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LAW OFFICES

PROFESSIONAL ASSOCIATION

2017 Session Week 5 Report

Week 5 of Session marked the half way point of the 60-day session. The House and Senate will hear their individual budgets next week, (week 6). Next week will be a short week because of Passover and Good Friday, with the Legislature only scheduled to meet on Wednesday and Thursday. Budget Conference is scheduled to begin the following week, (week 7) and possibly continue through into that weekend, and early parts of week 8.

Leading up to the House and Senate budget conference process, the two budgets are far apart in many areas of funding. However, it is the vastly different philosophies toward funding that causes the most concern as to just how the budget conference will come together. Speaker Corcoran's spending plan cuts approximately \$180 million in member projects, this equals about 25% of base budget projects, which have customarily been untouchable, were vetted long ago, and receive funding every year. This year, the House's \$81.2 billion budget includes approximately \$100 million in member projects; and the Senate budget includes approximately \$700 million in member projects. Speaker Corcoran has said that the Senate budget has allocated too much in funding for member projects. Senate President Negrón has a different view regarding member projects, and maintains that legislators best understand what projects work in their respective communities, and which are projects worthy of funding that would fulfill needs in their local region.

As the House and Senate advances their individual budgets, funding requests are in a holding pattern until budget conference. Below is an update on the budget funding requests for the City. We will continue to work for funding for both projects throughout the conference process.

- **HB 3357 - Production Well PW9 and alternative water supply:** Sponsored by Representative S. Jones and Senator Farmer. Local Match: 50% Amount Requested: \$1,352,500

The Production Well PW9 and Alternative Water Supply project is funded in the Senate budget at \$400,000 and is not funded in the House budget at this time.

- **Austin Hepburn Senior Mini-Center:** currently a recurring base appropriations project. Amount Requested: \$82,080

The Austin Hepburn Center is funded in the House budget at \$82,080 with non recurring funds, and is not funded in the Senate at this time.

BILLS AFFECTING LOCAL GOVERNMENTS: Bills summarized below affect local governments, and as bills continue to be heard, we will update our weekly reports that will reflect these issues. Please let us know if you have questions on issues included in this report, or on any other issue of concern. We will be happy to provide information to you.

➤ Included in this report, are updates on the following issues being considered that affect local governments:

- Preemption of Local Government
- Regulation of Commerce, Trade, and Labor
- Regulation by the State of Public Works Project
- Community Redevelopment Agencies (CRAs)
- Beach Renourishment Funding/Coastal Management
- Utilities
- Vacation Rentals
- Traffic Infraction Detectors (Red Light Cameras)
- Drones / Unmanned Aircraft Systems
- Sovereign Immunity – Local Government Claims Bill Process Restructure
- Local Tax Referenda
- Florida Retirement System
- Ride Sharing /Uber
- Gaming
- Task Force on Affordable Housing
- Local Business Tax
- Fiscal Transparency of Local Governments
- Fiscal Responsibility of Local Governments

Preemption of Local Government: HB 17 (Fine, Renner) and SB 1158 (Passidomo) are two sweeping preemption bill that would impose strict preemptions on local governments regarding all regulation at the local levels. Both bills are indicative of the view of local governments across the state, by the legislature.

HB 17 would prohibit local governments from adopting or imposing new regulations on a business, profession, or occupation, effective July 1, 2017. The regulation of businesses, professions, and occupations would be expressly preempted to the state. Additionally, in this bill, it provides that local regulations enacted before July 1, 2017, but not expressly authorized by general law, may continue to exist until July 1, 2020, but may not be added to or modified except to repeal or reduce the regulation.

This bill was not added to the House Commerce committee agenda; however, we continue to monitor this bill and all preemption issues. The House remains unwavering of their belief in the need for local government preemptions. The Senate has indicated that it would not go in this direction.

Regulation of Commerce, Trade, and Labor: SB 1158 (Passidomo) This bill takes a different approach to preemption, and is as sweeping. In sum, anything that a local government could regulate that falls within the area of commerce, trade, and labor, would be preempted to the state.

Senator Passidomo has indicated she is holding off her bill, SB 1158, for this Session, but is planning to bring a version of it back for next year.

Regulation by the State of Public Works Project: SB 534 (Perry) and HB 599 (Williamson) The Senate bill would continue to prohibit the state and local governments that contract for public works projects, from imposing restrictive conditions on contractors, subcontractors, or material suppliers or carriers.

As drafted, this bill would prohibit state and local governments from requiring contractors, subcontractors, or material suppliers, engaged in public works projects to pay a predetermined wage, control limit or expand staffing, or recruit, train or hire employees from a designated restricted or single source. Any pre-bid mandate would be preempted should this bill pass. This bill would only apply when 50% or more in funding,

comes from the state. It would not apply if a local government pays for a project in full, or pays for a project in the amount of 50% or more, or if any federal funding goes toward this project, this would not apply. One amendment passed during week 4, that would clarify that the local government would not be required to award a contract to an individual convicted of a public entity crime, or discrimination.

SB 534 was not heard again this week, and has only to be heard in the Appropriations committee before it goes to the full Senate.

HB 599 passed as amended, in the Government Accountability committee with a vote of 15 – 8 during week 4. This is the last committee of reference in the House, and next would be heard by the full House.

Community Redevelopment Agencies (CRAs): HB 13 (Raburn) SB 1770 (Lee) This issue continues to be a priority of the House Speaker and leadership. This week, the Ways and Means Committee adopted a strike-all amendment which made various changes to the bill. In addition to an eventual phase out, House legislative leadership is focused on increasing accountability and transparency, with the following issues:

- Requiring the governing board members of a CRA to undergo 4 hours of ethics training annually;
- Requiring each CRA to use the same procurement and purchasing processes as the creating county or municipality;
- Expanding the annual reporting requirements for CRAs to include audit information and performance data, and requiring the information and data to be published on the agency website;
- Providing moneys in the redevelopment trust fund may only be expended pursuant to an annual budget adopted by the board of commissioners of the CRA and only for purposes specified in current law beginning October 1, 2017;
- Requiring a CRA created by a municipality to provide its proposed budget, and any budget amendments, to the board of county commissioners for the county in which the CRA is located, within ten (10) days of adoption;
- Requiring counties and municipalities to include CRA data in their annual financial report.

The house bill prohibits the creation of new CRAs on or after October 1, 2017. It provides for the eventual phase-out of existing CRAs at the earlier of the expiration date stated in the agency's charter or on September 30, 2037, with the exception of CRAs with any outstanding bond obligations. However, phase-out may be prevented if a supermajority of board members serving on the board that created the CRA vote to retain the agency. The effective date of this bill would be October 1, 2017.

HB 13 passed the Ways and Means Committee, as amended, with a vote of 14 – 5.

SB 1770 was heard in its first committee on 3/29. This bill has three committees of reference remaining, and was not heard this week.

Beach Renourishment Funding/Coastal Management: SB 1590 (Latvala) HB 1213 (Peters) The bill would allocate \$50 million a year, or 7.6%, whichever is less, from the state's Land Acquisition Trust Fund. The bill would require the Department of Environmental Protection to develop a new three-year plan for beach restoration projects, similar to the state's five-year transportation work plan. In this three-year plan, projects would be scored on their return on investment and economic impact. It also would refocus attention on sand management at inlets and seek a revision in a ranking system so the most serious erosion problems are prioritized.

Neither SB 1590 nor HB 1213 were heard this week.

Utilities: SB 596 (Hutson) HB 687 (LaRosa) CS/SB 596 would remove local government control of wireless antenna and equipment, which in effect would keep local governments from prohibiting, regulating, or charging for the collocation of small wireless facilities in public rights-of-way. The bill was further amended to clarify the definition of authority utility pole, to provide that this term does not include

a utility pole owned by a municipal electric utility, any utility pole used to support municipally owned or operated electric distribution facilities, or a utility pole located in the right-of-way of a retirement community that is deed-restricted as housing for older persons, has more than 5,000 residents and has underground utilities for electric distribution or transmission.

Neither SB 596 nor HB 687 were heard this week.

Vacation Rentals: SB 188 (Steube) and HB 425 (LaRosa) The original bill restricted local governments from imposing regulations on vacation properties. The bill provides that local governments could impose regulations, but the regulations must apply to all properties, not just vacation homes. This means that any regulation must apply uniformly to all residential properties without regard to whether the property is used as a vacation rental or a long-term rental, or is rented by the property owner.

The bill keeps the current requirement that local governments cannot prohibit vacation rentals or regulate the duration or frequency of vacations rentals. The bill also keeps the grandfather provision in current law that exempts from the prohibition any local law, ordinance, or regulation that was enacted by a local government on or before June 1, 2011. This bill does allow a local government to amend a law, ordinance or regulation adopted on or before June 1, 2011, to be less restrictive.

In the Senate this week, SB 188 was scheduled to be heard in the Community Affairs Committee. The bill came up at the end of a long agenda, with approximately five minutes left in the committee's scheduled time. The sponsor, Senator Steube presented the bill, and Chairman Lee began taking up amendments. At the point where discussion was to begin on the second amendment, the Chairman acknowledged that the discussion would take longer than the time that was available and that he would temporarily postpone the bill. It was apparent that the votes were not leaning in favor of the bill in this committee. We expect that this bill could come up in the next Community Affairs committee meeting, however, the agenda has not been set.

SB 188 was temporarily postponed in Community Affairs.
HB 425 was not heard this week.

Traffic Infraction Detectors (Red Light Cameras): HB 6007 (Sponsors: Avila, Ingoglia CoSponsors: Brodeur, Diaz (M), Drake, Eagle, Edwards, Jacquet, Mariano, Massullo, Jr., Plakon, Stone, Stevenson) This bill bans the use of red light cameras to enforce traffic laws in Florida. Should this bill pass, local governments will no longer have the authority to implement red light camera programs by local ordinance.

HB 6007 has passed its committees of reference, and has passed the full House, 91 – 22.
SB 178, the Senate companion bill, sponsored by Senator Artiles, and Co-Sponsored by Senators Brandes, Mayfield, Campbell, failed in its first committee hearing with a tie vote of 2 – 2.

Drones / Unmanned Aircraft Systems: SB 832 (Young) HB 1027 (Yarborough) would create a new section of law that would regulate the use of unmanned aircraft systems (drones) around and over critical infrastructure facilities, and creates a second-degree misdemeanor for anyone who knowingly and willfully operates a drone over or around any of these critical infrastructure facilities. These critical infrastructure facilities are defined in the bill and includes an electrical power generation or transmission facility, substation, switching station, or electrical control center; a natural gas compressor station, storage facility, or natural gas pipeline; a liquid natural gas terminal or storage facility; any portion of an aboveground oil or gas pipeline; or a wireless communications facility, including tower, antennae, support structures, and all associated ground-based equipment.

The bill would preempt local governments from regulating drones, however, in section (c) of the bill, there are specific instances that local governments would be able to maintain authority in enacting or enforcing

local ordinances, specifically related to nuisances, voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of drones.

SB 832 passed the Transportation committee with a vote of 4 – 0.

HB 1027 has passed its committees and is ready for floor action.

Sovereign Immunity – Local Government Claims Bill Process Restructure: HB 1305 (Co-Sponsors: Representatives Jenne, and Grant) This bill seeks to make changes to the process by which the state and local governments pay out claims. The bill raises caps on awards and authorizes local governments to purchase umbrella insurance plans to cover damages. The focus of this legislation is to bypass legislative approval for these claims.

Under current law, sovereign immunity requires the Legislature to approve payments of any claim against the state or local governments totaling more than \$300,000. Claimants with higher settlements must get individual claim bills through both legislative chambers and then signed by the governor. This process can sometimes take multiple years to complete.

The co-sponsors' goal is to create a common pot of money funded by state and local governments to pay out claimant's payments on an annual basis. Rep. Grant chaired a Select Committee on claims bills in 2013 that developed similar recommendations. The proposals gained little traction and the process remains unchanged.

For now, the bill is intended to serve as placeholder language designed to encourage groups like local governments to come to the table to negotiate a permanent fix. This bill has not yet been heard, however, it is important to note that this issue has been raised again this Session.

HB 1305 has not been heard. There is no Senate companion bill.

Local Tax Referenda: HB 139 (Ingoglia) and SB 278 (Steube) This bill would require any referendum that would levy a discretionary sales surtax, to be held during a general election or a primary election. If the referendum is held in a primary election, the referendum must be approved by 60 percent of electors voting on the ballot question. If the referendum is held in a general election, the referendum must be approved by a majority of electors voting on the ballot question. The effective date of this bill would be July 1, 2018.

HB 139 passed the Ways and Means Committee, with a vote of 15 – 2.

SB 278 passed the Ethics and Elections committee with a vote of 7 – 0.

Florida Retirement System: HB 5007 is a committee bill which would place newly hired public employees in an investment 401(k) styled-plan, if they don't choose a plan within six months of their start date, and would apply to employees who are hired in 2018. Currently those employees are placed in a traditional pension plan. This bill would also prohibit future elected officials from enrolling in the pension plan. Historically, however, the Senate has not agreed to the House approach to restructuring the FRS system, for the last several years.

HB 5007 passed the Appropriations Committee, with a vote of 18 – 8 and will be heard by the full House, on 4/12.

Ride Sharing (Uber): SB 340 (Brandes) and HB 221 (Sprowls) would require minimum insurance and background check standards for vehicle-for-hire app companies, and would preempt any local regulation.

SB 340 (Brandes) passed the Rules committee with a vote of 10 – 1. This was its last committee of reference, and would now be available for floor action.

HB 221 (Sprowls) passed the House with a vote of 115 – 0 .

Gaming: SB 8 (Galvano) and HB 7037 (LaRosa) The House and Senate gaming bills passed both the House and Senate during week 4, and the stage is set for a gaming conference committee to be named next week, and to begin to conference. Issues in addition to the Seminole Indians compact include, the authorization of slots in Counties that voted in favor of such, decoupling, race reduction, tax rates, black jack, a variety of permit issues, and permit portability. Also up for discussion would be the tax rates and purse pool for any new casinos allowed, distance restrictions, and lastly, designated player games. Another interesting twist, was in the House bill passed this week, which provided that a portion of gaming revenue to the state would be designated as a permanent funding source for charter school construction. This is an issue that was vehemently opposed by the Democrats in the House committee meeting.

Task Force on Affordable Housing: SB 854 (Brandes) HB 1013 (Newton) This Session, Senator Brandes has filed SB 854 which creates an affordable housing task force assigned to the Florida Housing Finance Corporation. The bill was amended to increase the composition of the task force to add three additional members so that a total of five members of the 13-member board will now be appointed by the Governor. Of the five members selected by the Governor, one member must be an advocate for the homeless, one member must be an advocate of the needs of individuals with disabling conditions and persons with special needs, one member must represent the building or development community, and one member must be a realtor licensed in Florida.

Neither SB 854 nor HB 1013 was heard this week.

Local Business Tax: HB 487 (Renner) This bill authorizes counties and municipalities to continue to levy local business taxes adopted prior to January 1, 2017, but prohibits new county levies adopted after January 1, 2017. The bill would eliminate the public notice requirement, provide an exemption for low-income persons, and expand exemptions for veterans, veterans' spouses, and active duty military service members' spouses.

HB 487 was not heard this week.

Fiscal Transparency of Local Governments: HB 7065 was not heard this week. This bill is a Ways and Means Committee bill, and a priority of the Speaker Corcoran and House leadership. This bill restructures how local governments to provide greater transparency in the fiscal area, specifically, tax history, and new debt issuance. This bill intends to provide the public a greater level of detail on the local officials' votes related to property tax increases, local option tax, and new debt issuance. Local governments would be required to post on their website, voting records on each of these, and would be required to maintain this information on the website for a period of four years.

HB 7065 was not heard this week.

Fiscal Responsibility of Local Governments: HB 7063 was also not heard this week. This is also a Ways and Means committee bill, and a priority of the Speaker Corcoran and House leadership, which sets forth requirements aimed to increase the fiscal responsibility of local governments. The bill creates a new statutory maximum millage rate for local governments A county, municipality, or special district could not levy a millage rate above its rolled-back rate, unless the government does not have excess unencumbered fund balances in any of its special revenue funds, as of the beginning of the fiscal year for which the millage rate is being considered. This, would prohibit property tax increases, unless excess fund balances are spent down. HB 7063 was not heard this week.

~May 5, 2017, the 60th day, is the last day of the Regular Session. (Article III, section 3(d), Constitution)~
