

Legislative Reporter – February 2
This week ends the fourth week of the 2018 session.

The most recent Bill Tracking Report, dated Feb. 2, can be viewed [here](#). If at any point there is a bill that you would like to add to this tracking report or you have a question related to a bill, simply email the Chapter Office at fapa@floridaplanning.org with the request.

If you are interested in looking at specific bill language, you can easily search for a bill using the [Senate](#) and [House](#) webpages. You can search by bill number, statutory references or subject. You can search for both House and Senate bills on either of these sites. You will also have access to filed amendments and staff reports.

Growth Management

Affordable Housing: [SB 1328](#) (Sen. Perry) was reported favorably by the Senate Community Affairs Committee on Jan. 30 and now goes to the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development, its second of three committees of reference. SB 1328 revises several statutes relating to, and creates new programs to facilitate the creation of, affordable housing in Florida. The bill creates the Hurricane Housing Recovery Program (HHRP) and the Recovery Rental Loan Program (RRLP) to expedite the creation of additional affordable housing in response to the needs created by the recent hurricanes. For the 2018-19 fiscal year, an estimated \$64 million from the Local Government Housing Trust Fund and the State Housing Trust Fund is appropriated to the Florida Housing Finance Corporation for affordable housing hurricane recovery programs. Florida Housing Finance Corporation will use the appropriation to fund the HHRP and RRLP.

Additionally, the bill requires the Department of Environmental Protection, the Department of Transportation, and the Water Management Districts, in conjunction with the Florida Housing Finance Corporation, to evaluate all non-conservation surplus lands for suitability for residential use and the development of permanently affordable housing and offer such parcels to the county or municipality where the land is located. The bill provides for additional evaluation criteria intended to address specific needs and characteristics for the development of affordable housing.

The bill prohibits a county or municipality from charging impact fees and mobility fees for the development of affordable housing for a 5-year period beginning July 1, 2018. The bill also provides for an expedited local permit approval process for affordable housing by reducing the time a local government entity has to approve or deny permit applications from 120 days to 60 days.

A similar bill, [CS/HB 987](#) (Rep. Cortes), was reported favorably by the House Local, Federal & Veterans Affairs Subcommittee on Jan. 16 and is now in the House Transportation & Tourism Appropriations Subcommittee, its second of three committees of reference.

Developments of Regional Impact: [CS/HB 1151](#) (Rep. La Rosa) was reported favorably by the House Local, Federal & Veterans Affairs Subcommittee on Jan. 29 and moves to the House Commerce Committee, its last committee of reference. The bill makes a number of changes, among which are the following:

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

- Repealing DEO authority to issue binding letters but allows local governments to amend binding letters of vested rights based on standards and procedures in the adopted local comprehensive plan or land development code
- Deleting all requirements for DRI applications and review procedures, reporting requirements and substantial deviation criteria
- Preserving all essentially built-out agreements and determinations, binding letters and clearance letters, master incremental DRI agreements, preliminary development agreements, areawide DRI approvals
- Stating that selection of contractor or design professional related to construction or expansion of public facility by private developer pursuant to a development order condition is not subject to competitive bidding or competitive negotiation
- Stating that amendments to a DRI does not diminish or alter and credits for a development order or exaction or fee when the credits are based on a developer's contribution of land or public facility
- Requiring local governments to review changes to a DRI based on the standards and procedures in its local comprehensive plans and land development regulations, and limiting new development order conditions to only those impacts directly created by the proposed change
- Repealing all rules related to DRIs that are codified in chapter 73C-40 and repealing aggregation rules.

[CS/SB 1244](#) (Sen. Lee), a similar bill, was reported favorably by the Senate Community Affairs Committee on Jan. 23, with two amendments to make it consistent with CS/HB 1151. In addition, this bill was amended to close a loophole in current law that allows an independent special district to convert to a municipality even if it has no population. The amended bill adds a criterion to now require that the district must meet the minimum populations standards specified in s.165.061(1)(b). The bill now moves to the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development, its second of four committees of reference.

Impact/Permit Fees: [CS/CS/SB 324](#) (Sen. Young) was amended by the Senate Appropriations Subcommittee on Finance and Tax on Jan. 29, and now moves to the Senate Appropriations Committee, its last committee of reference. As currently written, the bill states that the collection of an impact fee be no earlier than the issuance of the building permit for the property that is subject to the fee. The bill also codifies the dual rational nexus test. Specifically, the bill requires that an impact fee be reasonably connected to, or have a rational nexus with: the need for additional capital facilities and the increased impact generated by the new residential or commercial construction; and the expenditures of the funds collected and the benefits accruing to the new residential or commercial construction.

Additionally, the local government must specifically earmark funds collected by the impact fees for use in acquiring capital facilities to benefit the new residents. Finally, the bill prohibits the use of impact fee revenues to pay existing debt or for prior approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.

The bill was amended by the subcommittee to specifically state that these provisions are not applicable to water and sewer connection fees. It was also amended to make changes to the sector planning process. Language similar to [s.380.06\(15\)\(e\)1](#) was added to apply to a development order for a detailed specific area plan. This language would prevent local governments, when adopting a detailed specific area plan or related development order, from

including a development order condition that requires that developer to contribute or pay for land acquisition or public facilities unless there is a local ordinance that requires other development not subject to the DRI process to contribute a proportionate share necessary to accommodate any impacts having a rational nexus to the proposed development.

Additionally, the amendment identified specific time frames for review and approval of a detail specific area plan or related development order. A local government would have 30 days to review an application for completeness and issue a letter stating it is complete or specifying needed additional information. The developer has 30 days to address any deficiency. The local government has 90 days to approve, approve with conditions or deny the application after receipt of the initial or supplemental submissions whichever is later, unless the deadline is waived by the applicant.

[CS/CS/HB 697](#) (Rep. Miller), similar to SB 324 before the latest amendments, is in the House Government Accountability Committee, its last committee of reference.

[CS/CS/HB 725](#) (Rep. Williamson) deals with permit fees. The bill:

- Provides that the governing body of a local government with a schedule of reasonable fees must post its building permit and inspection utilization report on its website instead of posting a link to the report on its website.
- Provides that the governing body of a local government must post its building permit and inspection utilization report on its website by Dec. 31, 2019.
- Provides that a governing body of a local government must amend its building permit and inspection utilization report before adjusting its fee schedule.
- Removes the provision that a building permit and inspection utilization report must include the costs related to the review of building fire inspections.
- Replaces the term “implement” with “enforce.”

The bill was reported favorably by the House Government Accountability Committee on Feb. 1, its last committee of reference. A similar bill, [SB 1144](#) (Sen. Perry) is scheduled to be heard in the Senate Appropriations Subcommittee on Finance and Tax, its second of three committees of reference, on Feb. 5.

Lands Used for Governmental Purposes: [CS/HB 1173](#) (Rep. Raschein) 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 acquisitions.

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 for acquisition. The Board of Trustees 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 of Trustees 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 addresses the purchase of land in an area of critical state concern, specifically, the bill authorizes the Board of Trustees to purchase lands within areas of critical state concern to: 1) prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of critical state concern if such acquisition fulfills a public purpose listed in s.259.032(2); or 2) to prevent or satisfy private property rights claims resulting from

limitations imposed by the designation of an area of critical state concern. DEP, when purchasing lands under this authority, could use alternative valuation methods if the parcel is estimated to be worth \$500,000 or less, the cost of an outside appraisal is not justified, and the public's interest is reasonably protected. It also authorizes each land authority to contribute tourist impact tax revenues to the county or the county's housing authority to purchase land in the county, not just the most populous municipality, for the construction, redevelopment, or preservation of affordable housing in an area of critical state concern.

The amended bill was reported favorably by the House Ways and Means Committee on Jan. 31 and is now in the House Government Accountability Committee, its last committee of reference. [SB 1622](#) (Sen. Flores), a similar bill, is scheduled to be heard in the Senate Environmental Preservation and Conservation Committee on Feb. 5.

Public Lodging/Vacation Rentals: At their Jan. 30 meeting, the Senate Community Affairs Committee reported favorably a proposed committee substitute that combines SB 1140 and SB 1640. The revised bill explicitly preempts the regulation of vacation rentals to the state.

[CS/SB 1400](#) (Sen. Steube) creates the "Florida Vacation Rental Act" within part III of Chapter 509, F.S., and separates the regulation of vacation rentals from the regulation of hotels and motels. A vacation rental is defined as any unit in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is rented to guests for periods of less than 6 months.

The Division of Hotels and Restaurants is provided with the authority to implement the act, including licensure and enforcement. The bill regulates "commercial vacation rentals" and requires registration and biannual inspections.

The bill allows local governments to regulate activities that arise when a property is used as a vacation rental, provided the regulation applies uniformly to all residential properties. The bill limits vacation rental occupancy to the lesser of four persons plus two additional persons for each sleeping room, or one person for each 150 square feet of finished area. The bill grandfathers local regulations adopted before June 1, 2011, including when the regulations are being amended to be less restrictive. Finally, the bill allows local governments to assess a reasonable fee for the submission of certain information by a vacation rental owner and may assess fines for failure to comply.

The bill now moves to the Senate Regulated Industries Committee, its second of three committees of reference.

Public Meetings/Public Participation: [SB 192](#) (Sen. Baxley), which deals with public meetings, was passed by the Senate on Jan. 31. The bill revises Florida's Sunshine law. Specifically, the bill provides definitions for the terms: "de facto meeting," "discussion," "meeting," "official act," and "public business." The bill clarifies that de facto meetings are subject to the Sunshine law. The bill also specifies that members of a board may participate in "fact-finding" exercises or excursion to research public business, and may participate in meetings with a member of the legislature if:

- The board provides reasonable notice;
- A vote, official act, or an agreement regarding a future action does not occur;
- There is no discussion of "public business" that occurs; and
- There are appropriate records, minutes, audio recordings, or video recordings made and retained as a public record.

Finally, the bill provides in statute that notice or public access is not required when two or more members of a board are gathered if no official acts are taken and no public business is discussed.

[HB 79](#) (Rep. Roth), a similar bill, was reported favorably by the House Local, Federal & Veterans Subcommittee on Jan. 29 and is now in the House Government Accountability Committee, its final committee of reference.

Tree and Timber Trimming, Removal, and Harvesting: HB 521 (Rep. Edwards-Walpole), as originally filed, would have preempted the regulation of the trimming, removal or harvesting of trees and timber on private property to the state. On Jan. 29, the House Local, Federal & Veterans Affairs Subcommittee moved a strike-all amendment that markedly reduced the scope of the bill. As amended, [CS/HB 521](#) declares that the uncontrolled growth of trees within rights-of-way owned or managed by the state, water management districts, water control districts, neighborhood improvement districts, independent special districts, or community development districts interferes with the operation and maintenance of flood protection and drainage infrastructure, including but not limited to canals, critical to the protection of the health, safety, and general welfare of the public. The bill provides that when the aforementioned governmental entities have a duty to maintain any right-of-way, no municipality, county, or other political subdivision of the state may prohibit, restrict, condition, or require a permit, fee, or mitigation for the trimming or removal of trees or vegetation to protect the public. The bill does not prohibit the licensing and regulation by municipalities, counties, or other political subdivisions of the state or persons engaged in tree or vegetation trimming or removal.

During debate and comment, the sponsor indicated that she would be proposing further amendments to the bill to clarify that the rights-of-way impacted by the prohibition were those related to flood protection or drainage. The bill now moves to the House Government Accountability Committee, its last committee of reference as the reference to the Agriculture and Property Rights Subcommittee was removed. [SB 574](#) (Sen. Steube), identical to HB 521 as originally filed, has been referred to three committees but not yet heard.

Economic Development/Redevelopment:

Community Redevelopment Agencies/Districts: [CS/SB 1348](#) (Sen. Perry) states that a petition to establish a new community development district of less than 2,500 acres over land in one jurisdiction may identify parcels that the petitioner expects to add to the district's boundaries within the next 10 years.

The bill originally referenced "adjacent parcels" but the Senate Judiciary Committee amended this language to refer to "sufficiently contiguous lands". 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. The amended bill was reported favorably by the Senate Judiciary Committee on Jan. 30 and now moves to the Senate Rules Committee, its last committee of reference. [CS/HB 883](#) (Rep. Ingolia), a similar bill to SB 1348 as originally filed, is in the House Government Accountability Committee, its last committee of reference.

Rural Economic Development: [CS/SB 1646](#) (Sen. Montford) was reported favorably by the Senate Commerce and Tourism Committee, with a technical change correcting the name of a regional economic development organization. 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 that 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;
- Removes the authorization that DEO contract for the development of an enterprise zone web portal or website.

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

- Expands eligible projects and uses to include broadband Internet service; 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 website 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.

The bill now moves to the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development, its second of three committees of reference. A similar bill, [HB 1103](#) (Rep. Albritton) is in the House Transportation & Tourism Appropriations Subcommittee, its second of three committees of reference.

Rural Economic Development Initiative: [CS/SB 170](#) (Sen. Grimsley) makes several changes to the Rural Economic Development Initiative (REDI). The Senate Government Oversight and Accountability Committee reported the bill favorably on Jan. 30. The bill amends the REDI program by:

- Reducing the number of specified agencies and organizations that are required to designate REDI representatives;
- Clarifying which individuals from specified agencies and organizations must be designated as REDI representatives;
- Providing for the appointment of five additional members from the private sector: three of the private sector members appointed by the executive director of the Department of Economic Opportunity (DEO), one appointed by the President of the Senate, and one appointed by the Speaker of the House of Representatives;
- Modifying the goals of the REDI to include job creation, community infrastructure, the development and expansion of a skilled workforce, and improved access to healthcare;
- Modifying the definition of "rural area of opportunity" to include a rural community that faces competitive disadvantages including low labor force participation, low education levels, high unemployment, a school district grade of "D" or "F" pursuant to s.1008.34, high infant mortality rates, and high rates of diabetes and obesity;
- Requiring the REDI to focus its efforts on the challenges of the state's RAOs and economically distressed rural communities, and to work with private organizations

that have an interest in the renewed prosperity and competitiveness of these communities;

- Clarifying that the REDI shall undertake outreach and capacity-building efforts in order to improve rural communities' ability to compete in a global economy;
- Removing the limitation on the number of RAOs that may be designated by the governor;
- Requiring the REDI's annual report to be submitted to the DEO, the President of the Senate, and the Speaker of the House of Representatives by Sept. 1 of each year; and
- Requiring the annual report to include an evaluation of organizational progress and a description of the accomplishments of the REDI.

The bill now moves to the Senate Rules Committee, its final committees of reference. A similar bill, [HB 1403](#) (Rep. Avila) is in the House Agriculture & Property Rights Subcommittee, its first of three committees of reference.

Environment/Natural Resources

Coastal Management: [CS/SB 174](#) (Sen. Hukill) was reported favorably by the Senate Appropriations Committee, its last committee of reference, on Jan. 31. Among its changes, the bill amends s.161.101(14), F.S., to revise the beach management project funding criteria and requires the Department of Environmental Protection (DEP) to adopt by rule a four-tiered scoring system to determine annual funding priorities. The bill revises the inlet management project funding criteria and requires that projects considered for funding under the inlet management program are to be considered separate and apart from projects reviewed and prioritized under the tiered structure for beach nourishment projects. The bill also requires a minimum distribution of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million to be appropriated annually from the Land Acquisition Trust Fund for projects that preserve and repair the state's beaches.

[HB 131](#) (Rep. Peters), the House companion bill, is in the House Natural Resources & Public Lands Subcommittee, its first of three committees of reference.

Land Acquisition Trust Fund: [CS/SB 370](#) was passed by the House on Jan. 31. The bill creates a statutory distribution from the Land Acquisition Trust Fund requiring \$100 million to be appropriated annually to the Florida Forever Trust Fund. The bill also specifies that the Land Acquisition Trust Fund may not be used to fund any costs within the budget entities that provide administrative support for the four state entities receiving these funds.

[HB 1353](#) (Rep. Beshears), which only contains the language requiring \$100 million to be appropriated annually to the Florida Forever Trust Fund, is in the House Agriculture & Natural Resources Appropriations Subcommittee, its first of three committees of reference.

Fiscal Transparency/Government Accountability

Local Government Fiscal Transparency: [SB 1426](#) (Sen. Lee), which creates the Local Government Fiscal Transparency Act, was reported favorably by the Senate Community Affairs Committee on Jan. 30 and now moves to the Senate Appropriations Committee, its second of three committees of reference.

Specifically, the bill requires local government to post the voting records related to tax increases and issuance of tax-supported debt on its website. The bill also requires each county property appraiser to maintain a website that provides access to property tax TRIM notices and a 4-year history of property tax rates and amounts levied on each parcel. Additionally, the bill requires a

4-year history of property tax rates and total revenue generated to be provided on such local government websites.

The bill requires additional public meetings and expands public notice requirements for local option tax increases, other than property taxes, and new tax-supported debt issuances. Public notices for proposed tax increases must contain information regarding the rate and total annual amount of revenue expected, the annual additional revenue expressed as a percent of annual general fund revenue, detailed explanation of intended uses of the levy, and an indication of whether or not the tax proceeds will be used to secure debt. Public notices for proposed new debt issuance must disclose the total lifetime costs of the debt, annual debt service, and effects of the new debt on a government's debt affordability measures.

Furthermore, local governments must conduct a debt affordability analysis before approving the issuance of new tax-supported debt. The analysis must, at a minimum, calculate a debt affordability ratio for the most recent 5 previous years and at least 2 projected years to gauge the effects of the new debt issuance on the government's debt service to revenue profile. The bill also contains several additional elements intended to increase the fiscal transparency of local governments.

A similar bill, [HB 7](#) (Rep. Burton), was passed by the House on Jan. 12, sent to the Senate and has been referred to three committees of reference.

School Planning:

School District Accountability: (Rep. Sullivan) was moved favorably by the PreK-12 Appropriations Subcommittee on Jan. 26. The bill would impose a number of new requirements on school boards and districts to increase the fiscal transparency of education spending and fiscal accountability. The bill now moves to the House Education Committee, its last committee of reference.

[SB 1804](#) (Sen. Stargel), a similar bill, has been referred to three committees of reference but has not yet been heard.

Transportation

Metropolitan Planning Organizations: [HB 807](#) (Rep. Diamond) deals with the membership of MPOs designated after July 1, 2018. For an MPO designated on or after July 1, 2018, this bill states that the voting membership shall consist of at least 5 members, with the exact number determined on an equitable geographic-population ratio basis, based on an agreement among the affected local governments and the governor. The governor may also allow MPO members who represent municipalities to alternate with representatives from other municipalities within the metropolitan planning area that do not have members on the MPO. Voting members shall be elected officials of general-purpose local governments, one of whom may represent a group of general-purpose local governments through an entity created by an MPO for that purpose. An MPO may include, as part of its apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of Space Florida.

HB 807 was reported favorably the House Local, Federal & Veterans Affairs Subcommittee on Jan. 29 and now moves to the House Government Accountability Committee, its last committee of reference. A similar bill, [SB 984](#) (Sen. Brandes), has been referred to three committees of reference but has not yet been heard.

Constitutional Revision Commission

The Constitutional Revision Commission (CRC) committees have been meeting to discuss various submitted proposed amendments. Currently, 103 proposals have been filed by commissioners and 782 proposals have been filed by the public. You can view the various proposals on the Constitution Revision Commission [website](#). If you are interested in understanding how a proposal moves through the CRC process, click [here](#).

This week was the final week of committee meetings. Five public hearings have been currently scheduled in February and March to allow the commission to listen to input about potential changes to the Florida Constitution. Information about those hearings can be found at <http://flcrc.gov/Meetings/PublicHearings> .

Of note, Proposal 95, filed by Commissioner Tom Lee, would create a new section 6 in Article VIII of the State Constitution and would state that a county, municipality, or special district may only regulate commerce, trade, or labor occurring exclusively within the respective entity's own boundaries in a manner not prohibited by law. A regulation enacted by a county, municipality, or special district may not intrude upon or impede commerce, trade, or labor across the respective entity's boundaries. The proposal appears to be a broad preemption of local government authority. APA Florida has submitted a letter of opposition to this proposal.

The proposal was temporarily postponed by the Local Government Committee on Jan. 26. On Feb. 2, Commissioner Lee appeared before the committee and indicated that he did not support the amendment in its current form. He asked the committee to vote the amendment down at this time; he indicated that he might continue to work on it and perhaps it could be resurrected in some form before the entire commission. Proposal 95 was not approved by the Local Government Committee.

Legislative News

[Florida Facing Affordable Housing Crisis](#)

Shawn Mulcahy, WLRN (Feb. 1)

[State Lawmakers Could Revamp Marijuana Law's "Black Farmer" Requirement](#)

News Service of Florida (Jan. 31)

[Jason Brodeur to Health Dep't: No pay till progress on marijuana](#)

Jim Rosica, Florida Politics (Jan. 31)

[Senate signs off on Florida Forever funding](#)

News Service of Florida (Jan. 31)

[Steube's push to abolish local tree protections hits roadblock](#)

Zac Anderson, Sarasota Herald-Tribune (Jan. 31)

[Sunshine State Time? Florida wants to stop changing clocks](#)

WESH (Feb. 2)

[Sanctuary city debate erupts in Florida governor's race](#)

Matt Dixon, Politico (Feb. 1)