

City of Coral Gables 2019 Session - Final Report

On behalf of Ronald L. Book, P.A. and Southern Strategy Group we would like to first and foremost extend our appreciation for the continued opportunity to represent the City of Coral Gables.

After a one-day extension to vote on the budget and budget related bills, the Legislature adjourned, Sine Die, May 4, 2019 at 2:03 pm. Included in this report are summaries of legislation affecting local governments considered during the 2019 Regular Session. Should you have any questions regarding budget information, legislation, or legislative action, please do not hesitate to call or email us.

BUDGET UPDATE: As of the writing of this report, the Governor has not officially received the budget. At the time of the transmittal of the budget to the Governor, he will be required to act within 15 days, however, he is expected to act quickly. Below is the final funding amount for the City's funding requests.

- **Public Safety Building and Regional EOC:** Funded \$1,000,000
- **Stormwater System Improvements:** Funded \$100,000
- **Water and Energy Efficiency Master Plan:** Funded \$220,000

LEGISLATIVE ISSUES: The list below indicates bills that passed and those that did not pass for quick reference of bills contained in our weekly reports throughout Session. Following this list is a comprehensive summary of each of the bills listed. Should you need further information, please do not hesitate to email or call. We are happy to provide further detail on these or any other issues of interest to you.

Bills That Passed:

- Texting and Driving – Primary Offense / School Crossing, School Zone, Construction Zone – Hands Free Use Required
- Collection of Residential Recyclable Materials/Single-Use Plastic Straws/Moratorium on Local Regulation
- Private Property Rights/Tree Trimming/Restrictions on Local Regulation
- Permit Fees
- Impact Fees
- Vegetable Gardens/Preemption
- Federal Immigration Enforcement (Sanctuary Cities)
- Vaping - implements the vaping ban provision of Amendment 9 which passed by 68.92% in the November 2018 election.

Bills That Did Not Pass:

- Preemption of Various Local Occupation Licensing Regulation
- Governmental Powers/Preemptions/Multiple

- Vacation Rental Regulation/Preemption
- Preemption of Local Regulations/Sunscreen and alternate/generated power sources
- Private Property Rights Protection /"Bert J. Harris, Jr., Private Property Rights Protection Act"
- Expanded Uses of Unmanned Aircraft-Drones
- Local Government Public Construction Works
- Traffic Infraction Detector Repeal (Red Light Cameras)

> **BILLS THAT PASSED:**

Texting and Driving – Primary Offense / School Crossing, School Zone, Construction Zone – Hands Free Use Required

HB 107 has passed the full House and Senate and awaits action by the Governor. The bill as passed contains two overall goals which are listed below. The bill:

- Authorizes texting and driving as a primary offense.
- Authorizes as a primary offense, talking on a phone “in a hand held manner” while driving in a school crossing, a school zone, and a work zone when workers are present.

The legislation specifically:

- Makes clear that the officer is required to let the driver know his or her right to refuse to turn over the phone, cannot access it without a warrant, the officer cannot confiscate the phone without a warrant, cannot obtain consent from the driver to search the phone through coercion, and the bill states that if the driver consents to a cell phone search, it has to be done voluntarily and unequivocally.
- States that officers must record race and ethnicity of the driver and report this data to FDLE. Local law enforcement will be required to maintain records of this data and FDLE must report the data to the Governor and Legislature annually, beginning February of 2020.
- Language was amended in the Senate to specifically separate out talking on a phone “in a hand held manner” while in a school crossing, school zone, and work zones when workers are present.
 - This section creates a time frame for a warning period for the use of cell phones in these areas from October 1, 2019 through December 31, 2019 that an officer may stop vehicles to issue a verbal or written warning to educate and inform the public.
 - Effective January 1, 2020, a law enforcement officer may stop and issue a citation to persons driving and talking on the phone “in a hand held manner” in these areas.
 - Creates exceptions to this section which are as follows: an individual performing an official duty while as a driver of an emergency vehicle, an individual reporting an emergency or crime, receiving messages that are navigation in nature, safety related information, radio broadcasts, or using the device in a hands-free manner.
 - The specific section above that requires the officer to inform the driver of his or her rights is also written to apply to this section.
 - This section also includes the requirement to record the race and ethnicity of the driver and report data to FDLE, local law enforcement would also be required to record and keep this information, lastly, FDLE would be required to report this to the Governor and Legislature annually.
 - Any person who violates this section commits a noncriminal traffic infraction, punishable as a moving violation, and would have 3 points be assessed against his or her driver's license. For a first offense, however, in lieu of the penalty and the assessment of points, a person could choose to participate in a wireless communications device driving safety program approved by the DHSMV. After which, the penalty may be waived by the clerk of court, and the assessment of points must be waived. Additionally, the clerk may dismiss a case and assess court costs for a person cited for a first time violation if the person shows the clerk proof of purchase of equipment that allows his or her personal phone be used in a hands-free manner.

Additionally, the bill also allows for the following:

- DHSMV in consultation with DOT, is authorized to implement a statewide campaign to raise awareness of and encourage compliance with this new law.
- DHSMV will contract with counties, local law enforcement agencies, safety councils, and public schools to assist with planning and conducting the statewide campaign.
- Except where otherwise noted above, this law would take effect July 1, 2019.

HB 107 has passed both the House and Senate and is awaiting action by the Governor.

Collection of Residential Recyclable Materials / Single Use Plastic Straws: HB 771

This bill would require counties and municipalities to address contamination of recyclable material in contracts; prohibit counties and municipalities from requiring collection or transport of contaminated recyclable material by residential recycling collectors; and specify required contract provisions in residential recycling collector and materials recovery facility contracts with counties and municipalities.

Important to note: HB 771 was amended to include the language creating a moratorium on local government regulation of single-use plastic straws. This moratorium would be lifted July 1, 2024. In that time, the Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to complete an analysis of each ordinance or regulation adopted by the governing body of a county, municipality, or special district in Florida to restrict or prohibit the use of single-use plastic straws. The study's scope must include, but is not limited to, gathering information pertaining to the data and conclusions on which the county, municipality, or special district used in adopting such ordinance or regulation.

HB 771 has passed both the House and Senate and is awaiting action by the Governor.

Private Property Rights / Tree Trimming and Regulation HB 1159

HB 1159 does the following:

- Prohibits local governments from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property.
- Prohibits a local government from requiring a property owner to replant a tree that was pruned, trimmed, or removed.
- Clarifies that this legislation does not apply to mangroves.
- Removes the requirement that a property owner receive approval by the local government before requesting an electric utility to maintain vegetation in the adjacent utility right-of-way.
- Requires the County property appraiser to post a Property Owner Bill of Rights on their websites. This would include the following seven (7) property rights spelled out in the bill, which are the right to acquire, possess, and protect your property, to use and enjoy your property, to exclude others from your property, to dispose of your property, the right to due process, to just compensation for property taken for a public purpose and the right to relief, or payment of compensation, when a new law, rule, regulation, or ordinance of the state or a political entity unfairly affects your property.
- Takes effect July 1, 2019.

HB 1159 has passed both the House and Senate and is awaiting action by the Governor.

Permit Fees HB 127, SB 142

- The bills require governing bodies of counties and municipalities to post permit and inspection fee schedules and building permit and inspection utilization reports on their websites by December 31, 2020.

- After December 31, 2020, the governing body of a local government that provides a schedule of fees must update its building permit and inspection utilization report before adjusting the fee schedule.

HB 127/SB 142 has passed both the House and Senate and is awaiting action by the Governor.

Impact Fees HB 207/SB 144

The bill prohibits any local government from requiring payment of impact fees any time prior to issuing a building permit. Local governments will be required to designate the funds collected by the impact fees for acquiring, constructing, or improving the capital facilities to benefit the new users. Impact fees collected by a local government may not be used to pay existing debt or pay for prior approved projects unless the expenditure has a rational nexus to the impact generated by the new construction. The bill further excludes fees charged for connecting to water and sewer systems.

HB 207/SB 144 has passed the House and Senate and is awaiting action by the Governor.

Vegetable Gardens/Preemption: SB 82

This legislation was a priority of Senator Bradley, the Chair of the Senate Appropriations committee, and a priority of the Senate and House leadership. SB 82 preempts any local ordinance or regulation of vegetable gardens on residential property. This is aimed at a local government in South Florida that filed suit against a resident that grew a vegetable garden in the front yard. The bill does allow for local governments to regulate water use during drought conditions, fertilizer use, or control of invasive species.

SB 82 passed the House and Senate and is awaiting action by the Governor.

Federal Immigration Enforcement (Sanctuary Cities) SB 168

This bill moves to ensure state and local entities and law enforcement agencies cooperate with federal government officials to enforce, and not obstruct, immigration laws. With approximately 225 amendments filed to this bill, the majority of which failed or were discussed and withdrawn, this proved to be one of the most discussed and debated bills of this Session. SB 168 did pass as amended, on the last day of the regular Session.

The main requirements of this legislation are as follows:

- Prohibits sanctuary jurisdictions and any sanctuary policies as defined in s. 908.102, F.S. that are in effect on the effective date of this act, violates the public policy of Florida and must be repealed within 90 days.
- State and local entities are to use best efforts to support the enforcement of federal immigration law.
- A state entity, law enforcement agency, or local governmental entity, or an employee, an agent, or representative of the entity or agency may not prohibit or in any way restrict law enforcement agency from taking any of the following actions with respect to information regarding a person’s immigration status:
 - Complying with an immigration detainer
 - Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in the custody of the law enforcement agency
 - Providing a federal immigration agency access to an inmate for interview
 - Participating in any program or agreement authorized under section 287 of the Immigration and Nationality Act, 8 73U.S.C. s. 1357; or
 - Providing a federal immigration agency with an inmate’s incarceration status or release date.
- Requires a government body to use its best efforts to support the enforcement of federal immigration law.

Regarding the enforcement portion of this legislation, the bill sets forth the following:

- Any executive or administrative state, county, or municipal officer who violates his or her duties under this chapter may be subject to action by the Governor in the exercise of his or her authority under the State Constitution and state law. Pursuant to s. 1(b), Art. IV of the State Constitution, the Governor may initiate

judicial proceedings in the name of the state against such officers to enforce compliance with any duty under this chapter or restrain any unauthorized act contrary to this chapter.

- In addition, the Attorney General may file suit against a local governmental entity or local law enforcement agency in a court of competent jurisdiction for declaratory or injunctive relief for a violation of this chapter.
- If a local governmental entity or local law enforcement agency violates this chapter, the court must enjoin the unlawful sanctuary policy. The court has continuing jurisdiction over the parties and subject matter and may enforce its orders with the initiation of contempt proceedings as provided by law.
- An order approving a consent decree or granting an injunction must include written findings of fact that describe with specificity the existence and nature of the sanctuary policy that violates this chapter.

SB 168 has passed the House and Senate and is awaiting action by the Governor.

Vaping: SB 7012

This bill implements the vaping ban provision of Amendment 9 which passed by 68.92% in the November 2018 election. The Amendment bans the use of vapor-generating electronic devices, or vaping, consistent with the current prohibition of tobacco smoking in enclosed indoor workplaces. In summary, the vaping ban is to mirror the existing ban on smoking, which includes a prohibition for anyone under the age of 18 years old from vaping in, on, or within 1,000 feet of school property.

Specifically, this bill implements Amendment 9 by requiring the following:

- Prohibits vaping in enclosed indoor workplaces consistent with the current prohibition on indoor smoking;
- Provides exceptions for vaping in enclosed indoor workplaces consistent with the current exceptions for smoking;
- Creates a new exception for vapor-generating electronic device retailers;
- Creates penalties for vaping-related violations consistent with the current penalties for smoking-related violations;
- Clarifies that counties and municipalities may adopt local ordinances that impose more restrictive regulations on vaping;
- Requires public announcements in mass transportation terminals to include statements on the vaping prohibition;
- Prohibits anyone under the age of 18 years old from vaping in, on, or within 1,000 feet of school property.
- The bill provides an effective date of July 1, 2019.

SB 7012 was signed into law by the Governor, Chapter No. 2019-14.

> BILLS THAT DID NOT PASS:

Preemption of Local Regulations HB 3

The bill would have accomplished the following:

- Preempts the licensing of occupations to the state and supersedes any local government licensing of occupations. However, any licensing adopted prior to July 1, 2019, will continue to be effective until July 1, 2021, at which time it will expire.
- Any licensing of occupations authorized by general law is exempt from the preemption.
- Prohibits local governments from requiring a license for a person whose job scope does not substantially correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board, within DBPR
- Precludes local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, and decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

- Authorizes counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is the current practice by counties and municipalities. (Meaning, local journeyman licensing is exempt from this preemption).

HB 3 did not pass.

Governmental Powers/Preemptions HB 1299

HB 1299 would have enacted a number of restrictions on local governments, including the following:

- Except as provided for in s. 171.205, F.S., a municipality may not purchase land within another municipality's boundaries without their consent;
- The governmental entity may not attempt to annex an area within another governmental entity's jurisdiction without the other governmental entity's consent.
- Prohibits municipalities from levying taxes on cigarettes, cigars, nicotine products, and dispensing devices.
- Preempts to the state, the establishment of the minimum age for the sale or delivery of tobacco products, nicotine products, and nicotine dispensing devices.
- Amends the Florida Drug and Cosmetic Act to preempt the regulation of over-the-counter proprietary drugs and cosmetics, to the state. (meant to target the sale of sunscreen as it pertains to the reported damage to coral reef)
- Amends s. 526 F.S., the sale of liquid fuels; brake fluid section, to include a preemption to the state and to DEM, the establishment of the requirements for alternate generated power sources, including transfer switches.
- A municipality, county, or other local government entity may not adopt, enforce, or implement any ordinance, rule, or law that would impose additional requirements for maximum fuel supply or safe temperature and cooling requirements related to the comprehensive emergency management plan.
- Preempts to the state the regulation of single use straws and allows for businesses to distribute plastic straws upon request or through a dispenser. (this preemption would not apply to a hospital or nursing, rehabilitation, or other health care facility). *A moratorium on local regulation of plastic straws passed in HB 771
- Clarifies that local governments cannot regulate a food service establishment regulation of single-use plastic straws, which is preempted to the state. Stating that a municipality, county, or other local governmental entity may not adopt, enforce, or implement any ordinance, rule, or law that would restrict a food service establishment from distributing single-use plastic straws to customers. *A moratorium on local regulation of plastic straws passed in HB 771

HB 1299 did not pass.

Vacation Rental Regulation/Preemption: HB 987/SB 824

Vacation Rental preemption of local government regulation did not pass. Throughout this Session, we worked closely with the FLC to oppose this bill with members of both the House and Senate. During week 6, HB 987 was heard in the Commerce Committee and as part of the push with the team of lobbyists that work with local governments and with the League of Cities, several amendments were offered in an effort to weigh down the bill and highlight several problems with state regulation and local government preemption. These amendments are briefly summarized below. After lengthy debate, testimony from cities and the public, and two 15 minute extensions of the committee's end time, this bill passed 13 – 11. However, the Senate chose not to hear the bill later this same day in its scheduled committee. Below is a recap from week 6 of the amendments offered to the vacation rental bill in the final House committee hearing.

Amendments included the following issues:

- Required that an operator of a vacation rental maintain liability insurance coverage, to be in force at all times to cover vacation rental guests. (passed)

- Reinstated the grandfather clause. (failed)
- Required a registry and notification process for sexual offenders choosing to stay in a vacation rental. (passed)
- Required vacation rental inspections by DBPR and to do these inspections, the division has the right of entry and access to vacation rental establishments at any reasonable time. (in two amendments - failed)
- Attempted to clarify that Condominium and Homeowner Associations rules and bylaws remain in effect as it pertains to limiting an owner's use of property as a vacation rental. (passed)
- Addressed local government regulation of vacation rentals except a property also used as a homestead, as described in s. 6(a), Art. VII of the State Constitution. (failed)

HB 987/SB 824 did not pass.

Preemption of Local Regulations (Sunscreen and alternate/generated power sources): SB 588

This legislation would have prohibited a local government adopting or enforcing any regulation regarding over-the-counter proprietary drugs and cosmetics. This specifically targets sunscreen regulation by local governments who are concerned about damaging coral reef.

Additionally, the bill would have preempted requirements for alternate generated power sources for motor fuel dispensing facilities, including transfer switches, to the state and the Division of Emergency Management.

SB 588 did not pass.

Private Property Rights Protection: CS/CS/HB 1383/SB 1720

Named the "Bert J. Harris, Jr., Private Property Rights Protection Act" the major points of this legislation would have accomplished the following:

- Change the timeframe under which a claimant must notify the government before filing an action from 150 days to 90 days;
- Allow the claimant to have the court, rather than a jury, determine damages;
- Remove the prohibition that the factfinder cannot consider business damages in making a determination of the claimant's damages; and
- Change the process for attorney fees and costs by:
 - Allowing a claimant to recover attorney fees and costs incurred from the time he or she files notice with the government instead of from the time he or she files suit;
 - Allowing any prevailing claimant, regardless of the reasonableness of the settlement offer, to recover attorney fees and costs; and
 - Removing the provision allowing a government to recover attorney fees and costs.

CS/CS/HB 1383/SB 1720 did not pass.

Expanded Uses of Unmanned Aircraft-Drones SB 75/SB 766

The bill expands exceptions to the prohibition on drone use for surveillance by law enforcement, adding to the list of exceptions to include the following:

- To assist a law enforcement agency in crowd control involving a group of 50 people or more.
- To assist a law enforcement agency in traffic management, except that a drone may not be used to gather evidence to enforce traffic infractions.
- To facilitate a law enforcement agency's collection of evidence at a crime scene or traffic crash scene.
- By a state agency or political subdivision for the assessment of damage due to a flood, wildfire, or natural disaster or for vegetation or wildlife management on publicly owned land
- By certified fire department personnel to perform tasks within the scope and practice authorized under their certifications

HB 75/SB 766 did not pass.

Local Government Public Construction Works HB 167/SB 806

The bill specifies the manner in which the estimated cost of a public building construction project must be determined when a local government governing board is deciding whether it is in the local government's best interest to perform the project using its own services, employees, and equipment. Specifically, the bill requires the estimated cost of the project to be determined using generally accepted cost-accounting principles that fully account for all costs associated with performing and completing the work, including employee compensation and benefits, equipment costs and maintenance, insurance costs, and the cost of materials.

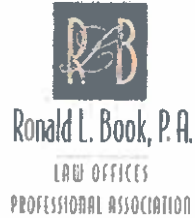
HB 167/SB 806 did not pass.

Traffic Infraction Detector Repeal (Red Light Cameras) HB 6003, SB 622

- Repeals provisions relating to Mark Wandall Traffic Safety Program and the authorization to use traffic infraction detectors.
- Repeals provisions relating to distribution of penalties, transitional implementation, and placement and installation.

HB 6003/SB 622 did not pass.

➤ On Saturday, May 4, 2019 at 2:03 pm, the Florida Legislature adjourned sine die.



**City of Coral Gables
2019 Session - Final Report/Supplemental Issues**

On behalf of Ronald L. Book, P.A. and Southern Strategy Group, included below is a supplemental list of bills that passed during the 2019 Legislative Session and that are of interest to the City.

- **Communications Services:** (CS/CS/CS/SB 1000 by Senator Hutson)
 - **Firefighter Cancer Benefits:** (CS/CS/SB 426 by Senators Flores)
 - **Micromobility Devices:** (CS/CS/HB 453 by Representative Toledo and CS/SB 542 by Senator Brandes)
 - **Attorney Fees and Costs:** (CS/CS/CS/HB 829 by Representative Sabatini and CS/CS/CS/SB 1140 by Senator Hutson)
 - **Government Accountability:** (SB 7014 by the Community Affairs Committee and the Governmental Oversight and Accountability Committee)
 - **Local Government Financial Reporting:** (HB 861 by Representatives Fernandez-Barquin and Roach and SB 1616 by Senators Baxley and Albritton)
 - **E911 Systems:** (CS/CS/HB 441 by Representatives DuBose and Toledo and CS/CS/SB 536 by Senators Brandes, Book, and Perry)
 - **Community Development and Housing:** (CS/CS/HB 7103 by Representative Fischer, Cosponsored by Representatives Roth and Sprowls and CS/CS/CS/SB 1730 by Senator Lee)
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Communications Services: (CS/CS/CS/SB 1000 by Senator Hutson)

The bill makes changes to the statute governing the use of public rights-of-way by providers of communications services, including the Advanced Wireless Infrastructure Deployment Act relating to small and micro wireless facilities enacted two years ago. The bill does the following:

- Prohibits a municipality or county from imposing permit fees for the use of public rights-of-way by communications services providers if it had not levied permit fees as of January 1, 2019
- Allows a municipality or county that was imposing permit fees as of January 1, 2019 to continue to do so or to elect to no longer impose permit fees
- Creates a civil cause of action for any person aggrieved by a violation of the right-of-way statute
- Prohibits a local government from instituting, "either expressly or de facto, a moratorium or other mechanism that would prohibit or delay" permits for collocation of small wireless facilities or related poles
- Deletes the authority for a local government to require performance bonds and security funds and allowing it to instead require a construction bond limited to no more than 18 months after the construction is completed
- Requires a local government to accept a letter of credit or similar instrument issued by any financial institution authorized to do business within the U.S.
- Allows a provider of communications services to add a local government to any existing bond, insurance policy, or other financial instrument, and requiring the local government to accept such coverage
- Requires a wireless provider to comply with objective and reasonable requirements if the local government has required all public utility lines in the right-of-way to be placed underground, with certain exceptions
- Prohibits a local government from requiring a permit applicant to provide inventories, maps, or locations of communication facilities in the rights-of-way, unless it is necessary to avoid interference with existing facilities

- Allows a local government to require, annually, a notarized statement from a pass-through provider identifying information on the provider's pass-through facilities and
- Provides additional requirements pertaining to a local government's permit registration and application process for communications services providers' use of public rights-of-way

SB 1000 passed the Senate 34 – 3, passed the House 96 – 16, and awaits action by the Governor.

Firefighter Cancer Benefits: (CS/CS/SB 426 by Senators Flores)

This bill allows for firefighters diagnosed with certain cancers, eligible to receive specific disability or death benefits. In lieu of pursuing workers' compensation coverage, a firefighter is entitled to cancer treatment and a one-time cash payout of \$25,000, upon the firefighter's initial diagnosis of cancer.

Upon a diagnosis of cancer, a firefighter is entitled to the following benefits, as an alternative to pursuing workers' compensation benefits under chapter 440, if the firefighter has been employed by his or her employer for at least 5 continuous years, has not used tobacco products for at least the preceding 5 years, and has not been employed in any other position in the preceding 5 years which is proven to create a higher risk for any cancer.

The bill provides that the term "cancer" is defined to include bladder cancer, brain cancer, breast cancer, cervical cancer, colon cancer, esophageal cancer, invasive skin cancer, kidney cancer, large intestinal cancer, lung cancer, malignant melanoma, mesothelioma, multiple myeloma, non-Hodgkin's lymphoma, oral cavity and pharynx cancer, ovarian cancer, prostate cancer, rectal cancer, stomach cancer, testicular cancer, and thyroid cancer.

"Employer" is defined as having the same meaning as in s. 112.191, F.S. which is a state board, commission, department, division, bureau or agency, or a county, municipality, or other political subdivision of the state.

The employer must provide coverage within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for any out-of-pocket deductible, co-payment, or coinsurance costs incurred due to the treatment of cancer.

For disability and death benefits, the employer must consider a firefighter permanently and totally disabled if diagnosed with one of the 21 enumerated cancers and meets the retirement's plan definition of totally and permanently disabled due to the diagnosis of cancer or circumstances that arise out of the treatment of cancer. Moreover, the cancer or the treatment of cancer is deemed to have occurred in the line of duty, resulting in higher disability and death benefits.

The legislative analysis states that the fiscal impact on state and local governments employing firefighters is indeterminate. However, it goes on to state that to cover the costs associated with changes to Florida Retirement System (FRS) benefits (disability retirement benefits and in-line-of-duty benefits), the bill provides adjustments to the employer-paid contribution rates for the Special Risk class and the Deferred Retirement Option Program (DROP) that fund the FRS's normal costs and unfunded actuarial liability, and adjusts the percentage of funds allocated to provide in line of duty death benefits for investment plan members.

The bill passed the Senate 38 – 0, passed the House, 116 – 0, and was approved by the Governor. Chapter No. 2019-21.

Micromobility Devices: (CS/CS/HB 453 by Representative Toledo and CS/SB 542 by Senator Brandes)

The bill establishes a regulatory framework for authorizing the operation of micromobility devices and motorized scooters. The bill:

- Grants rights and applies duties to the operator of a micromobility device or motorized scooter that are the same as those of a bicycle rider

- Specifies that a local government is not prevented from exercising its regulatory authority with respect to the operation of micromobility devices or motorized scooters on streets, highways, and sidewalks under its jurisdiction
- Allows operation of a micromobility device or motorized scooter without a valid driver license
- Excludes micromobility devices and motorized scooters from compliance with vehicle registration, licensing, and insurance requirements; equipment requirements for slow-moving vehicles; and motor vehicle provisions related to licensing and license-plate display
- Requires a person who offers motorized scooters or micromobility devices for hire to secure all such devices located in any area of the state where an active tropical storm or hurricane warning has been issued

HB 453 passed the Senate 32 – 1, passed the House 115 – 0, and awaits action by the Governor.

Attorney Fees and Costs: (CS/CS/CS/HB 829 by Representative Sabatini and CS/CS/CS/SB 1140 by Senator Hutson)

The bill authorizes an award of attorney fees and costs in challenges to proposed or adopted local government ordinances on subjects that are expressly preempted by the State Constitution or state law.

Express preemption means that a particular topic or field is reserved in writing exclusively to the Legislature to regulate. Under the bill the prevailing party in a court challenge to a local ordinance on express preemption grounds is entitled to attorney fees and costs. This is an exception to the usual rule on attorney fees in Florida, which requires that each party to a legal action pay its own attorney fees and costs.

The bill also provides an “escape clause” from liability for the prevailing party’s attorney fees and costs. The “escape clause” provides that, upon receiving a written claim that a current or proposed/noticed ordinance is expressly preempted, the local government must withdraw a proposed ordinance within 30 days or repeal an adopted ordinance within 60 days. The bill does not, however, apply to ordinances relating to three areas: comprehensive planning and growth management; the Florida Building Code; and the Florida Fire Code. The bill otherwise applies to express preemption challenges initiated on or after July 1, 2019.

HB 829 passed the Senate 25-14, passed the House 77-31, and awaits action by the Governor.

Government Accountability: (CS/SB 7014 by the Community Affairs Committee and the Governmental Oversight and Accountability Committee)

The bill amends various statutes to “enhance government accountability and auditing processes” at the state and local levels, the Executive branch and various agencies, the Tourist Development Council, Water Management Districts, the Judicial branch and its agencies, Florida Virtual Schools, the Florida College System and Florida State University System, and the Florida Clerk of Courts Operations Corporation. The statutory changes are based on recommendations noted in a recent report by the Auditor General.

The Senate staff analysis notes that in addition to its other responsibilities, the Auditor General must transmit recommendations to the Legislature. The annual report for the Auditor General for November 1, 2017 – October 31, 2018, contained the following recommendation: The Legislature should consider amending Florida Statutes to establish in law the responsibility of each state and local government for the establishment and maintenance of management systems and internal controls designed to prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets. The bill:

- Requires counties and municipalities, (and water management districts) to maintain budget documents on their websites for specific timeframes outlined below:
 - Regarding Counties and Cities, sections 6, 7, and 8 of the bill amend ss. 129.03, 129.06, and 166.241, F.S., to require the budgets remain accessible on a county, municipality website. Specifically, a tentative budget

must remain on the city or county website for at least 45 days and the final budget or an adopted amendment to a budget must remain on the website for at least two years. This specific language is included in HB 861. (Currently, counties and municipalities are required to post their tentative budgets on their websites two days prior to consideration of the budget at a public hearing. The final budget of a county or municipality must be posted on its website within 30 days after adoption. A budget amendment must be posted to the website within five days of adoption. Lastly, current law does not specify how long these documents must remain available on the website.)

- Authorizes the Governor or Commissioner of Education, to notify the Joint Legislative Auditing Committee if an entity fails to comply with auditing and financial reporting requirements
- Adds tourist development council and county tourism promotion agency to the definition of “local government entity” to clarify that the Auditor General has authority to audit the entities
- Removes water management districts from the definition of local government entities for the purposes of audit cycles and follow-up reviews
- Requires the Florida Clerks of Court Operations Corporation to notify the Legislature quarterly if a clerk is not meeting workload performance standards
- Requires each agency, the judicial branch, the Justice Administrative Commission, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Guardian Ad Litem program, local governmental entities, charter schools, school districts, Florida College System institutions, and state universities to establish and maintain internal controls designed to prevent and detect fraud, waste, and abuse
- Revises the monthly financial statement requirements for water management districts
- Provides that the Department of Financial Services may request additional information from local government entities when preparing its annual verified report
- Revises the membership for an auditor selection committee of a county, municipality, special district, district school board, charter school, or charter technical career center
- Requires completion of an annual financial audit of the Florida Virtual School and
- Requires the Florida College System and Florida State University System to comply with employee background screenings requirements

SB 7014 passed the Senate 40 – 0, passed the House 113 – 0, and was approved by the Governor. Chapter No. 2019-015.

Local Government Financial Reporting: (HB 861 by Representatives Fernandez-Barquin and Roach and SB 1616 by Senators Baxley and Albritton)

HB 861 specifies time periods for which budget documents must appear on county and municipal websites:

- The final adopted budget must be posted on the municipality's official website within 30 days after adoption (current law) and now must remain on the website for at least 2 years
- The tentative budget must be posted on the municipality's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget (current law) and it now must remain on the website for at least 45 days

Additionally, the bill requires annual reporting of final budget and economic status information to the Office Economic and Demographic Research (EDR). Details of required information below:

- EDR must develop the format and forms for reporting by July 15, 2019
- Annual reporting of information must begin on October 15, 2019

County Requirements – October 15, 2019, and each October 15 annually thereafter, the county budget officer shall electronically submit the following information regarding the final budget and the county's economic status to the Office of Economic and Demographic Research in the format specified by the office:

- Government spending per resident, including, at a minimum, the spending per resident for the previous 5 fiscal years

- Government debt per resident, including, at a minimum, the debt per resident for the previous 5 fiscal years.
- Median income within the county
- Average county employee salary
- Percent of budget spent on salaries and benefits for county employees
- Number of special taxing districts, wholly or partially, within the county

Municipal Requirements – October 15, 2019, and each October 15 thereafter, the municipal budget officer shall electronically submit the following information regarding the final budget and the municipality's economic status to the Office of Economic and Demographic Research in the format specified by the office:

- Government spending per resident, including, at a minimum, the spending per resident for the previous 5 fiscal years
- Government debt per resident, including, at a minimum, the debt per resident for the previous 5 fiscal years.
- Median income within the municipality
- Average municipal employee salary
- Percent of budget spent on salaries and benefits for municipal employees
- Number of special taxing districts, wholly or partially, within the municipality

HB 861 passed the Senate 37 – 1, passed the House 105 – 0, and was approved by the Governor. Chapter No. 2019-56.

E911 Systems: (CS/CS/HB 441 by Representatives DuBose and Toledo and CS/CS/SB 536 by Senators Brandes, Book, and Perry)

Major highlights of the bill relating to 911 services are as follows:

- Requires each county to develop a countywide plan to implement text-to-911 services and to implement the plan by January 1, 2022
- Regarding the issue of “transfer” and its application, the bill requires the Technology Program within the Department of Management Services to develop a plan by February 1, 2020, to upgrade 911 public safety answering points (PSAP) in Florida to allow the “transfer” of an emergency call from one local, multijurisdictional, or regional E911 system to another local, multijurisdictional, or regional E911 system within the state
- In developing this plan, DMS would be required to coordinate with public agencies to identify and resolve any technological or logistical issues in implementing this section and identify or establish a system or a clearinghouse for maintaining contact information for all E911 systems in the state
 - DMS must establish a date, considering any technological, logistical, financial, or other identified issues, by which all E911 systems in Florida must be able to transfer emergency calls from one local, multijurisdictional, or regional E911 system to another local, multijurisdictional, or regional E911 system in Florida
 - Specifies that this transfer capability should include voice, text message, image, video, caller identification information, location information, and additional standards-based 911 call information
- Additionally, the bill requires the development and implementation of communications systems that allow direct radio communication between each PSAP and first responders outside the PSAP’s normal service area, allowing for more efficient dispatch of first responders in response to 911 communications. This was a recommendation of the Marjory Stoneman Douglas High School Public Safety Commission
- By January 1, 2020, each sheriff must provide to the Department of Law Enforcement: a copy of each interlocal agreement and written certification that all PSAPs in his or her county are in compliance

HB 441 passed the Senate 40-0, passed the House 110-0, and awaits action by the Governor.

Community Development and Housing: (CS/CS/HB 7103 by Representative Fischer, Cosponsored by Representatives Roth and Sprowls and CS/CS/CS/SB 1730 by Senator Lee)

CS/CS/HB 7103 is a comprehensive bill that makes changes to property development regulations. It amends provisions of current law regarding community planning, land development regulations, affordable housing, and condominium firesafety requirements. The bill makes the following changes in the areas below.

Affordable Housing

- Provides that a local inclusionary housing ordinance requiring a developer to provide a specified number of affordable housing units or requiring a developer to contribute to a housing fund must provide incentives to fully offset all costs to the developer of its affordable housing contribution. An exemption was made for areas of critical state concern which is Monroe County and the City of Key West
- States the need to develop affordable workforce housing opportunities for “essential services personnel” in areas of critical state concern. This includes:
 - Persons or families whose total annual household income is at or below 120 percent of the area median income and
 - At least one of whom is employed as police or fire personnel, a child care worker, a teacher or other education personnel, health care personnel, a public employee, or a service worker
 - This allows the Florida Housing Finance Corporation to maintain compliance with federal workforce housing program requirements

Development Permits and Orders

The bill imposes requirements and time limits for a county or municipality to review an application for a development permit or development order and provides procedures for addressing deficiencies.

- Requires a local government to review an application for completeness and notify the applicant within 30 days that either the application is complete or contains deficiencies. If deficiencies are identified, the applicant has 30 days to submit the required additional information
- Within 120 days after an application is deemed complete, or 180 days for applications that require a quasi-judicial hearing or public hearing, a local government must approve, approve with conditions, or deny the application
- Again, an exemption was made for areas of critical state concern which is Monroe County and the City of Key West
- Requires municipal comprehensive plans effective after January 1, 2019 to incorporate development orders existing before the comprehensive plan’s effective date
- Provides that when an aggrieved or adversely affected party challenges the consistency of a development order with an adopted comprehensive plan, either party is entitled to invoke summary proceedings under s. 51.011, F.S., and the prevailing party is entitled to recover reasonable attorney fees and costs and
- Provides that the period of time to exercise rights under a building permit or development order may be tolled or extended during a declared state of emergency for a natural emergency only

Impact Fees

- Prohibits local governments from requiring the payment of impact fees prior to issuing a property’s building permit
- Codifies the ‘dual rational nexus test’ for impact fees, as articulated in case law. This test requires an impact fee to be proportional and have a reasonable connection, or rational nexus, between the proposed new development and the need and the impact of additional capital facilities, and the expenditure of funds and the benefits accruing to the proposed new development
- Requires an impact fee ordinance to earmark impact fee funds for capital facilities that benefit new residents and prohibits the use of impact fee revenues to pay existing debt unless specific conditions are met
- Requires mobility fees to be governed by the impact fee statutes and clarifies that water and sewer connection fees are not governed as impact fees
- Requires a local government to credit against an impact fee any contributions related to public educational

facilities. The credit must be based on the total impact fee assessed and not on the impact fee for any particular type of school

- Provides that if a local government increases its impact fee rates, the holder of any impact fee credits in existence prior to the increase is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established and
- Authorizes a local government to waive impact fees for the development or construction of affordable housing

Private Providers

Current law authorizes construction contractors and property owners to hire licensed building code administrators, engineers, and architects, referred to as private providers, to review building plans, perform building inspections, and prepare certificates of completion. The bill expands the scope of services of private providers by allowing them to approve plans and perform inspection for portions of a project that are not part of the building structure, such as services involving the review of site plans and site work engineering plans. The bill also:

- Prohibits a local building official from replicating plan reviews or inspections done by a private provider, unless expressly authorized
- Prohibits a local jurisdiction from a charging fee, other than a reasonable administrative fee, for building inspections when a property owner or contractor hires a private provider
- Reduces the required minimum notification time to a local building official regarding the use of a private provider from 7 days to 2:00 p.m., 2 business days prior to a scheduled inspection
- Reduces the time period for a local building official to review a permit application from a private provider from 30 business days to 20 business days and
- Provides that a local building official may not audit a private provider more than 4 times in a calendar year unless the building official determines the condition of a building constitutes an immediate threat to public safety and welfare

Firesafety Requirements for Residential Condominium Associations

- The Florida Fire Prevention Code requires existing multi-family buildings 75 feet or taller to be retrofitted with a fire sprinkler system or an engineered life safety system (ELSS). Current law states that local governments may not require a residential condominium association to retrofit a building before January 1, 2020. The bill extends the deadline to retrofit to January 1, 2024
- Allows unit owners, by majority vote, to forego retrofitting with a fire sprinkler system
- Removes a provision allowing a licensed electrician or electrical contractor to certify a condominium is in compliance with the Fire Code
- Provides that retrofitting requirements do not apply to timeshare condominium associations
- Requires a condominium association's bylaws to include a firesafety component, acknowledging that the condominium association must ensure compliance with the Fire Code and comply with applicable retrofitting requirements
- Specifies that individual balconies are not considered "common areas" and thus not included in mandatory retrofitting requirements
- Extends the deadline to retrofit condominium common areas with guardrails or handrails from 2014 to 2024

HB 7103 passed the Senate 26 – 13, passed the House 66 – 42, and awaits action by the Governor.

