

Legislative Reporter

The 2018 Legislative Session ended on March 11. A total of 3,192 bills were filed including 11 concurrent resolutions, 101 single chamber resolutions, 1,654 general bills, 65 local bills, 28 joint resolutions, 19 memorials and 1,314 appropriation projects. Of those, only 200 bills passed both chambers.

A Bill Tracking Report dated March 12 can be viewed [here](#), which will give you the status of all the bills that APA Florida was tracking for members. You can also view a list of enrolled bills (bills that have passed the legislature) [here](#).

Enrolled bills are sent to the governor for his action. While the legislature is in session, the constitution allows a 7-day period following presentation of a bill to the governor within which to sign or veto the bill. If the legislature adjourns sine die before an act is presented to the governor or while an act is in the governor's possession, the governor has 15 days from the date of presentation in which to act. To follow the governor's actions on bills, go to www.flgov.com and scroll down to click on "2018 Bill Actions."

Of interest are also those bills that **did not pass** including the following:

- Preemption and regulation of **vacation rentals** (SB 1400, SB 1640 and HB 773)
- Amend CRA requirements and, including, in some bill versions, **terminating CRAs** by Sept. 30, 2038 (HB 17 and HB 883) and amending CRA requirements but **not terminating them** (SB 432)
- **Preemption of local regulation** of bicycle sharing companies (HB 1033 and SB 1304)
- Provide **transparency and accountability provisions** applicable to economic development agencies and tourism promotion agencies (HB 3 and SB 1714)
- Specify conditions under which members of board or commission may participate in **fact-finding exercises or excursions** (HB 79 and SB 192)
- Require a **private property rights element** in local comprehensive plans (HB 207 and SB 362)
- **Preempt tree and timber trimming, removal and harvesting** in established flood and drainage rights-or ways to the state (HB 521 and SB 574)
- Create review timeframes for detailed specific area plans and related development orders (HB 697)
- **Prohibit fracking** (HB 237, SB 462, SB 834)
- Delete provision limiting the number of **rural areas of opportunity** that can be designated and revise the Rural Economic Development Initiative (SB 170 and SB 1403)
- Amend **membership requirements of MPOs** and other provisions (HB 575, HB 807, HB 984, SB 1516)
- Specify **timing of impact fee collection**, adding rationale nexus criteria for impact fees and prohibiting the application of impact fees to water and sewer connection fees (SB 324 and HB 697)
- Specify certain **fiscal transparency requirements** for local governments (HB 7 and SB 1426)
- Amend **public records or public meeting requirements** (HB 79, SB 192, HB 273, SB 750, HB 439, SB 560, HB 459, HB 461, HB 589, SB 958, SB 956)
- Redefine terms to **allow smoking form of medical marijuana** for use (SB 726)

- Repeal provision related to **state funding for sports facility development** by local governments (SB 778 and HB 6005)
- Create the **Florida High-Speed Passenger Rail Safety Act** to encourage creation of transportation options, including high-speed rail, and promote safety of high-speed rail systems (SB 572 and HB 525)
- Revise permissible **activities that can be funded by Florida Communities Trust** to include flood mitigation projects (SB 158 and HB 1097)
- Amend requirements and criteria related to **beach management and erosion control projects** (SB 174 and HB 131)
- Revise several key provisions of law and creates additional processes to **expedite the creation of affordable housing** (HB 987 and SB 1328)
- Preemption of local government regulation of **vegetable gardens** (SB 1776)

The following paragraphs discuss the major bills passed by the legislature that APA Florida tracked. However, you are encouraged to read the actual bill language.

Developments of Regional Impact: [HB 1151 ER](#) (Rep. La Rosa) eliminates 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. The effective date of this bill is upon becoming law.

The bill includes language that states 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.

The bill amends s.163.3164 to include a definition of “master development plan” or “master plan,” to mean a planning document that integrates plans, orders, agreements, designs, and studies to guide development as defined in this section and may include, as appropriate, authorized land uses, amounts 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.

The bill also allows an applicant, whose application for development approval was filed with a concurrent plan amendment application and was pending as of May 14, 2015, to elect to have the application reviewed pursuant to s.380.06(30) as it existed on that date. The election shall be in writing and filed with the affected local government, regional planning council, and state land planning agency before Dec. 31, 2018.

Environmental Regulation: [HB 1149](#) (Rep. Payne) revises a number of environmental regulation policies. Of particular interest among the changes, the bill adds a number of provisions that impact local governments. It adds a new s.403.706(22) to amend local government solid waste responsibilities. It requires local governments to address the contamination of recyclable material in contracts with residential recycling collectors for the collection or transportation of residential recyclable material and with recovered materials processing facilities for the processing of such material. The contracts must:

- define the term “contaminated recyclable material” in a manner that is appropriate for the local community, taking into consideration available recyclable material markets, available waste composition studies, and other relevant factors; and
- include strategies and obligations of the parties to reduce the amount of contaminated recyclable material being collected or processed, procedures for identifying, documenting, managing, and rejecting contaminated recyclable materials, and remedies.

The bill provides applicability of these contract requirements in any local government contract with a residential recycling collector or recovered materials processing facility executed or renewed after July 1, 2018. The bill defines “contaminated recyclable material” as recyclable material that is comingled or mixed with solid waste or other nonhazardous material. It also provides that a residential recycling collector may not be required to collect or transport contaminated recyclable material, and a recovered materials processing facility may not be required to process contaminated recyclable material, except pursuant to contract terms

The bill also amends s.403.813 to prohibit local governments from requiring a person claiming that a particular activity meets an environmental resource permit exception to provide further verification from the Department of Environmental Protection.

The bill also amends s.373.4135(1)(b), which currently says that a governmental entity may not create or provide mitigation for a project other than its own unless the governmental entity uses land that was not previously purchased for conservation and unless the governmental entity provides the same financial assurances as required for mitigation banks permitted under s.373.4136. The bill adds language to subsection (b)(2) to state that, when credits are not available at a mitigation bank permitted under s.373.4136, this does not apply to mitigation areas created by a local government that were awarded mitigation credits pursuant to the uniform mitigation assessment method as provided in Chapter 62-345, Florida 785 Administrative Code, under a permit issued before Dec. 31, 2011.

The bill also creates a new s.403.1839 that outlines a Blue Star collection system assessment and maintenance program. The purpose of this voluntary incentive program is to assist public and private utilities in limiting sanitary sewer overflows and the unauthorized discharge of pathogens.

It also amends s.403.1838(2) to allow funds specifically appropriated to the small community sewer construction assistance program to be used to assist private, nonprofit utilities providing

wastewater services to financially disadvantaged small communities. It authorizes the Department of Environmental Protection to waive the population requirement for an independent special district that serves fewer than 10,000 wastewater customers, is located within a watershed with an adopted total maximum daily load or basin management action plan for pollutants associated with domestic wastewater pursuant to s.403.067, and is wholly located within a rural area of opportunity as defined in s.288.0656. The bill also amends s.403.1838(3)(a) to state that grants issued pursuant to this section may be awarded to private non-profit utilities serving financially disadvantaged small communities, and may also be used for planning and implementing domestic wastewater collection system assessment programs to identify conditions that may cause sanitary sewer overflows or interruption of service to customers due to a physical condition or defect in the system.

The effective date of the bill is upon becoming law.

Lands Used for Government Purposes: [HB 1173](#) (Rep. Raschein) makes several changes to the requirements for lands used for governmental purposes. The effective date of the bill is upon becoming law.

Specifically, the bill adds procedures for the selection and purchase of lands under the Military Base Protection Program. It authorizes the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to lease or convey acquired military buffer land to a military installation at less than appraised value or to private entities at rates determined by competitive bid, which may be less than appraised or market value, for agricultural or silvicultural operations. It requires military buffer lands conveyed at less than appraised value to revert to the Board of Trustees if the military installation does not use the land as a military installation buffer or if the installation closes.

It amends s.253.025(22) and creates s.253.025(23) to authorize the Board of Trustees, by three affirmative votes, to direct the Department of Environmental Protection to purchase lands that will prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern (ACSC). When purchasing these lands, all land acquisition procedures and competitive bid procedures may be waived or modified.

Additionally, if the parcel is estimated to be worth \$500,000 or less, the director of the Division of State Lands (DSL), can use a comparable sales analysis, an appraisal prepared by DSL, or other reasonably prudent procedures to estimate the value of the land, provided that the public interest is reasonably protected.

The bill authorizes each land authority in an ACSC to contribute tourist impact tax revenues to the county or the county's housing authority to purchase any land in the county, not just land within the most populous municipality, for the construction, redevelopment, or preservation of affordable housing in an ACSC. It also specifies the types of costs that can be covered.

It also adds, as s.259.105(4)(i), projects that mitigate the effects of natural disasters and floods in developed areas to the criteria and numeric performance measures the Acquisition and Restoration Council must consider when evaluating proposed Florida Forever projects. Finally, it adds s.380.508(4)(f) that requires urban greenways and open space projects undertaken by the Florida Communities Trust to provide recreational opportunities, promote community interaction, and connect communities and the projects may also serve dual functions as flow ways or temporary storage areas to mitigate natural disasters and floods in developed areas.

Linear Facilities: [HB 405 ER](#) (Rep. Williamson) amends the exemptions from the land-use-consistency provisions of the Power Plant Siting Act (PPSA) and Transmission Line Siting Act (TLSA) to provide that they apply to established rights-of-way and corridors, to rights-of-way and corridors yet to be established, and to creation of distribution and transmission corridors. The bill establishes the standard to be used in authorizing variances in a site certification under the PPSA and the TLISA. It also provides that the PPSA and TLISA cannot affect in any way the Public Service Commission's (PSC) exclusive jurisdiction to require transmission lines to be located underground.

The effective date of this bill is upon becoming law. The bill has been presented to the governor who must act on it by March 24.

School District Accountability: [HB 1279](#) (Rep. Sullivan) increases fiscal accountability and expands fiscal transparency requirements for district school boards. This bill was approved by the governor on March 11. Most of the bill takes effect on July 1, 2019; section 21 appropriates \$100,000 to DOE for FY 2018-19 to implement the provisions of s.1011.051(2)(b) as amended by the bill.

Specifically, the bill:

- Adds to the Florida Auditor General's (AG) duties, in s.11.45(2), the requirement to contact each district school board with findings and recommendations contained within the AG's previous operational audit report; and specifying compliance requirements for the district school boards.
- Applies the restriction on lobbying for two years after vacating office in s.112.313(14) to appointed school district superintendents.
- Amends s.112.31455 to authorize district school boards to withhold a percentage of an employee until fines related the failure to timely file financial disclosures are satisfied.
- Amends s.1001.20(4)(e) to require the Department of Education's (DOE's) Inspector General to investigate allegations and reports of possible fraud or abuse against a district school board made by specified entities.
- Amends s.1011.51 to require school districts receiving annual federal, state, and local funds in excess of \$500 million to employ an internal auditor and specifying what the audit should cover.
- Amends s.1001.39 to require prior approval by the district school board for reimbursement of out-of-district travel expenses that exceed \$500 and requires a detailed itemized list of all anticipated travel expenses for any travel outside the state.
- Amends s.1001.42(6) and (7), dealing with standards of ethical conduct and disqualification from employment, to include their applicability to administrative personnel and school officers.
- Authorizes any individual school board member to request and receive any proposed, tentative, and official budget documents, including all supporting and background information.
- Amends s.1011.06(2) to require district school boards to provide a full explanation of any budget amendments at the boards' next scheduled public meeting.
- Amends s.1011.35 (2) to modify the information that each district school board must post on its website to add graphical representations, for each public school within the district and for the school district, of summary financial efficiency data and 3-year fiscal trend information.

- Amends s.1010.20(2)(b) to specify additional information that each school district must report to the DOE including the total operating costs and expenditures for classroom instruction.
- Amends s.1010.20(2)(c) to require DOE to calculate specified expenditure information for each public school, school district, and the state and also require DOE to develop a web-based fiscal transparency tool that identifies public schools and districts that produce high academic achievement based on the ratio of classroom instruction expenditures to total expenditures.
- Amends s.1011.051(1) to requiring that if, for two years in a row, at any time the portion of the general fund's ending fund balance not classified as restricted, committed, or nonspendable in the district's approved operating budget is projected to fall below 3 percent of projected general fund revenues during the current fiscal year, the superintendent shall reduce the district's administration expenditures reported pursuant to s.1010.215(4)(a) in proportion to the reduction in the general fund's ending balance or the reduction in student enrollment, whichever is greater.
- Amends s.1011.051(2) to requiring the DOE to contract with an independent third party to conduct an investigation of all accounts and records when the conditions of a financial emergency exist in a school district.
- Amends s.1011.09(4) to prohibit expenditure for travel outside of the district when financial conditions in s.1011.051 exist.
- Amends s.1011.10(3) to require the withholding of each district school board member's and district school superintendent's salary, with some exceptions, if any of the conditions of a financial emergency exist, until such conditions are corrected.
- Amends s.1012.23(2) to prohibit a district superintendent from appointing or employing a relative to work under his or her direct supervision.