hearing in Finance and Tax on March 20.

Open and Expired Building Permits – HB 447 (Diamond) and SB 902 (Perry) would provide pro-builder requirements related to open & expired permits, including permit requirements, closing of permits and notice thereof, amendment of Florida Building Code to acknowledge changes, and restrict powers of local governmental entities to close permits. The effective date is October 1, 2019.

House Committee References: Business and Professions Subcommittee; Local, Federal & Veterans Affairs Subcommittee; and Commerce Committee.

Senate Committee References: Community Affairs; Innovation, Industry, and Technology; and Rules.

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UPDATE: The Senate Community Affairs committee passed it favorably on March 12. The House Business & Professions Subcommittee has placed it on the agenda for March 19.

FAST Act – HB 1139 (Plakon) and SB 1752 (Perry) - Requires county or municipality that imposes inspection fees to establish expedited inspection process that provides priority processing for such inspections; authorizes county or municipality to charge additional fee up to specified amount for expedited inspection process; requires such local governments to establish expedited permitting process that provides priority processing for such permits; authorizes local government to charge additional fee for expedited inspection process; provides that local government must require applicant to pay only specified percentage of fees due upon receipt of application; provides for reduction of outstanding fees due; provides for refund of fees; specifies that certain procedures apply to building permit applications for any nonresidential buildings. Effective Date: July 1, 2019

Senate Committee References: Community Affairs; Innovation, Industry and Technology; and Rules

House Committee References: Local, Federal & Veterans Affairs Subcommittee; Business & Professions Subcommittee; and State Affairs Committee

UPDATE: House Local, Federal & Veterans Affairs Subcommittee passed the bill on Tuesday, March 12 by a vote of 12-2. It is on the House Business & Professions Subcommittee for Tuesday, March 19.

Electronic Legal Documents – HB 409 (Perez) and SB 548 (Brandes) would authorize online notarizations; specify requirements & standards for performance of such online notarizations; require the Department of State to adopt rules by January 1, 2020. The effective date is January 1, 2020.

NAIOP Effect: This legislation will serve as the vehicle for changes in the commercial lease witness requirements. Sponsor has agreed to work with NAIOP on potential solutions.

House Committee References: Civil Justice Subcommittee; Transportation & Tourism Appropriations; and Judiciary.

Senate Committee References: Judiciary; Government Oversight and Accountability; and Rules.

UPDATE: House bill passed Civil Justice Subcommittee by a vote of 14-2 on Wednesday, March 13.

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Community Redevelopment Agencies – HB 9 (LaMarca) and SB 1054 (Lee) – these comparable bills prohibits a person from lobbying a community redevelopment agency until he or she has registered as a lobbyist with that agency. As well, the House Bill prohibits the establishment of any new CRA after October 1, 2019, unless by a county-wide referendum. Finally, the bill would terminate all CRAs as of September 2039, unless approved by governing body by a two-thirds vote. The effective date is July 1, 2019.

House Committee References: Local, Federal & Veteran Affairs Subcommittee; Ways & Means Committee; State Affairs Committee

Senate Committee References: Community Affairs; Appropriations Subcommittee on Transportation, Tourism, and Economic Development and Appropriations

UPDATE: House Ways & Means Committee passed the bill 11-6 on March 12. The Senate bill has not yet moved.

Florida Building Code Enforcement – HB 715 (Robinson) and SB 1036 (Gruters) – would prohibit local governments from carrying forward balances resulting from its enforcement of the Florida Building Code which exceed the average of its operating budget, not including reserve amounts, for the previous two fiscal years; requiring local governments to use any excess funds to increase services or provide funding to entities designated as not for profit, etc. The effective date is July 1, 2019.

House Committee References: Local, Federal & Veterans Affairs Subcommittee; Business & Professions Subcommittee; and State Affairs Committee

Senate Committee References: Community Affairs; Innovation, Industry, and Technology; and Rules

UPDATE: House Local, Federal & Veterans Affairs Subcommittee passed the bill 11-1 on March 12. It is on the agenda for Business Professions Subcommittee on March 19.

Job Growth Grant Fund - Governor's proposed budget sought renewal of the \$85 million grant fund. House and Senate leaders have indicated a willingness to support this program.

Deregulation of Professions and Boards – HB 27 (Ingolia) and SB 1640 (Albritton) - Among many things, these bills reduce the size of the Florida Building Commission, including the removal of the building owners' representative. Effective Date: July 1, 2019

Senate References: Infrastructure & Security; Commerce and Tourism; and Rules

House References: Business & Professions Subcommittee; Government Operations & Technology Appropriations Subcommittee; and Commerce Committee

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UPDATE: The House bill is on the Business & Professions Subcommittee this Tuesday, March 19.

Promote Feasible Sustainability Initiatives

Wetland Mitigation – SB 532 (Lee) would allow local governments to provide mitigation credits for a project if alternative mitigation credits are not available from a mitigation bank. In theory, this project would allow local governments and developers to be more creative in approving a project. Another bill, **HB 521 (McClure)** would make clear that the mitigation statute does not affect current wetland mitigation sequencing under state or federal law, and thus, delete all provisions related to the other mitigation regulations. It is unclear whether the two bills will merge eventually, or get their own companions in the respective chambers. We have it tagged and will monitor. The effective date is July 1, 2019.

Senate Committee References: Community Affairs; Appropriations Subcommittee on Agriculture, Environment and General Government; and Appropriations.

House Committee References: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; and State Affairs Committee.

UPDATE: Senate bill is on Appropriations Subcommittee on Agriculture, Environment and General Government on March 19.

House bill was passed favorably by Agriculture and Natural Resources Subcommittee on March 12. It now awaits a hearing in State Affairs.

Renewable Energy on Commercial Buildings – SB 222 (Rodriguez) would exempt from the definition of “public utility” property owners who own and operate a renewable energy source device with a capacity of up to 2.5 megawatts, produce renewable energy from that device, and provide or sell the renewable energy to users on that property. This bill, if passed, would allow large scale commercial buildings to produce and sell renewable energy. The effective date is July 1, 2019.

Senate Committee References: Innovation, Industry, and Technology; Infrastructure and Security; Community Affairs; and Rules

House Committee References: No House bill filed yet.

UPDATE: No movement yet.

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Promote Fair Taxation

Business Rent Tax Reduction – SB 618 (Perry) would exempt from sales tax the first \$10,000 of total rent in year 2020, the first \$20,000 in year 2021, and continues up to \$90,000 in 2028. This is the same “stair step” approach that Senator Perry has proposed in previous sessions.

Senate Committee References: Commerce and Tourism; Finance and Tax; Appropriations

General Taxation – SB 1112 (Gruters) would, among other reductions, cut the business rent tax from 5.7 to 4.2.

Senate References: Commerce and Tourism; Finance and Tax and Appropriations

UPDATE: Commerce & Tourism passed favorably on March 11.

Sales Tax on Commercial Property Rentals – SB 1642 (Gainer) – would cut the business rent tax from 5.7 to 5.5.

Senate References: Commerce & Tourism; Finance & Tax; and Appropriations

Intentionally Collaborative Growth Management

Affordable Housing Trust Fund – SB 70 (Mayfield) – The bill would exempt the State Housing Trust Fund and the Local Government Housing Trust Fund from a provision authorizing the Legislature, in the General Appropriations Act, to transfer unappropriated cash balances from specified trust funds to the Budget Stabilization Fund and the General Revenue Fund, etc. If passed, there would no longer be trust fund “sweeps” of the Sadowski Fund. The effective date July 1, 2019.

Senate Committee References: Community Affairs; Infrastructure & Security; Appropriations Subcommittee on Transportation, Tourism and Economic Development; and Appropriations.

House Committee References: No House bill filed yet.

UPDATE: No movement yet.

Impact Fees on Affordable Housing – SB 350 (Hutson) and HB 1155 (Plasencia) would prohibit local governments from charging impact fees on affordable housing projects. The effective date is July 1, 2019. No committee references yet.

Senate References: Community Affairs, Infrastructure and Security; and Appropriations.

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House References: Local, Federal & Veterans Affairs Subcommittee; Transportation & Tourism Appropriations Subcommittee and State Affairs Committee.

UPDATE: Senate bill waiting on hearing in Infrastructure and Security.

Property Rights Inserted into Growth Management – HB 291 (McClain) and SB 428 (Perry) would require a comprehensive plan to include property rights element; provide statement of rights that local government may use; require local government to adopt property rights element by July 1, 2020; and provide that local government's property rights element may not conflict with statutorily provided statement rights. Essentially, this bill, if passed, would make clear that a property owner's rights to develop his/her/its property must be honored by a local government. The effective date is July 1, 2019.

Senate Committee References: Community Affairs, Judiciary and Rules.

House Committee References: Local, Federal & Veterans Affairs Subcommittee; Commerce Committee; and State Affairs Committee.

UPDATE: House bill is waiting on second committee stop. Senate bill has not moved yet.

Statewide Environmental Resource Permitting Rules – SB 1344 (Cruz) and HB 1343 (Good) would clarify the duty of the Department of Environmental Protection to adopt, in coordination with the water management districts, specified statewide environmental resource permitting rules; directs the water management districts, with department oversight, to adopt rules for specified design and performance standards relating to new development and redevelopment projects, etc. The effective date is July 1, 2019.

Senate References: Environmental and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; and Appropriations

House References: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; and State Affairs Committee

Growth Management – SB 1730 (Lee) would prohibit a county or city from adopting or imposing a requirement in any form relating to affordable housing which has specified effects; would require that a county or city review the application of a development order within 30 days after receipt; and would impose standards surrounding impact fees, including the requirement that they be proportional to the project, have a nexus to the project and not be collected prior to the issuance of a permit.

Senate References: Community Affairs; Infrastructure and Security; and Rules

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House References: No House bill yet.

UPDATE: Community Affairs will hear the bill on March 20.

Promote Economic Prosperity

Renewing Visit Florida – SB 178 (Gruters) and HB 6031 (Ponder) would remove the scheduled sunset of Visit Florida’s enabling statute and make it a permanent state agency. The effective date is July 1, 2019.

Senate Committee References: Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Committee References: Workforce Development & Tourism Subcommittee; Transportation & Tourism Appropriations Subcommittee; and Commerce Committee

UPDATE: Senate Appropriations passed the bill 18-0. It now awaits a hearing on the Senate floor. House bill has yet to move.

Workers Compensation – SB 1636 (Perry) and HB 1399 (Byrd) would require panel to annually adopt statewide workers' compensation schedules of maximum reimbursement allowances; extend timeframes in which employees may receive certain workers' compensation benefits & in which carriers must notify treating doctor of certain requirements; provide conditions under which employees may receive permanent impairment benefits; and require good faith effort to resolve dispute. The effective date is July 1, 2019. **Note:** The Senate version addresses attorney fees related to good faith efforts to resolve claims and total amount owed compared to the effective hourly rate.

Senate Committee References: Banking & Insurance; Judiciary; and Rules

House Committee References: Insurance & Banking Subcommittee; Government Operations & Technology Appropriations Subcommittee; and Commerce Committee

Summary of Week Two (March 11-15)

Budget Update

Senate President Bill Galvano spoke with news reporters on Thursday, saying he expects his chamber’s Appropriations Committee to approve its version of a proposed 2019-20 state budget by Thursday of Week 4 of Session.

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Allocations are expected to drop at the beginning of this week, meaning appropriations subcommittees will be hard at work. The Revenue Estimating Conference, which forecasts how much money lawmakers can budget, recently said revenues will remain essentially level heading into next fiscal year.

At play: About \$200 million in unspent reserves will roll over from the current 2018-19 fiscal year. So “the result (between) the two years is essentially zero” difference, said Amy Baker, coordinator of the Office of Economic and Demographic Research. The precise numbers were up by \$201 million this year and down \$208.7 million next year, as compared to earlier estimates.

Senators Act on VISIT Florida

A key Senate panel this week unanimously backed legislation that would reauthorize the state’s tourism-marketing agency. Florida law currently would sunset VISIT Florida on Oct. 1. On Thursday, the Senate Appropriations Committee backed a bill (SB 178) that would repeal that provision from statutes. This lines up with Governor DeSantis, who has recommended maintaining level funding for VISIT Florida, suggesting that he’d support the repeal moving through the Senate.

Meanwhile, the House bill (HB 6031) has yet to be heard by a committee. This, in large part, stems from Speaker Oliva’s public support to sunset VISIT Florida. With the Senate likely to pass its version by the fourth week of session, expect this issue to be part of the late-in-session trade conversations.

While this issue looms, the Governor has hired former state Sen. Dana Young to lead the agency. With tourism driving the Sunshine State’s economy, VISIT Florida serves small, medium and large-size hotels and destinations in attracting more tourists to Florida each year. Young recently addressed business leaders at the GrayRobinson Community Leader Forum in Orlando, where she discussed the importance of marketing Florida internationally.

Beverage Bills on the Move

Bills that would change the state’s alcoholic-beverage laws found favor in House panels last week. One measure (HB 1229), by Key Largo Republican Holly Raschein, was cleared by the Business and Professions subcommittee. It benefits craft distillers by, among other things, allowing them to hold tastings at public events and ship product out of state, directly to customers. The bill also would remove the six bottle-limit on in-person sales and would allow for out-of-state shipping.

Another bill (HB 1219), also cleared by the panel, would allow spirits makers to produce 250,000 gallons a year, up from 75,000 gallons yearly, and still be designated a “craft distillery.”

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It is sponsored by Howey-in-the-Hills Republican Anthony Sabatini. HB 1219 would also let craft distillers sell up to 75,000 gallons of product a year at their “souvenir gift shops,” and let them make an in-person sale with the option of shipping the liquor later.

Also, a bill (HB 6037) by Miami Republican Daniel Perez repealing the state law on wine-bottle sizes cleared the Commerce Committee and heads to the House floor as early as this week. HB 6037 would allow wine to be sold in Florida in containers holding more than 1 gallon. State law currently allows no more than a gallon. A typical bottle is 750 milliliters, roughly a fifth of a gallon.

Issue Roundup

- The House Education Committee coalesced around its own version of a DeSantis education priority: Eliminating the waitlist for the Florida Tax Credit Scholarship, which funds private-school scholarships for lower-income students. The measure (PCB 19-01) would create a new voucher program, known as the Family Empowerment Scholarship program. The Senate and House currently differ on who the scholarship could apply to, with the Senate suggesting a more conservative federal poverty rate.
- A push aimed at preventing future Constitution Revision Commissions from bundling provisions into single amendments is catching traction. Legislation (SB 74) that would require a single-subject limitation for CRC ballots cleared its last committee stop in the Senate this week. The House version has one more panel to go.
- A measure aimed at preventing life-insurance companies from using genetic tests to price their policies advanced this week in a 5-3 vote through the Senate Banking and Insurance Committee. The bill (SB 258) still has two more committee stops. Opponents to the legislation have claimed that the bill prevents life insurers from knowing necessary pricing information.

Appropriation Project Bills Update

As of Friday, one thousand six hundred and twenty-nine (1629) House appropriations project bills have been filed, totaling \$3,694,901,075 in funds requested. Of those, 1,022 bills have met the minimum requirements (favorable report in subcommittee) for inclusion in the House's proposed Budget.

In the Senate, one thousand four hundred seventeen (1417) projects have been filed.

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Preview of Session Week Three (March 18-22)

The House Appropriations Committee will meet Monday at 1 p.m. in Room 212 of the Knott Building. Members will consider a number of bills during the hearing. Notably, state Rep. Tom Leek's measure (HB 19) that would create drug importation programs is on the agenda. The House Ways and Means Committee will meet later Monday at 3:30 p.m. in House Office Building 17 in part to consider state Rep. Clay Yarborough's telehealth plan (HB 23).

The Senate Committee on Banking and Insurance will take up state Sen. Joe Gruters' plan (SB 1024) to launch a blockchain working group. The panel, if created by the Legislature, would examine blockchain — the digital ledger technology that supports cryptocurrency transactions — and its use in state government.

The House is scheduled to hold floor sessions at 2:30 p.m. on Wednesday and 3:30 p.m. on Thursday. The chamber will consider a number of bills, including a repeal of the state's "certificate of need" process for health care facilities. That measure (HB 21) is sponsored by state Rep. Heather Fitzenhagen.

The Senate is expected to hold a floor session at 10 a.m. on Thursday. Among some of the items on Third Reading is a bill (SPB 7012) that would implement the vaping ban voters passed on the ballot last year.

The Senate committee schedule for Week 3 can be found here:

https://www.flsenate.gov/Session/Calendar/2019/Weekly_Schedules_2019-03-07_141928.PDF

The House committee schedule for Week 3 can be found here:

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Session&CommitteeId=&Session=2019&DocumentType=Session%20Weekly%20Schedules&FileName=Session%20Weekly%20Schedule%20for%20Week%203%20March%2018%20-%2022,%202019%20-%201st%20Amended.pdf>