



Cover Memorandum/Staff Report

File #: 25-980

Agenda Date: 8/12/2025

Item #: 6.C.

TO: Mayor and Commissioners
FROM: Lynn Gelin, City Attorney
DATE: August 12, 2025

RESOLUTION NO.172-25: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AUTHORIZING PARTICIPATION IN A LAWSUIT SEEKING, AMONG OTHER THINGS, TO DECLARE THAT SENATE BILL 180'S IMPOSITION OF A BLANKET STATEWIDE PROHIBITION ON THE EXERCISE OF HOME RULE AUTHORITY OVER LAND USE AND ZONING REGULATIONS, IS UNCONSTITUTIONAL AND SHOULD BE ENJOINED, AND RETAINING WEISS SEROTA HELFMAN COLE + BIERMAN, PL TO PROSECUTE THE LAWSUIT; AND PROVIDING FOR AN EFFECTIVE DATE.

Recommended Action:

Motion to approve Resolution 172-25.

Background:

On June 26, 2025, Senate Bill 180 ("SB 180"), titled "Emergencies," was signed into law by Governor Ron DeSantis and became effective immediately as Chapter 2025-190, Florida Statutes.

Section 28 of SB 180 prohibits all local government-initiated ordinances that impose "more restrictive or burdensome" comprehensive plan amendments, land development regulations, or procedures concerning review, approval, or issuance of site plans, development permits, or development orders for the period commencing retroactively from August 1, 2024, through October 1, 2027, even if such amendments, regulations or procedures are in no way related to any hurricane or other emergency and even if such amendments, regulations, or procedures were duly enacted prior to the enactment of SB 180. In addition, Section 28 of SB 180 also bans local moratoria on construction, reconstruction, or redevelopment of property damaged by a hurricane during the same timeframe.

Section 18 of SB 180 further prohibits local governments that are in counties that are entirely or partially within 100 miles of the track of any future hurricane from enacting "more restrictive or burdensome" Land Use and Zoning Regulations, and moratoria on construction, reconstruction, or redevelopment of any property, damaged or not, for a period of one year after the storm makes landfall.

This litigation seeks to declare SB 180 unconstitutional and invalid because, among other things, it: (a) embraces more than one subject and matter properly connected therewith in violation of Article III, Section 6 of the Florida Constitution; (b) includes a defective title in violation of Article III, Section 6 of the Florida Constitution; (c) requires municipalities and counties to spend in the aggregate an amount that exceeds an insignificant fiscal impact without including a finding that the law fulfills an important state interest as required by Article VII, Section 18 of the Florida Constitution; (d) constitutes a sweeping intrusion on home-rule authority, threatening local ability to enact land use, zoning, flood-

resiliency, and environmental protections, contrary to Article VIII, Section 2(b) of the Florida Constitution to a degree that renders the constitutional provision hollow; and (e) contains provisions that classify political subdivisions on a basis that is not reasonably related to the subject of the law in violation of Art. III, Section 11(b) of the Florida Constitution.

The law firm of Weiss Serota Helfman Cole + Bierman (the "Firm") has offered to represent municipalities and counties in a group lawsuit to invalidate SB 180. Similar to the Form 6 litigation, the Firm will assess a flat fee, inclusive of attorneys' fees and costs, of \$10,000 to represent the City in the litigation in the trial court. If the case is appealed, the City would pay an additional \$5,000 to the Firm to represent it in any appeal related to the litigation that is filed at the District Court of Appeal, and \$5,000 to the Firm to represent it in any appeal that is filed at the Florida Supreme Court.

City Attorney Review:

Approved as to form and legal sufficiency.