

## Memorandum

To: Mark Lauzier, City Manager  
Caryn Gardner-Young, Assistant

From: Mat Forrest *M. F.*

Date: May 22, 2018

Re: Updated Legislative Session Summary

It took a couple extra days but the 2018 Legislative Session officially ended on Sunday afternoon, March 11. No matter the outcome on any single piece of legislation I think it was a tremendous year for local government engagement and advocacy. Below are some fun stats to help give you the full perspective of the entire session before we dive into the narrow highlights of what passed and failed that are most relevant to local governments:

### 2018 Legislation Statistics:

- 3,250 Bills/PCBs filed
- 2,721 Amendments filed
- 527 Committee meetings
- 2,853 Bills seen in committee
- 200 Bills passed both chambers (6%)

### Appropriations

The Legislature passed a budget that allocates a total of \$88.7 billion for the fiscal year starting July 1, 2018. Of note in the budget is an allocation for \$400 million for school safety, mental health and other programs in response to the Parkland shooting. It also includes \$53 million to address the opioid crisis.

As previously reported the Legislature included funding for a park project for the City, sponsored by Rep. Hager and Sen. Rader:

1687A GRANTS AND AIDS TO LOCAL GOVERNMENTS AND  
NONSTATE ENTITIES - FIXED CAPITAL OUTLAY  
LOCAL PARKS

- Delray Beach Atlantic Dunes Park Coastal Dune Restoration and Water Quality Improvement Project (HB 2605)...\$300,000

On March 16 the Governor signed the General Appropriations Act and I'm happy to report the Atlantic Dunes project was not included in the \$64 million worth of projects that were vetoed.

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### Legislative Tracking Report:

Below are some quick summaries on the most relevant bills that passed or failed however there are many more that we tracked and possibly were engaged on. Please let me know if there is a bill that you don't see or one that you would like more information regarding.

### **Firefighter Cancer Presumption.... Failed**

HB 695 & SB 900 Relating to Firefighters by Sen. Latvala (R, Clearwater) and Rep. Latvala (R, Clearwater) Rep. Fitzenhagen (R, Ft. Myers) & Co-Sponsored by Rep. Willhite (D, Wellington) Rep. Jenne (D, Hollywood), Rep. Gruters (R, Sarasota)

Versions of this bill have been around for a few years now. It grants certain benefits to firefighters upon receiving a diagnosis of cancer if certain conditions are met. In the past, the bills have not moved much in either Chamber. Despite moving well in the Senate this year the bill died in both Chambers. The House did hold a workshop on the issue but the bill was never voted on.

### **First Responders...Passed**

HB 227 and SB 376 relating to Workers' Compensation Benefits for First Responders by Rep. Willhite (D, Wellington) and Sen. Book (D, Plantation) flew through committees and on the floor and received unanimous support in each committee and on the floor in both chambers. The bill was signed by the Governor on March 27 and is effective on October 1, 2018.

According to the Staff analysis the bill:

“Revises the standards for determining compensability of employment-related posttraumatic stress disorder (PTSD) under workers’ compensation for first responders, which includes volunteers or employees engaged as law enforcement officers, firefighters, emergency medical technicians, and paramedics.

The bill allows first responders that meet certain conditions to access indemnity and medical benefits for PTSD without an accompanying physical injury. A diagnosis of PTSD requires direct or indirect exposure to an upsetting traumatic event.

The bill creates an exception to current law to authorize the compensation of indemnity benefits for PTSD, if the first responder:

- Has PTSD that resulted from the course and scope of employment; and
- Is examined and diagnosed with PTSD by an authorized treating psychiatrist of the employer or carrier due to the first responder experiencing one of the following qualifying events relating to minors or others:
  - Seeing for oneself a deceased minor;
  - Witnessing directly the death of a minor;
  - Witnessing directly the injury to a minor who subsequently died prior to, or upon arrival at a hospital emergency department, participating in the physical treatment of, or manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department;
  - Seeing for oneself a decedent who died due to grievous bodily harm of a nature that shocks the conscience;

- Witnessing directly a death, including suicide, due to grievous bodily harm; or homicide, including murder, mass killings, manslaughter, self-defense, misadventure, and negligence; or
- Participating in the physical treatment of an injury, including attempted suicide, or manually transporting an injured person who suffered grievous bodily harm, if the injured person subsequently died prior to or upon arrival at a hospital emergency department.

Medical and indemnity benefits for a first responder's PTSD are due regardless of whether the first responder incurred a physical injury, and the following provisions do not apply:

- "Apportionment" due to a preexisting PTSD;
- The one percent limitation on permanent psychiatric impairment benefits; or
- Any limitation on temporary benefits under s. 440.093, F.S.

The first responder must file the notice of injury with their employer or carrier within 90 days of the qualifying event, described above, or manifestation of the PTSD. However, the claim is barred if it is not filed within 52 weeks of the qualifying event.

The bill requires an employing agency of a first responder, including volunteer first responders, to provide educational training related to mental health awareness, prevention, mitigation, and treatment.

The bill provides that the Legislature determines and declares that this act fulfills an important state interest.

### **Substance Abuse Services...Failed**

SB 1418 by Sen. Rouson (D, St. Pete) & HB 1069 Rep. Hager (R, Boca Raton)

Unfortunately, this legislation did not make it across the finish line this year. As you know we were engaged on this bill and worked with both sponsors to avoid any loop holes that would have impacted recovery residences. These bills authorized the Department of Health or the Agency for Health Care Administration, as applicable, to grant exemptions from disqualification for service provider personnel to work solely in certain treatment programs and facilities. It also revised provisions relating to background checks and exemptions from disqualification for certain service provider personnel and required recovery residences to comply with specified Florida Fire Prevention Code provisions. Lastly, they revised background screening requirements for owners, directors, and chief financial officers of recovery residences.

In the end it wasn't opposition that was the issue and merely time. The House bill passed the Chamber, but the Senate tried to add additional language from another bill and send it back. The Session concluded before the bill could be heard again. A common cause of death for many bills.

### **Vacation Rentals... Failed**

Vacation rental legislation was not able to be revived by its supporters late in the Session. The Senate bill which called for a full preemption to the State for the regulation of vacation rentals died waiting to be heard in its final committee. Other related legislation in the House narrowly passed its first committee by a vote of 13 to 11 but was not heard again. There was an attempt on the House floor to amend another bill with some language supported by the vacation rental industry but those amendments failed as well.

I'm sure this issue is not dead though. I would be very surprised if legislation was not filed on it for next Session. So for your easy reference here is what the relevant bills proposed this year. I wonder where they will start next year.

**HB 773 by Rep. La Rosa (R, Saint Cloud) Relating to Vacation Rentals (failed)** would have required uniform application of local laws, ordinances, or regulations relating to a vacation rental. The House bill stated:

509.032 Duties.— 14 (7) PREEMPTION AUTHORITY.—

(b) 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 or whether a property owner chooses not to rent the property. However, a local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011, including when the duration or frequency requirements of such law, ordinance, or regulation are being amended to be less restrictive.

509.1415 Sexual predators in public lodging establishments; duty to inform.—The operator of any public lodging establishment shall inquire at check-in if any guest of the public lodging establishment is a sexual predator as defined in s. 775.21(4). If any guest of a public lodging establishment is a sexual predator as defined in s. 775.21(4), the operator shall immediately inform all other guests of the public lodging establishment. The division may adopt rules to implement this requirement.

**SB 1400 by Sen. Steube (R, Sarasota) relating to Vacation Rentals (failed)** was designated the “Florida Vacation Rental Act” and it preempted the regulation of vacation rentals to the State.

The 53 page bill set up a framework for the regulation of vacation rentals by DBPR, similar to hotels. In short, from the staff analysis, the bill:

- Creates a section preempting all licensing of vacation rentals to the state.
- Defines a vacation rental 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 180 days but that is not a timeshare project.

- Requires a license application to contain the operator's emergency contact number. Also allows a temporary license to be issued and allows vacation rental to begin use while application is pending.
- Allows the division to fine, suspend, or revoke the license of any vacation rental when the advertisement for the vacation rental does not display the vacation rental license number.
- Regulates multiple unit vacation rentals; maximum of 75 units under one license
  - When five or more vacation rentals in multifamily dwellings are under common ownership and are rented out more than 180 days per year, such rental is subject to additional requirements, including biannual inspections.
- Requires the division to make the vacation rental license information required under chapter 509 to be available to the public, and allows local governments to use this license information for informational purposes only.
- Grandfathers in local ordinances adopted on or before June 1, 2011.
- Sets maximum occupancy limits for vacation rentals.
- Provides a statement of legislative intent that the application of vacation rental provisions created by the bill do not supersede any current or future declaration or declaration of condominium, cooperative documents, or declaration of covenants or declaration in a homeowners' association.
- Permits local governments to amend local laws, ordinances, or regulations to be less restrictive, when such local regulations prohibit vacation rentals, or regulate the duration or frequency of vacation rentals.

**HB 789 by Rep. Stevenson (R, Saint Augustine) was a bill relating to Listings for Vacation Rental Property. (Failed)** In short, it stated:

A person engaged in leasing, renting, letting, or granting a license for the use of a vacation rental, as defined in s. 509.242, must display a valid certificate of registration number in each rental listing or advertisement for such property.

#### **Pet Store Sale Preemption...Failed**

Legislation was never officially filed regarding a statewide preemption for local governments to prohibit the sale of certain animals at pet stores but we did successfully oppose two amendments that were filed that would have done just that.

On February 19 a strike all amendment was adopted to HB7087 relating to taxation in its last committee meeting. In the 105 page amendment was the following language:

(8) Except as otherwise provided by law, a county, municipality, or other entity of local government may not prohibit the sale of or offering for sale of tangible personal property subject to the tax imposed by chapter 212 which may lawfully be sold in the state. Any such ordinance or rule is void.

This language would have impacted a few areas most notably the ability to regulate the sale of dogs and cats. After strong advocacy from multiple sources the language was removed on the floor.

There was another attempt to preempt this ability late in the Session. On March 6 an amendment was filed to SB740 that stated:

585.175 Sale of domestic animals; preemption.— A county, municipality, or other entity of local government may not prohibit the sale, or offer for sale, of a domestic animal purchased from a dealer licensed by the United States Secretary of Agriculture under 7 U.S.C. s. 2133. Any such ordinance or rule is void.

This amendment was withdrawn before consideration of the bill.

### **Resign To Run... PASSED**

SB 186 by Rep. Santiago (R, Deltona) and Sen. Hutson (R, Palm Coast). This bill requires a current office holder who qualifies for federal public office to resign from the office they presently hold if the terms, or any part thereof, run concurrently.

As you might know current law requires a state or local officer to resign before qualifying for another “State, district, county, or municipal public office” if the terms overlap. The current statute does not apply if they are running for a federal office. This bill was signed by the Governor on March 30 and is now effective.

### **CRA Changes.... Failed**

Despite being one of the first bills passed by the House this year, the Senate failed to act on any legislation related to CRA’s.

The main bill was HB 17 by Rep. Raburn (R, Valrico) and SB 432 by Sen. Lee (R, Brandon). The House leadership made it a marquee issue including producing and releasing YouTube videos in support of their bill. HB 17 was referred to only one committee, and was one of the first bills passed by the House this Session. It passed in week 1 by a vote of 72 to 32. The Senate bill passed one of 4 committees but was never heard again after that.

There was an attempt late in the Session to amend language into another bill that would have impacted CRA’s. HB883 and SB1348 relating to Community Development Districts by Rep.

Ingoglia (R, Spring Hill) and Sen. Perry (R, Gainesville) passed the House with language that would have:

- Prohibited the use of tax increment revenues for CRA activities related to festivals or street parties designed to promote tourism, grants to entities that promote tourism, and grants to nonprofit entities providing socially beneficial programs
- Authorized creation of CRA's only through a special act of the Florida Legislature.

The Senate bill had several amendments filed to it on the floor, including the CRA language, but it was never taken up again. Officially it records the legislation as "died in messages".

### **Impact Fees....Failed**

SB 324 by Sen. Young (R, Tampa) and HB 697 by Rep. Miller (R, Orlando) relating to Impact Fees were bills that address when impact fees are due and where they could be spent. The House bill started out more narrow and only stipulated that an impact fee "Be collected by the local government no earlier than at the time of issuance of the certificate of occupancy for the property which is the subject of the fee."

The Senate bill covered this area and also codified the "dual rational nexus test" which states "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 Senate bill required a local government to specifically earmark funds collected by the impact fees for use in acquiring capital facilities to benefit the new residents. Lastly, 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."

Both bills moved well. The House bill passed all of its committee and the floor by a vote of 108 to 5. The Senate bill passed all of its committees but was not heard on the floor.

### **Permit Fees... Failed**

SB 1144 by Sen. Perry (R, Gainesville) and HB 725 by Rep. Williamson (R, Pace) relating to Permit Fees were similar bills that address the posting and changing of permit fees in a local government. The bills both required:

(c) The governing body of a local government authorized under this section, s. 166.222, or s. 553.80 to issue fees shall post its permit and inspection fee schedules on its website with a link to the building permit and inspection utilization report required under s. 553.80(7).

The bills also required a local government, before making any adjustments to a fee schedule, to conduct and post a report that includes:



1. Direct and indirect costs incurred by the local government to implement the Florida Building Code, including costs related to the review of:
  - a. Building plans
  - b. Building inspections
  - c. Building reinspections
  - d. Building permit processing
  - e. Building code enforcement
  - f. Building fire inspections
2. Number of building permits requested
3. Number of building permits issued
4. Number of building inspections and reinspections conducted
5. Number of personnel employed by the local government to implement the Florida Building Code, issue building permits, and conduct inspections.
6. Salary and related employee benefit costs incurred by the local government to implement the Florida Building Code, issue building permits, and conduct inspections.
7. Revenue derived from fees pursuant to s. 553.80(7)
8. Revenue derived from fines pursuant to s. 553.80(7)
9. Investment earnings derived from the local government's investment of revenue derived from fees and fines pursuant to s. 553.80(7)
10. Balances carried forward by the local government pursuant to s. 553.80(7)
11. Balances refunded by the local government pursuant to s. 553.80(7)

Both bills moved well. The House bill passed all of its committee and unanimously passed the on the floor. The Senate bill passed all of its committees but was not heard on the floor.

#### **Affordable Housing...Failed**

SB 1328 by Sen. Perry (R, Gainesville) and HB 987 by Rep. Cortes (R, Altamonte Springs) relating to Affordable Housing moved well during Session. The bills:

- Revised the criteria that counties and municipalities must use when evaluating real property as part of their inventory for disposal of lands
- Prohibited local governments from charging certain impact fees for a specified period
- Creating the Hurricane Housing Recovery Program to provide funds for specified purposes related to affordable housing
- Provided a process for certain entities to dispose of surplus lands for use for the construction of affordable housing, etc.

The Senate bill passed 3 committees but was never heard on the floor. The House bill only had one dissenting vote in committee and passed the full House by a vote of 114 to 1.

#### **Storm Generated Debris... Failed**

HB 879 by Rep. Toledo (R, Tampa) & SB 1326 by Sen. Baxley (R, Lady Lake) related to Storm-generated Debris. The bill did a couple things. It added “wood, asphalt, or concrete” to the list of Recovered Materials as specified in 403.703 F.S. The original bill as filed also stated the



language below, however, a proposed committee substitute was filed during the committee process that eliminated the language regarding local government contracts.

**Original Bill:**

(7) A local government shall suspend any exclusive contracts for the collection, hauling, staging, or disposal of storm-generated debris or commercial or residential solid waste if the local government reasonably determines that the contractor will not be able to provide the contracted level of service or that the contracted level of service is expected to be insufficient to meet the needs of the local government.

After March 1, 2018, a local government may not enter into a new exclusive contract or extend an existing exclusive contract for the collection, hauling, staging, or disposal of storm-generated debris.

This subsection does not impair, void, or cause the modification of any contract entered into on or before March 1, 2018, between a local government and an exclusive contractor or franchisee.

The House bill was heard in one of 2 committee references. The Senate bill was never heard.

**Smoking in Parks...Failed**

SB 562 by Sen. Mayfield (R, Melbourne) and HB 627 by Rep. Altman (R, Indian River) related to the Regulation of Smoking. The bills were identical and authorized municipalities to restrict smoking within the boundaries of public parks. The Senate bill passed the Chamber by a vote of 36 to 1. The House bill was never heard in committee.

**Red Light Camera Repeal...Failed**

HB 6001 by Rep. Avila (R, Hialeah) and SB 548 by Sen. Campbell (D, North Miami Beach) and SB 176 by Sen. Hutson (Palm Coast) all related to the repeal of red light cameras. As in past years, the House passed a repeal by a vote of 83 to 18. Both of the Senate bills were never heard in committee.

**Tree Trimming...Failed**

SB 574 by Sen. Steube (R, Sarasota) and HB 521 by Rep. Edwards (D, Sunrise) relating to Tree & Timber Trimming, Removal, and Harvesting received a lot of attention this year. They were amended during committee to provide that “after a right-of-way for flood protection or drainage control has been established and constructed by a water management district (WMD), water control district, or special district authorized to exercise certain powers, a local government may not require a permit or other approval for tree and vegetation maintenance within rights-of-way established by such entities.” The House bill passed the House by a vote of 107 to 2. The Senate bill died in committee and was never heard on the floor.

**Financial Reporting...Failed**

HB 1019 by Rep. La Rosa (R, Kissimmee) relates to Financial Reporting. It clarified and required longer posting of budgets on websites. It stated, beginning in the 2018-2019 fiscal year, municipalities and special districts shall electronically submit information regarding their final

budget to the Office of Economic and Demographic Research and Clerk of Courts within 30 days after adoption of the final budget as well as post the information on their website where it must remain for 5 years. The legislation passed the House by a vote of 82 to 28. The Senate bills died in committee.

### **Municipal Election Dates...Failed**

SB 1262 by Sen. Hutson (R, Palm City) and HB 7037 by Rep. Caldwell (R, Lehigh Acres) relating to Election Dates for Municipal Office. This bill required municipal elections on a specific date in either November or March. It stated: "The governing body of a municipality shall determine if an election for municipal office is held on the same date as the general election, the first Tuesday after the first Monday in November in an odd-numbered year, or the third Tuesday in March in an odd-numbered year or even-numbered year."

The bills moved well in both chambers even though it narrowly passed its last committee in the Senate. The House bill passed the full chamber by a vote of 70 to 45 but the Senate bill was never heard on 3<sup>rd</sup> reading.

### **No Service, No Payment...Failed**

HB 0971 by Rep. Fine (R, Melbourne) and SB 1368 by Sen. Mayfield (R, Melbourne) related to the Interruption of Services and addressed various service based industries including local government services. It stated, "A municipality or private company, as applicable, may not charge a customer for garbage pick-up service that was not provided on a normally scheduled pick-up date if the garbage pick-up service is not provided within 3 business days after the originally scheduled pick-up date."

The municipality or private company, as applicable, shall issue a credit or refund on the customer's monthly bill to adjust on a prorated basis the number of times the garbage was not picked up. A municipality or private company, as applicable, that fails to provide a credit or refund within 60 days shall pay a fine to each customer whose garbage pick-up was not provided as set forth above, equal to 10 times the charge billed for the service that was not provided."

The bill, when filed, imposed similar parameters on telecommunication and cable companies. The House bill passed all of its committee but was never heard on the Floor. The Senate bill was never heard.

### **Travel Policies...Failed**

There were several bills dealing with local government travel this Session. The legislation as filed didn't pass but I'm still looking through bills that did pass to see if there is any language related to local travel that might have lived. So far, I don't see any.

**HB11 & SB354 Relating to Government Accountability by Rep. Metz (R, Groveland) and Sen. Stargel (R, Lakeland). (Failed)** Required all governmental entities to use the Statewide Travel management system. The House bill passed the House on January 12. The Senate version passed one of three committees on November 7.

This is also the legislation that would have added tourist development council and county tourism promotion agency to the definition of "Local governmental entity" in 11.45 F.S.

**HB815 & SB1180 Relating to County and Municipal Public Officer Transparency by Rep. Avila (R, Hialeah) and Sen. Steube (R, Sarasota) (Failed)**

- Required any out-of-state travel, including international, by a county or municipal public officer to be approved by the governing body of the county or municipality at a regularly scheduled meeting.
- The travel must be approved prior to the officer's travel; however, the officer's travel may be approved at the next regularly scheduled meeting if good cause is shown. Pursuant to the bill, good cause requires a written explanation for why the travel request could not be approved in advance. The request must be included on the meeting agenda and provide an itemized list of all anticipated travel expenses.
- Required all county and municipal public officer out-of-state travel approvals to be posted on the county's or municipality's website as soon as practicable, but no later than 10 days after approval, and requires such travel approvals to remain on the applicable website until the end of the next calendar quarter. If a municipality does not maintain a website, the bill required the travel to be posted on the applicable county's website.

The bill prohibited payment of or reimbursement for the foreign travel expenses of any county or municipal public officer under any circumstances. The bill provided an exemption from these provisions for elected county constitutional officers.

The House bill passed by a vote of 97 to 15. The Senate bill was not heard in its last committee.

**HB 5203 Relating to Statewide Travel by the House Government Operations & Technology Appropriations Subcommittee. (Failed)** This bill was part of the House budget process but it was not included in the Conference Committee process.

According to the Staff Analysis the bill did the following:

Amends section 112.061, Florida Statutes, pertaining to per diem and travel expenses of public officers, employees, and authorized persons, codifying current travel expenditure limits into law and providing for the public reporting of travel expenditures. Specifically, the bill:

- Limits to \$150 the amount that may be reimbursed per day for travel lodging expenses for employees of state agencies and the judicial branch under certain circumstances;
- Establishes the Statewide Travel Management System (system) in law;
- Requires all executive branch state government agencies and the judicial branch to report public officer and employee travel information in the system;
- Additionally requires that all executive branch state government agencies and the judicial branch use the system for purposes of travel authorization and reimbursement.
- Requires "reporting entities", which are defined in the bill to include municipalities, counties, local constitutional officers, county school districts, state colleges, state

universities, and water management districts, to report monthly, all public officer and employee travel information resulting from an overnight stay in the system;

- Establishes a timeline for the Department of Management Services (DMS) to make travel reports for executive branch state government agencies, the judicial branch, and certain reporting entities available for public view;
- Requires reporting entities to redact confidential and exempt information from travel reports prior to posting them to the system and provides a process for reporting entities to follow when a travel report has been posted prior to proper redaction; and,
- Provides rulemaking authority to the DMS to administer provisions of the section pertaining to the system.

### **Beach Access... Passed**

**HB 681 and SB 804 by Rep. Edwards-Walpole (D, Sunrise) and Sen. Passidomo (R, Naples)** relating to Possession of Real Property was legislation that garnered some attention for some late in the Session. The legislation is in response to some recent local ordinances and legal challenges to public access to beaches as a legal "customary use". It's a complicated bill to explain as it deals with several legal definitions, terms and the mean high-water mark. I recommend you have your legal counsel review the legislation that passed, enrolled bill HB 681.

### **What's next?**

With the conclusion of the "early session", as those in the process call it, we now wait roughly 13 months until the start of the next Session in March 2019. The months in between will include elections in November of all the Cabinet, House members and many of the Senate.

There will also be new committee chairs and leadership in both chambers when Committee Weeks are announced in late November.

When the gavels hit the blocks on Sunday, March 11 and the chambers adjourned sine die, it was definitely the end of this Session and the slate was cleared for the start of the next.

It's important we stay engaged in the upcoming election and educate incumbents and the new candidates on the issues important to local governments. The 2018 Session is over. Advocacy for the 2019 Session starts today.

###