

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

CS/CS/CS/HB 59 — Growth Management

by State Affairs Committee; Civil Justice and Property Rights Subcommittee; Local Administration and Veterans Affairs Subcommittee; and Rep. McClain and others (CS/CS/CS/SB 496 by Rules; Judiciary; Community Affairs; and Senator Perry)

Under current law, local governments create and adopt local comprehensive plans to control and direct land use and development within a county or municipality. The Department of Economic Opportunity oversees the local comprehensive plan system at the state level. Notwithstanding, local governments in the state retain ample independence in the substance of land use regulation of private property within their jurisdiction. The bill amends various sections of Florida law related to local government regulation of land, which is commonly referred to as “growth management.”

Comprehensive Plans

The bill amends s. 163.3167, F.S., to provide that all local comprehensive plans *effective*, rather than *adopted*, after January 1, 2016, and all land development regulations adopted to implement the plan, must incorporate development orders existing before the plan's effective date, may not impair the completion of a development order, and must vest the density and intensity approved on the effective date of the comprehensive plan.

Property Rights Element

The bill requires all local governments to adopt a property rights element in their comprehensive plans. The bill provides a model statement of property rights a local government may adopt to satisfy this requirement. Notwithstanding, a local government may adopt a distinct property rights element as long as it does not conflict with the model statement. This bill provision instructs local governments to consider certain private property rights when regulating land. The bill directs local governments to adopt this element by the earlier of its next proposed plan amendment initiated after July 1, 2021, or the date of its next comprehensive plan evaluation, as required by s. 163.3191, F.S.

Altering a Development Agreement

The bill provides that a development agreement between a local government and a party, or its designated successor in interest, may be amended or canceled without securing the consent of parcel owners that were initially subject to the development agreement unless the amendment directly modifies the land uses of an owner's property.

Department of Transportation

The bill requires the Department of Transportation, when disposing of surplus real property, to give the property's prior owner the right of first refusal to purchase the property. This right of first refusal only applies to the department's disposal of property acquired within 10 years before the date of disposition.

Developments of Regional Impact

The bill specifies that development agreements for certain developments of regional impact that are classified as "built out" may be amended using the processes adopted by local governments. Any such amendment may authorize the developer to exchange approved land uses if the developer demonstrates that the exchange will not increase impacts to public facilities. This applies to such agreements and amendments effective on or after April 6, 2018.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 38-0; House 82-32

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/SB 60 — County and Municipal Code Enforcement

by Community Affairs Committee and Senator Bradley (CS/CS/CS/HB 883 by State Affairs Committee, Public Integrity and Elections Committee, Local Administration and Veterans Affairs Subcommittee, and Rep. Overdorf)

Code enforcement is a function of local government intended to enhance the economy and quality of life of counties and municipalities by protecting the health, safety, and welfare of the community. Local governments designate code inspectors or code enforcement officers to investigate potential code violations, provide notice of violations, and issue citations for noncompliance. However, such officials do not possess police powers.

CS/SB 60 amends the county and municipal code enforcement statutes to prohibit county and municipal code inspectors and code enforcement officers from initiating an investigation into violations of city or county codes or ordinances based upon an anonymous complaint. It also requires that an individual making a complaint of a potential violation provide his or her name and address to the local government body before an investigation may occur.

The prohibition does not apply if the code inspector or code enforcement officer has reason to believe the alleged violation presents an imminent threat to public health, safety, or welfare or imminent destruction of habitat or sensitive resources.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 27-11; House 81-35

Committee on Community Affairs

CS/CS/CS/HB 337 — Impact Fees

by State Affairs Committee; Ways and Means Committee; Local Administration and Veterans Affairs Subcommittee; and Rep. DiCeglie and others (CS/CS/CS/SB 750 by Appropriations Committee; Finance and Tax Committee; Community Affairs Committee; and Senators Gruters and Perry)

Impact fees are fees imposed by counties, municipalities, and some special districts to fund local infrastructure needed to expand local services to meet the demands of population growth caused by development. An impact fee enacted by a county or municipal ordinance or special district resolution must meet certain minimum statutory criteria. The calculation of an impact fee must have a rational nexus both to the need for additional capital facilities and to the expenditures of funds collected and the benefits accruing to the new development construction.

The bill provides specific limitations on the amount by which a local government may increase its impact fees. The limitations operate retroactively to January 1, 2021, and are as follows:

- An impact fee increase of not more than 25 percent of the current rate must be implemented in two equal annual increments, beginning with the date on which the increased fee is adopted;
- An impact fee increase of between 25 and 50 percent of the current rate must be implemented in four equal installments;
- An impact fee increase may not exceed 50 percent of the current impact fee rate; and
- An impact fee may not be increased more than once every four years.

However, a local government may exceed these limitations if the local government completes a demonstrated-need study that justifies the increase and demonstrates the extraordinary circumstances, holds at least two publicly noticed workshops, and adopts the impact fee increase by at least a two-thirds vote.

The bill also makes the following changes to current impact fee law:

- Defines the terms “infrastructure” and “public facilities,” used throughout the impact fee statutes, in order to specify that impact fees may be utilized only for fixed capital expenditures or fixed capital outlays for major capital improvements;
- Prohibits a local government from increasing an impact fee retroactively for a previous or current fiscal or calendar year; and
- Requires special districts, in addition to local governments, to issue dollar-for-dollar impact fee credits for impacts on the same public facilities in exchange for other required contributions received (i.e., proportionate share agreement or other exactions).

Finally, the bill requires the chief financial officer of a local government, school district, or special district to attest annually by affidavit that, to the best of his or her knowledge, all impact fees were collected and expended in compliance with the spending period provision in the local ordinance or resolution, and that impact fee funds were used only to acquire, construct, or improve specific infrastructure needs.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 28-12; House 94-23

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/SB 378 — Payment for Construction Services

by Governmental Oversight and Accountability Committee and Senator Bradley (CS/CS/HB 585 by Commerce Committee; Regulatory Reform Subcommittee; and Rep. DiCeglie)

CS/SB 378 enhances the statutory penalties imposed on public and private parties that fail to make required payments for certain construction labor, services, and material.

The bill increases by one percent per month, the remedial interest rate applied to payments wrongfully withheld for construction services for public and private construction projects. For public sector construction projects, the bill increases the interest rate from one percent to two percent per month. Public entities that wrongfully withhold payment to contractors and, likewise, contractors who wrongfully withhold payment to subcontractors and sub-subcontractors on public projects will be liable for interest at a rate of two percent per month on the unpaid amounts.

For private-sector construction projects, current law specifies that late payments bear interest at the rate specified in s. 55.03, F.S., which provides the general rate of interest on judgments. The bill increases the late payment interest for the private sector to the rate specified in s. 55.03, F.S., plus twelve percent per annum (i.e., one percent per month).

Furthermore, the bill clarifies that parties who contract with a public or private entity for construction services and knowingly and intentionally fail to pay the undisputed contract obligations for construction labor, services, or materials, commit misapplication of construction funds, as provided in s. 713.345, F.S. Under the bill, the Construction Industry Licensing Board must take disciplinary action against a construction industry licensee found guilty of committing misapplication of construction funds and suspend the licensee's license for a minimum of one year.

The bill applies to contracts executed on or after July 1, 2021.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 114-0

Committee on Community Affairs

CS/CS/HB 401 — Florida Building Code

by Commerce Committee; Regulatory Reform Subcommittee; and Reps. Fetterhoff, Overdorf and others (CS/CS/CS/SB 1146 by Rules Committee; Appropriations Committee; Community Affairs Committee; and Senators Brodeur and Perry)

The Florida Building Commission (commission), housed within the Department of Business and Professional Regulation, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines responsible for the implementation and adoption of the Florida Building Code (Building Code). The Building Code is the statewide building code for all construction in the state. The commission must adopt a new edition of the Building Code every three years.

Local governments enforce the Building Code within their jurisdictions, primarily by conducting inspections and issuing building permits to authorize construction. Under certain circumstances the commission and local governments may adopt technical and administrative amendments to the Building Code as permitted by statute. Local governments may adopt amendments to the Building Code that are more stringent than the Building Code, which are limited to the local government's jurisdiction and expire upon the adoption of the newest editions of the Building Code.

As it pertains to the administration of the Building Code, the bill:

- Allows a substantially affected person, as defined in the bill, to petition the commission for a non-binding advisory opinion on any local government regulation that the person believes is a technical amendment to the Building Code and was not adopted in accordance with the process for adopting local amendments to the Building Code. The commission must issue the opinion within 30 days of receiving the petition.
- Allows the commission to issue an “errata to the code” to correct demonstrated errors in provisions contained within the Building Code.
- Requires the commission to adopt rules for approving product evaluation entities in addition to the ones already listed and approved in current law, and clarifies that the commission may suspend any product evaluation entity.

The bill also:

- Allows local governments to use excess funds generated by building code enforcement fees (i.e., permit fees) for the construction of a building or structure that houses a local government's building department or provides training programs for building officials, inspectors, or plans examiners.
- Prohibits a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit.
- Specifies that a local government may not use preliminary maps issued by the Federal Emergency Management Agency for any law, ordinance, rule, or other measure that has the effect of imposing land use changes or permits.

The bill makes several changes to current law pertaining to licensed individuals providing private building inspection services, known as “private providers.” Current law allows contractors and property owners to hire licensed building code administrators, engineers, and architects to review building plans, perform building inspections, and prepare certificates of completion. The bill makes the following changes to the private provider statute:

- Expressly authorizes private providers to conduct virtual building inspections.
- Allows private providers to submit various inspection forms, records, and reports electronically to local building departments and utilize electronic signatures.
- Allows private providers to conduct “single-trade inspections,” as defined in the bill.
- Authorizes private providers to conduct emergency inspection services.

Additionally, the bill expressly authorizes local governments and school districts to use private providers for public works projects and improvements to any building or structure.

Finally, the bill amends the Community Planning Act to prohibit local governments from adopting land development regulations that regulate specific building design elements (such as exterior color and cladding, ornamentation, styling of windows and doors, etc.) for single- and two-family dwellings. However, certain exceptions are provided that allow local governments to regulate such building design elements when:

- The dwelling is a historic property or located in a historic district, a community redevelopment area, or a planned unit development or master planned community.
- The regulations are adopted in order to implement the National Flood Insurance Program or to ensure protection of coastal wildlife.
- The regulations are adopted in accordance with the procedures for adopting local amendments to the Building Code.
- The dwelling is located within the jurisdiction of a local government with a design review board or architectural review board.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 38-1; House 102-12

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

CS/HB 403 — Home-based Businesses

by Commerce Committee and Rep. Giallombardo and others (CS/CS/SB 266 by Rules Committee; Community Affairs Committee; and Senators Perry and Baxley)

CS/HB 403 preempts areas of regulation for home-based businesses to the state. It forbids counties and municipalities from enacting or enforcing any ordinance, regulation, or policy or take any action to license or otherwise regulate a home-based business in violation of the bill provisions. Currently, local governments regulate business activities conducted on residential property through ordinances that address "home occupations." The bill's restrictions on local government home-based business regulations would cause existing local government ordinances inconsistent with the bill's prohibitions to become null and void by operation of law.

The bill provides that a home-based business may operate in an area zoned for residential use and may not be prohibited, restricted, regulated, or licensed in a manner different from other businesses in a local government's jurisdiction otherwise provided by the bill.

The bill includes criteria that home-based businesses must meet to operate in an area zoned for residential use. To be considered a home-based business under the bill, a business must meet the following criteria:

- The activities of the home-based business must be secondary to the property's use as a residential dwelling.
- The business employees who work at the residential dwelling must also reside in the residential dwelling, except that up to two employees or independent contractors who do not reside at the residential dwelling may work at the business.
- Parking related to the business activities of the home-based business must comply with local zoning requirements. The business may not generate a need for parking greater in volume than a similar residence where no business is conducted. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street.
- As viewed from the street, the residential property must be consistent with the uses of the residential areas surrounding the property. Any external modifications to a home-based business must conform to the residential character and architectural aesthetics of the neighborhood. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.
- All business activities must comply with any relevant local or state regulations concerning signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. However, such regulations on a business, absent signage, may not be more stringent than those that apply to a residence where no business is conducted.
- All business activities must comply with any relevant local, state, and federal regulations concerning the use, storage, or disposal of hazardous materials. However, such regulations on a business may not be more stringent than those that apply to a residence where no business is conducted.

Any adversely affected current or prospective home-based business owner may recover reasonable attorney fees and costs incurred instituting or defending a legal action concerning the validity of a local government's home-based business regulations.

The bill does not supersede any current or future declaration of condominium adopted pursuant to ch. 718, F.S., cooperative document adopted pursuant to ch. 719, F.S., or declaration of covenants adopted pursuant to ch. 720, F.S. In addition, the bill does not supersede any local laws, ordinances, or regulations related to transient public lodging establishments that are not otherwise preempted under ch. 509, F.S.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 19-18; House 77-41

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

HB 487 — Growth Management

by Reps. Duggan and Hardy (CS/CS/SB 1274 by Rules Committee; Community Affairs Committee; and Senator Perry)

The Community Planning Act provides counties and municipalities the power to plan for future development by the adoption of comprehensive plans. Each county and municipality must maintain a comprehensive plan. Comprehensive plans are intended to provide for orderly and balanced future economic, social, physical, environmental, and fiscal development in a county or municipality. Municipalities must prepare and adopt a comprehensive plan within three years after the date of its incorporation.

One of the three types of comprehensive plan amendments is the small-scale development amendment. A comprehensive plan amendment may be classified as a small-scale amendment if the amendment involves less than 10 acres of land (or less than 20 acres in a rural area of opportunity), does not impact land located in an area of critical state concern, preserves the internal consistency of the overall local comprehensive plan, and does not require substantive changes to the text of the plan. Small-scale amendments may be approved with a single hearing before the local government's governing body and do not require review by the Department of Economic Opportunity.

The bill increases the maximum acreage of a small-scale comprehensive plan amendment from 10 acres to 50 acres and increases the maximum acreage for a small-scale comprehensive plan amendment within a rural area of opportunity from 20 acres to 100 acres.

The bill also provides that any landowner with a development order existing before the incorporation of a municipality may elect to abandon the development order and develop the vested density and intensity contained therein pursuant to the municipality's comprehensive plan and land development regulations so long as the vested uses, density, and intensity are consistent with the municipality's comprehensive plan, and all existing concurrency obligations in the development order remain valid.

Finally, the bill amends the Florida Interlocal Cooperation Act of 1969 to allow an entity established pursuant to an interlocal agreement to acquire title to any water or wastewater plant utility facilities, other facilities, or property acquired by the use of eminent domain if 10 or more years have passed since the date of acquisition by eminent domain.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 39-0; House 106-10

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/CS/HB 597 — Homestead Exemption for Seniors 65 and Older

by Local Administration and Veterans Affairs Subcommittee, Ways and Means Committee, and Rep. Woodson and others (CS/SB 1256 by Community Affairs Committee and Senator Polsky)

The State Constitution authorizes the Legislature to allow counties and municipalities by ordinance to grant additional homestead property tax exemptions to persons aged 65 years or over whose household income does not exceed \$20,000 (low-income seniors). Qualifying seniors must hold legal or equitable title to the property and maintain thereon their permanent residence. The income limitation is adjusted each year according to changes in the consumer price index; the 2021 household income threshold for the exemption is \$31,100.

CS/CS/HB 597 amends the process by which a senior verifies his or her income for purposes of renewing said income-based property tax exemption. Seniors receiving such an exemption must annually submit to the property appraiser a sworn statement that his or her income still qualifies for the exemption. The bill removes this requirement and instead requires the senior only to notify the property appraiser upon a change in income that may disqualify the senior for the exemption.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 40-0; House 119-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

CS/CS/HB 667 — Building Inspections

by Local Administration and Veterans Affairs Subcommittee; Regulatory Reform Committee; Rep. Mooney and others (CS/CS/CS/SB 1382 by Appropriations Committee; Governmental Oversight and Accountability Committee; Community Affairs Committee; and Senator Perry)

The Florida Building Codes Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code (Building Code) must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.

Current law requires local governments to enforce the Building Code and issue building permits. Current law also requires state agencies, state universities, Florida College System institutions, and public school districts to enforce the Building Code in certain situations. It is unlawful for a person or corporation to construct, alter, repair, or demolish a building without obtaining a permit from the enforcing agency. Construction work that requires a building permit requires inspections to ensure the work complies with the Building Code.

The bill authorizes any government entity with the authority to enforce the Building Code to perform virtual building inspections, with the exception of certain structural inspections. The bill defines “virtual inspection” as an inspection that uses visual or electronic aids to allow a building official or inspector to perform an inspection without having to be physically present at the job site during the inspection.

The bill also requires local building code enforcement agencies to allow requests for inspections to be submitted to the local agency electronically via e-mail, electronic form, or mobile application.

Finally, the bill requires a building code enforcement agency to refund 10 percent of the permit and inspection fees if:

- The inspector or building official determines the work, which requires the permit, fails an inspection; and
- The inspector or building official fails to provide a reason that is based on compliance with the Building Code, the Florida Fire Prevention Code, or local ordinance, indicating why the work failed the inspection within 5 business days.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 39-0; House 118-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

SB 904 — Doorstep Refuse and Recycling Collection Containers

by Senator Diaz (HB 6053 by Rep. Yarborough)

SB 904 saves from repeal a statutory provision regulating doorstep refuse and recycling collection services. Various waste providers currently offer doorstep waste collection services in apartment complexes throughout the state. Residents in these complexes place waste outside their front door in a specified collection container for the provider to retrieve at a specified time.

In 2018, the Legislature enacted s. 633.202(20), F.S., to authorize residents in apartment buildings to place combustible waste and refuse in exit access corridors if certain conditions are met. For instance, doorstep refuse and recycling collection containers may not exceed 13 gallons for apartment buildings with enclosed corridors and 27 gallons for buildings with open air corridors. Containers may not be placed in an exit access corridor for a single period greater than 12 hours for buildings with enclosed corridors. Containers may not reduce the exit access corridor's width below the width required by the Florida Fire Code. Containers must stand upright on their own and not leak fluids.

These statutory provisions expire on July 1, 2021.

While the Florida Fire Code also allows for the placement of waste and refuse containers in exit access corridors, the statutory provisions are overall less restrictive. The bill removes the expiration date of the statutory provisions regulating doorstep refuse and recycling collection containers. Retaining these provisions preserves the less restrictive statutory provisions regarding container sizes and materials, overriding certain provisions in the Florida Fire Code.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 39-0; House 116-2

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/CS/SB 912 — Land Use and Development

by Rules Committee; Environment and Natural Resources Committee; and Senator Albritton (CS/HB 859 by State Affairs Committee and Rep. Grant)

Tolling and Extension of Permits during States of Emergencies

The State Emergency Management Act provides that the declaration of a state of emergency issued by the Governor for a natural emergency tolls the period remaining for a party to exercise rights under certain permits and other authorizations for the duration of the emergency declaration, plus an additional six months. In order to have a permit tolled under this provision, the permit holder must follow certain statutory procedures, including providing written notice of the intent to exercise the tolling within 90 days after the termination of the state of emergency. The emergency tolling afforded by this statute currently applies to the expiration of a development order issued by a local government, a building permit, and an environmental resource permit issued pursuant to ch. 373, part IV, F.S.

The bill specifies additional permits and authorizations that may be tolled during a state of emergency. These include consumptive use permits issued under ch. 373, part II, F.S., and development permits and development agreements.

The bill applies retroactively to any declaration of a state of emergency issued by the Governor for a natural emergency since March 1, 2020. Under this retroactive application, existing permits and authorizations added by the bill may receive the emergency tolling and extension for the state of emergency declared in response to the COVID-19 pandemic.

Enterprise Zone Boundaries

Florida established one of the first enterprise zone programs in the country in 1982 to encourage growth and investment in distressed areas by offering tax advantages to businesses investing in those areas. The Florida Enterprise Zone Program and its associated incentive programs sunset in December 2015. The program offered an assortment of financial incentives available to businesses to encourage private investment and increase employment opportunities for enterprise zone residents. Prior to the program's sunset, there were 65 designated enterprise zones in Florida.

Current law preserved the enterprise zone boundaries for the purpose of allowing local governments to administer local incentive programs within those boundaries through December 31, 2020. The bill amends this provision to preserve enterprise zone boundaries for local government use through December 31, 2021.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 40-0; House 114-0

Committee on Community Affairs

CS/CS/HB 1059 — Construction Permits

by Commerce Committee; Regulatory Reform Subcommittee; and Reps. Robinson, W., Fischer, and others (CS/CS/SB 1788 by Governmental Oversight and Accountability Committee; Community Affairs Committee; and Senator Boyd)

CS/CS/HB 1059 makes various changes to the Florida Building Codes Act and related statutes. The Florida Building Codes Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code (Building Code) is the statewide building code for all construction in the state and must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.

Local governments enforce the Building Code within their jurisdictions, primarily by conducting inspections and issuing building permits to authorize construction. It is unlawful to construct, alter, repair, or demolish a building without obtaining a building permit.

The bill makes various changes to the ways in which local enforcement agencies receive and process building permit applications. Specifically, the bill requires local enforcement agencies to:

- Allow building permit applications, including payments, attachments, drawings, and other documents, to be submitted electronically.
- Post the current status of every building permit application received on its website.
- Post the agency's procedures for reviewing, processing, and approving building permit applications on its website.
- Review additional information for an application for a development permit or development order within a certain time-period.
- Allow building permit applicants 10 business days to correct an application for a single-family residential dwelling that was initially denied by the local enforcement agency.
- Reduce permit fees by specified amounts after failing to meet statutory deadlines for reviewing certain building permit applications.

Finally, the bill prohibits government entities, which enforce the Building Code, from requiring a copy of a contractor's contract with owners, subcontractors, or suppliers in order to obtain a building permit for projects on commercial property.

If approved by the Governor, these provisions take effect October 1, 2021.

Vote: Senate 38-0; House 113-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/CS/CS/HB 1103 — Special District Accountability

by State Affairs Committee; Public Integrity and Elections Committee; Local Administration and Veterans Affairs Subcommittee; and Rep. Maggard and others (SB 1624 by Senator Albritton)

Special districts are used to provide a variety of local services and are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law. There are two types of special districts: independent special districts and dependent special districts. Special districts are governed generally by the Uniform Special District Accountability Act (Act), which centralizes provisions governing special districts and applies to the formation, governance, administration, supervision, merger, and dissolution of special districts, unless otherwise expressly provided in law.

The bill requires all independent special fire control districts and each hospital governed by the governing body of a special district or the board of trustees of a public health trust to undergo a performance review every five years, beginning October 1, 2022, and October 1, 2023, respectively. The Office of Program Policy Analysis and Government Accountability (OPPAGA) must conduct performance reviews of those fire control districts located in rural areas of opportunity. The bill also requires OPPAGA to conduct performance reviews of all independent mosquito control districts and soil and water conservation districts by September 30, 2023, and September 30, 2024.

The bill requires the annual financial report and annual financial audit report of all special districts to specify separately the total number of employees and independent contractors compensated by the district, the amount of compensation earned or awarded to employees and independent contractors, and each construction project with a total cost of at least \$65,000 approved by the district to begin on or after October 1 of the fiscal year being reported and the total expenditures for the project. Those special districts that amend their annual budgets are required to file a budget variance report. The bill also requires the annual financial report and annual financial audit report of each independent special district that levies ad valorem taxes or non-ad valorem special assessments to include the rate of such levies, the total amount collected by the levies, and the total amount of all outstanding bonds issued by the district and the terms of such bonds.

Finally, the bill clarifies that a community redevelopment agency's annual financial auditing report must be filed separately from the annual financial auditing report of the county or municipality that created the district.

If approved by the Governor, these provisions take effect October 1, 2021.

Vote: Senate 40-0; House 118-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

HJR 1377 — Limitation on Assessment of Real Property Used for Residential Purposes

by Reps. Chaney, Buchanan, and others (SJR 1182 by Senator Brandes)

Local governments impose and collect ad valorem taxes on real and tangible personal property within Florida. All property in Florida is subject to taxation and must be assessed at just value unless the State Constitution authorizes an exemption or exception.

The State Constitution authorizes the Legislature to prohibit the consideration of certain changes to real property for purposes of determining the property's assessed value. Specifically, the Legislature may prohibit the consideration of:

- Any change or improvement to residential real property made to improve the property's resistance to wind damage; or
- The installation of a solar or renewable energy device.

HJR 1377 proposes an amendment to the State Constitution to authorize the Legislature to prohibit an increase in the assessed value of residential property as a result of any change or improvement made to improve the property's resistance to flood damage.

The joint resolution will be considered by the electorate at the next general election in November 2022.

If approved by at least 60 percent of electors, the constitutional amendment will take effect January 1, 2023.

Vote: Senate 40-0; House 118-0

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

SB 1884 — Preemption of Firearms and Ammunition Regulation

by Senator Rodrigues (HB 1409 by Representative Byrd and others)

SB 1884 revises the Legislature’s preemption of the field of the regulation of firearms and ammunition. Current law provides a person or certain organizations with the right to seek declaratory or injunctive relief and actual damages due to a local ordinance, regulation, measure directive, rule enactment, order, or written policy regulating firearms or ammunition. The bill provides that the right to maintain a legal action against a preempted local regulation applies even if the local regulation is unwritten.

Existing s. 790.33, F.S., preempts the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the state. Any person or organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated in violation of s. 790.33, F.S., may file suit against the governmental entity for a declaratory judgment and injunctive relief. If a court determines the plaintiff is the prevailing party, the plaintiff may recover actual damages of up to \$100,000 in addition to any attorney fees.

The bill also provides a mechanism for a plaintiff to recover damages and attorney fees when a government entity changes its regulation while the regulation is being challenged under s. 790.33, F.S. Specifically, when a government entity voluntarily changes the regulation that was challenged pursuant to a complaint, the plaintiff challenging that regulation is considered the prevailing party and may recover actual damages and attorney fees.

If approved by the Governor, these provisions take effect July 1, 2021.

Vote: Senate 24-16; House 78-39