Legislative Update – February 23

There are two weeks left in the legislative session, scheduled to end on March 9. Bills that have not been heard or have not made it through their committees are likely not to pass this session.

The latest Bill Tracking Report, dated Feb. 23, can be viewed here. The following bills of note had action over the past week:

Growth Management:

Affordable Housing: CS/CS/CS HB 987 (Rep. Cortes) was reported favorably by the House Government Accountability Committee, its last committee of reference, on Feb. 22. The bill revises several key provisions of law and creates additional processes to expedite the creation of affordable housing in Florida.

The bill creates the Hurricane Housing Recovery Program and the Rental Recovery Loan Program to expedite the creation of additional affordable housing in response to the needs created by the recent hurricanes. It also creates a new process in s.420.56 dealing with the disposal of surplus lands for use as affordable housing. Under this process, the Departments of Environmental Protection and Transportation and the water management districts must notify the Florida Housing Finance Corporation when non-conservation surplus lands become available. In conjunction with these entities, the Florida Housing Finance Corporation must evaluate these lands for suitability for affordable housing. If the land is suitable, the entity who owns it must first offer such parcels to the county or municipality where the land is located.

The bill adds evaluation criteria to be used by local jurisdictions when preparing their inventory of property appropriate for use as affordable housing. The bill provides for an expedited local permit approval process for affordable housing by requiring the application review to be completed in 15 days and reducing the time a local government entity must approve or deny permit applications to 60 days. The bill also prohibits the Florida Housing Finance Corporation from awarding, distributing, or allocating funds to any applicant, principal of an applicant, or an affiliate of an applicant that has been convicted of, entered into a consent decree, or otherwise settled charges related to material misrepresentation or fraudulent actions, in connection with an application for any program administered by the corporation.

During its deliberations, the committee passed two amendments: One added back in language related to allocation of competitive low-income housing tax credits as a power of the Florida Housing Finance Corporation, that had been inadvertently deleted; and the other amendment added in specific requirements for information that must be included in local reports on impact fees.

A similar bill, CS/SB 1328 (Sen. Perry), was reported favorably the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development, its second of three committees of reference, on Feb. 22. The bill is scheduled to be heard in Senate Appropriations Committee, its last committee of reference, on Feb. 27.

Developments of Regional Impact: CS/CS/HB 1151 (Rep. La Rosa) is on the House Special Order Calendar for Feb. 28. However, on Feb. 22, the bill's language was also amended into CS/HB 883 (Rep. Ingoglia) that deals with Community Development Districts.

The bill would eliminate state and regional review of existing Developments of Regional Impact (DRIs) and 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. It includes language that states that the date until which the local government agrees that the approved development of regional impact shall not be subject to downzoning, unit density reduction, or intensity reduction, cannot be amended to an earlier date unless the local government can demonstrate certain things. Additionally, it states that any proposed change to a DRI must be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations, including, but not limited to, procedures for notice to the applicant and the public regarding the issuance of development orders. However, a change to a development of regional impact that has the effect of reducing the originally approved height, density, or intensity of the development must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved, and if the development would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change.

Note that if passed, the effective date of this bill would be upon becoming a law.

CS/CS/SB 1244 (Sen. Lee), a similar bill, is scheduled to be heard by the Senate Appropriations Committee, its third of four committees of reference, on Feb. 27. Beyond the DRI provision, this bill also includes language intended to close a loophole in current law that allows an independent special district to convert to a municipality even if it has no population. It adds a criterion to now require that the district must meet the minimum populations standards specified in s.165.061(1)(b).

Lands Used for Governmental Purposes: CS/CS/SB 1622 (Sen. Flores) was reported favorably by the Senate Appropriations Committee, its last committee of reference, on Feb. 22. The bill adds additional procedures for the selection of lands under the Military Base Protection Program by requiring DEO to annually to request military installations in Florida to submit a list of base buffering encroachment lands for acquisition. The Florida Defense Support Task Force is required to analyze the resulting list and provide ranking recommendations to DEO, with DEO submitting its final list to the Board of Trustees of the Internal Improvement Trust Fund for acquisition. The board is required to use federal appraisal standards and to disclose its appraisal to the seller when federal partnership funds are available. The bill authorizes the board to lease or convey the acquired military buffer land at less than appraised value to the military installation, provided the conveyance states the land will revert to the Board of Trustees if the military installation does not use the land as a buffer or if the military installation closes. The bill also allows lands to be acquired if they will prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern. The bill also amends s.360.0666 F.S. to allow a land authority in a critical area to use authority funds to pay costs related to the development and construction of affordable housing projects.

CS/CS/HB 1173 (Rep. Raschein), a similar bill, is on the House Calendar on Second Reading on Feb. 28. This bill also amends 259.105(4), the Florida Forever Act, to expand the evaluation criteria and

performance measures to specifically include ones related to the mitigation of the effects of natural disasters and floods in developed areas. It also amends s.380.508(4)(e), which deals with projects done through the Florida Communities Trust. The bill adds a new guideline related to urban greenways and open space projects.

Linear Facilities: HB 405 (Rep. Williamson) was passed by the House on Jan. 25 and sent to the senate. On Feb. 8, the senate substituted the bill for SB 494 (Sen. Lee), which was then laid on the table, and passed HB 405 on Feb. 21. The bill amends two of the items excluded from the definition of "development" in relation to the Florida Electrical Power Plant Siting Act (PPSA) by:

- Providing that the exclusion for work done on established rights-of-way applies to established rights-of-way and corridors and to rights-of way and corridors to be established; and
- Providing that the exclusion for the creation of specified types of property rights applies to creation of distribution and transmission corridors.

The bill makes identical changes to the definition of "development" in the Florida Local Government Development Agreement Act. The bill also establishes the standard to be used in authorizing variances in a site certification under the PPSA and under the Florida Electric Transmission Line Siting Act (TLSA). Further, the bill provides that the PPSA and the TLSA do not affect in any way the Public Service Commission's exclusive jurisdiction to require transmission lines to be located underground. Note that this bill would take effect upon becoming law.

Public Lodging/Vacation Rentals*:* CS/HB 773 (Rep. La Rosa) was reported favorably by the House Government Accountability Committee, its first committee of reference, on Feb. 22. The bill amends current preemption authority to add that a local law, ordinance, or regulation may regulate activities that arise when a property is used as a vacation rental provided such regulation applies uniformly to all residential properties without regard to whether the property is used as a vacation rental as defined in s.509.242 or a long-term rental subject to the provisions of chapter 83 or whether a property owner chooses not to rent the property. It grandfathers local laws, ordinances, or regulation adopted on or before June 1, 2011, including when the duration or frequency requirements are being amended to be less restrictive.

During the deliberations, Rep. La Rosa withdrew a strike-all amendment previously filed that would make the bill generally consistent with the senate version. This brought the bill version back to its original language discussed above. Additionally, a previously filed amendment by Rep. Smith, which would allow local governments to regulate vacation rentals that are not homestead properties, was voted down.

The committee amended the bill to add language regarding rentals to sexual offenders. The additional language would require the operator of any public lodging facility to ask guests at check-in if they are sexual predators and immediately inform other guests if the response is positive. Additionally, a sexual offender must register at the local sheriff's office 48 hours prior to arrival at a vacation rental. Additionally, a vacation renal owner or operator who rents to a sex offender must notify property owners with 1,000 feet of the property within 24 hours prior to the arrival. Every internet advertisement or online posting of a vacation rental must prominently display the complete address of the rental and a

link to the state's sexual predator website. The bill now moves to the House Commerce Committee, its last committee of reference.

CS/CS SB 1400 (Sen. Steube) contains the above preemption language but also creates the "Florida Vacation Rental Act" is in the Senate Appropriations Committee, its last committee of reference. This committee is scheduled to meet on Feb. 27.

Economic Development/Redevelopment:

***Community Development Districts**:* CS/CS/HB 883 (Rep. Ingoglia) was reported favorably by the House Government Accountability Committee, its last committee of reference, on Feb. 22. The revised bill contains all the previously proposed language in CS/HB 883. It provides that a petition to establish a new community development district of less than 2,500 acres over land in one jurisdiction may identify adjacent parcels that the petitioner expects to add to the district's boundaries within the next 10 years. Specific information regarding these parcels is required and no parcel can be included in the petition without the written consent of the landowner. The bill also includes a process for amending the district to include such a parcel.

However, the revised bill also incorporated bill language from two other bills: CS/HB 17 (Sen. Raburn), passed by the House on Jan. 12, which would terminate all CRAs by Sept. 30, 2038 unless approved by a super majority of the governing body; and CS/CS/HB 1151 (Rep. La Rosa) that 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 revised bill also included the following changes:

1) Adds a new definition to s.163.3164 which defines a "master development plan" or "master plan" to be a planning document 363 that integrates plans, orders, agreements, design, and studies to guide development as defined in this section and can include, as appropriate, authorized land uses and amount of horizontal and vertical development, and public facilities including local and regional water storage for water quality and water supply. The term includes, but is not limited to, a plan for a development under chapter 163 or chapter 380, a basin management action plan pursuant to s.403.067(7), a regional water supply plan pursuant to s.373.709, a watershed protection plan pursuant to s.373.4595, and a spring protection plan developed pursuant to s.373.807.
2) Adds 163.3167(8)(d) that would require an initiative or referendum to create a rural boundary or urban development boundary must provide for reconsideration and ratification every 10 years. An initiative or referendum to reconsider and ratify under this paragraph shall be held during a general election, as defined in s.97.021. For purposes of this paragraph, any such rural boundary or urban development boundary adopted by initiative or referendum prior to Jan. 1, 2008, shall be reconsidered and ratified at the first general election occurring after July 1, 2018.
3) Includes language that would allow any application for development approval filed with a concurrent plan amendment application pending as of May 14, 2015, to continue to be reviewed under the old DRI process if the applicant elects. Such election shall be in writing and filed with the affected local government, regional planning council, and state land planning agency, prior to Dec. 31, 2018.

4) Amends s.380.0651(3)(h) that deals with exemptions from 380.06 for development within Dense Urban Land Areas. The language with respect to the Wekiva Study Area is amended to state that subsection requirements do not apply within the boundary of the Wekiva Study Area unless any proposed development is located in a county or municipality that has implemented all of the following:
   a) One or more substantial alternative water supplies of not less than 3 million gallons per day providing service within the Wekiva Study Area; and
   b) One of the following adopted plans, which must be consistent with the local comprehensive plan:
      i) A specific area plan;
      ii) A sector plan pursuant to s. 163.3245; or
      iii) A mobility plan pursuant to s. 163.3180

Regional Rural Development Grants: CS/CS/SB 1646 (Sen. Montford), a strike-all amendment, was reported favorably by the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development on Feb. 21. It now moves to the Senate Appropriations Committee, its last committee of reference. This bill continues to make changes to the Regional Rural Development Grant Program and the Rural Infrastructure Fund program. The strike-all amendment maintained most of the previous bill language with some amendments. It clarified that a regional economic development organization can apply for a matching grant each year. It also amends the Regional Rural Development Grant Program to clarify the maximum annual grant amount that various organization can receive as follows:

- $50,000 to a regional economic development organization;
- $150, 000 to an organization located in a rural area of opportunity; or
- $250,000 to any of the three regional economic development organizations that serve an entire region of a rural area of opportunity and are recognized by DEO as serving such regions.

The strike-all bill also added language to require that improvements to broadband Internet service and access must be conducted through a partnership(s) with one or more dealers of communications services and the partnership must be established by a publicly noticed and competitively selected process. The strike-all also increased the amount of money that DEO can expend annually from the Rural Community Development Revolving Loan Fund from $750,000 to $1,000,000.

CS/CS/HB 1103 (Rep. Albritton) also deals with Regional Rural Development Grants. This bill is on the House Calendar on Second Reading. The bill makes the following modifications to the Regional Rural Development Grants Program:

- Increases the maximum grant amount that can be received by a regional economic development organization serving a rural area of opportunity from $150,000 to $250,000;
- Revises the match requirement from an equal amount to a 25 percent annual match;
- Clarifies how grants may be used to build the professional capacity of regional economic development organizations;
- Authorizes grants to be used by an organization to provide technical assistance to local governments, local governments, local economic development organizations, and existing and prospective businesses;

- Removes the authorization that the Department of Economic Opportunity (DEO) contract for the development of an enterprise zone web portal or website; and
- Authorizes DEO to establish a "Florida Site Readiness Program" or "ReadySites."

The bill makes the following modifications to the Rural Infrastructure Fund:

- Removes the requirement that total project grants be up to 40 percent of the total cost for catalyst site projects;
- Increases the maximum amount that DEO may award for projects that are not located on designated catalyst sites from 30 percent to 50 percent;
- Expands eligible projects and uses to include broadband Internet service and requires they be conducted through partnerships with dealers of communication services, established by a publicly noticed and competitively selected process; and
- Removes a reference to projects located in an enterprise zone as it relates to DEO's application and funding reevaluation and review requirements.

In addition, the bill creates contract/agreement requirements for both the Regional Rural Development Grants Program and the Rural Infrastructure Fund. Contracts/agreements involving the expenditure of grant funds are to be placed on the regional economic development organization's or DEO's website, respectively, for review 14 days before execution. The bill requires the contracts/agreements to include the purpose, performance standards, budget, value of services, and travel and entertainment expenses.

Environment/ Natural Lands:

***State Assumption of Federal Section 404 Dredge and Fill Permitting Authority**:* HB 7043 (Sen. Raschein) was passed by the House on Feb. 21. This bill:

- Authorizes the Department of Environmental Protection (DEP) to assume administration of the program. State assumption would streamline, but not merge, the current state and federal permitting processes.
- Grants DEP rulemaking authority to adopt necessary rules to satisfy federal requirements to administer the program.
- Clarifies that when state law conflicts with federal requirements, the federal requirements would apply to the state administered section 404 permits.
- Incorporates by reference the exemptions from federal permitting requirements found in the CWA and rules for the state administered section 404 permits.
- Exempts state administered section 404 permits from state permitting decision deadlines.
- Limits state administered section 404 permits to a period of no more than five years.
- Provides that upon timely, complete application for reissuance, a state administered section 404 permit does not expire until DEP acts on the application. DEP must adopt rules for an expedited permit review process for the reissuance of state administered section 404 permits.
- Authorizes DEP to delegate administration of the state administered program and to review, modify, revoke, or rescind any state administered section 404 permit issued by a delegated entity to ensure consistency with federal law.

SB 1402 (Sen. Simmons), an identical bill, was reported favorably by the Senate Appropriations Committee on Feb. 22, its last committee of reference.

Water Management District Surplus Lands: CS/HB 703 was passed by the House on Feb. 21. This bill makes several changes to the sale of surplus lands procedures followed by water management districts (WMD)s to create efficiencies in the process. Specifically, the bill:

- Requires a WMD to publish notice of its intent to sell surplus property on its website in addition to a newspaper.
- Requires a WMD to publish notice of its intent to sell surplus property at least 30 days, but not more than 360 days, before the WMD approves a sale.
- Authorizes a WMD to sell land valued at $25,000 or less to an adjacent property owner, rather than giving such property owners the opportunity to purchase the property before the rest of the general public.
- Requires a WMD electing to offer for sale the parcel to adjacent property owners to publish the notice of intention to offer to sell land valued at $25,000 or less to such owners in the newspaper in the county where the land is located only one time.
- Defines "adjacent property owners" as those owners whose property abuts the parcel.
- Removes the requirement that a WMD accept sealed bids and either sell the property to the highest bidder or reject all offers 30 days after publication of notice if the WMD does not sell the land to the adjacent property owner. Instead, if the WMD does not sell the parcel to an adjacent property owner, the bill authorizes a WMD to sell the parcel valued at $25,000 or less to the general public for the highest price obtainable at any time.

SB 806 (Sen. Baxley), a similar bill, is scheduled to be heard by the Senate Rules Committee, its last committee of reference, on Feb. 26.

School Planning:

School District Accountability: CS/CS/CS/HB 1279 was passed by the House on Feb. 21. This bill includes a number of measures to increase the fiscal transparency of educational spending and fiscal accountability of school districts.

To increase fiscal transparency of educational spending, the bill:

- Requires school boards to provide financial efficiency data and fiscal trend information;
- Requires the Department of Education to develop a web-based tool that identifies schools and districts with high academic achievement based on ratio of classroom instruction expenditures to total expenditures; and
- Requires school boards to provide a full explanation of, and approve, any budget amendment at the boards' next public meeting.

To increase fiscal accountability of districts, the bill:

- Requires school districts with revenues over $500 million to employ an internal auditor;
- Requires school districts with low ending fund balances for two consecutive years to reduce administrative costs and other expenditures;
- Requires districts with financial emergency conditions to withhold the salaries of certain superintendents and school board members until the emergency is addressed;

- Requires an investigation of school districts who are unable to timely pay current debts and liabilities;
- Clarifies that the Department of Education's Office of Inspector General must investigate allegations and reports of fraud and abuse from certain government officials; and
- Requires school districts with previous operational audit findings to initiate and complete corrective action within a certain period of time.

The bill also:

- Prohibits appointed, along with elected superintendents, from lobbying school districts for a period of two years after vacating the position;
- Aligns school board member salaries with beginning teacher salaries or the amount calculated by statute;
- Requires prior school board approval for reimbursement of certain out-of-district travel expenses;
- Authorizes the withholding of a portion of an employee's salary who owes a public financial disclosure fine;
- Repeals s.1011.64, F.S., relating to school district minimum classroom expenditure requirements;
- Prohibits superintendents, along with school board members, from employing or appointing a relative to work under their direct supervision; and
- Clarifies that standards of ethical conduct apply to administrative personnel and school officers.

CS/SB 1804 (Sen. Stargel), a similar bill, is scheduled to be heard in the Senate Appropriations Committee, its second of three committees of reference, on Feb. 27.

Taxes:

Discretionary Sales Surtax*:* CS/CS/HB 243 (Rep. Avilia), was passed by the House on Feb. 21. The bill requires an independent certified public accountant (CPA) to conduct a performance audit of a county or school district holding a referendum on or after a date certain to adopt or amend a discretionary sales surtax. The CPA must be procured by the Office of Program Policy Analysis and Government Accountability, which may use carry forward funds to procure and pay for the CPA's services. Such audit must be completed, and the audit report and any accompanying documents must be made available on the official website of the county or school district, at least 60 days before the referendum is held. Such information must remain on the website for two years from the date it was posted. The bill defines the term "performance audit."

Beginning July 1, 2019, the bill provides that the Charter County and Regional Transportation System Surtax proceeds collected in Miami-Dade County, to the extent not prohibited by contracts or bond covenants in effect, may only be used for:

- The planning, design, engineering, or construction of fixed guideway rapid transit systems and bus system and for the development of dedicated facilities for autonomous vehicles;
- The acquisition of rights-of-way for fixed guideway rapid transit systems and bus systems and for the development of dedicated facilities for autonomous vehicles;
- The purchase of buses or other capital costs for bus systems;

- The payment of principal and interest on bonds related to a fixed guideway rapid transit system or bus system; and
- As security to the county to refinance existing bonds or to issue new bonds for the planning, design, engineering, or construction of fixed guideway rapid transit systems or bus systems.

Effective Oct. 1, 2022, municipalities in Miami-Dade County may use surtax proceeds for certain purposes related to roads, bridges, and transit systems within the municipality. The bill prohibits the use of surtax proceeds for salaries or other personnel expenses of a county or municipal transportation department.

SB 688 (Sen. Garcia) also deals with this surtax. SB 688 requires each county, as defined in s.125.011(1), F.S., to the extent not prohibited by contracts or bond covenants in effect on July 1, 2018, to use Charter County and Regional Transportation System Surtax proceeds only for the following purposes:

- The planning, design, engineering, and construction of fixed guideway rapid transit systems;
- The acquisition of right-of-way for fixed guideway rapid transit systems, provided that the current owner of the right-of-way is a willing seller or lessor;
- The purchase of buses and other capital costs for a bus system;
- The payment of principal and interest on bonds previously issued related to fixed guideway rapid transit systems or bus systems; and
- As security by the governing body of the county to refinance existing bonds or to issue new bonds for the planning, design, engineering, and construction of fixed guideway rapid transit systems or bus systems.

Additionally, the bill prohibits the use of such surtax proceeds for nontransit purposes for each county, as defined in s.125.011(1), F.S. This bill is in the Senate Appropriations Committee, its last committee of reference.

Transportation:

Bicycle/Pedestrian Planning*:* CS/CS/HB 1033 (Rep. Toledo), a strike-all amendment, was moved favorably by the House Commerce Committee, its last committee of reference, on Feb. 22 and placed on the Special Order Calendar for Feb. 28. The bill originally preempted the regulation of all dockless bicycles and dockless bicycle sharing companies to the state. The revised bill expands the scope of the bill to cover all bicycle sharing companies. It also revises the preemption provision from a blanket preemption to one that prohibits local governments from taking any action or adopting any law that is designed to limit or prevent any company engaged in the rental of bicycles from operating in its jurisdiction, provided that the company has demonstrated compliance with all local laws and regulations applicable to other similar businesses seeking to do business or presently doing business within that jurisdiction. The committee substitute also makes the following changes to the bill:

- Expands the definition of “bicycle sharing company” (company) to include both docked and dockless bicycle companies that make bikes available for immediate, self-service rental through an online application, software or website or at an automated docking station;
- Provides a definition for “bicycle” and “docking station”;
- Removes previously proposed provisions relating to insurance requirements;

- Removes a previously proposed requirement that bicycles be available for reservation 24 hours a day, 7 days a week;
- Requires companies to register with the Division of Corporations and provide proof of registration to local governments upon request, subject to a local government fine up to $1,000;
- Requires companies to secure bicycles located in areas where a tropical storm or hurricane warning has been issued, subject to a local government fine up to $1,000;
- Additionally, the bill specifically provides that local governments are not preempted from entering into agreements with companies for the placement of docking stations on public land or enforcing uniform traffic infractions pursuant to Chapter 316, F.S.; and
- Revises the effective date to "upon becoming law."

CS/SB 1304 (Sen. Young), a similar bill, was not considered as scheduled during the Feb. 13 meeting of the Senate Community Affairs Committee, its second of three committees of reference. This committee's regularly scheduled meetings have ended.