



Broward SLI

State Legislative Information

2017 Session – Week Three
March 20-24, 2017

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The Office of Intergovernmental Affairs and Professional Standards (OIAPS) continues to provide updates and tweets to keep you up-to-date. We encourage you to follow us at @BrowardSLI.

SOBER HOME LEGISLATION PASSES COMMITTEE

Marketing Practices for Substance Abuse Services ([CS/SB 788](#)) by Sen. Clemens unanimously passed the Senate Children, Families, and Elder Affairs Committee. CS/SB 788 approaches the problem of fraudulent patient brokering and deceptive marketing practices in the business of substance abuse addiction services, specifically those related to the economic relationship between service providers and “recovery residences” (also known as sober homes). The bill also provides assistance to law enforcement and prosecutors by:

- ✚ Extending the jurisdiction of the Office of the Statewide Prosecutor to investigate and prosecute patient brokering offenses;
- ✚ Adding patient brokering to the list of predicate offenses that may be prosecuted as RICO offenses which could result in higher penalties; and
- ✚ Adopting federal law with regard to the timing of law enforcement giving notice to a patient regarding obtaining the patient’s records pursuant to a court order.

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A similar bill ([HB 807](#)) filed by Rep. Hager unanimously passed the Criminal Justice Subcommittee and heads to its last committee of reference – Health and Human Services. The bill will implement several recommendations from the 2016-17 Task Force to strengthen investigation and prosecution of criminal and regulatory violations within the substance abuse treatment industry.

NON-HOMESTEAD ASSESSMENT CAP PASSES HOUSE

With a 110-3 vote, the House passed [HJR 21](#) – Limitations on Property Tax Assessments, a constitutional amendment which would make permanent the 10% cap on non-homestead property assessment increases. The cap is due to expire Jan 1, 2019. If passed by 60 percent of the Senate’s membership, the measure will be placed on the November 2018 ballot. Subject to approval by 60 percent of the voters, the joint resolution provides that the proposed amendment will take effect on January 1, 2019. The Senate companion [SJR 76](#), has two more committee stops, Appropriations and Rules, before final consideration by the full Senate.

RED LIGHT CAMERAS BAN PASSES HOUSE

The House passed [HB 6007](#) - Traffic Infraction Detectors by a vote of 91-22. The bill essentially prohibits the use of red light cameras in the state of Florida. Effective July 1, 2020, the bill removes the authorization for the DHSMV and local governments to install and maintain red light cameras. The senate companion [SB 178](#), by Sen. Artiles was laid on the table after its first committee of reference saw a 2-2 tied vote. An identical bill ([SB 630](#)) has been filed by Sen. Campbell, however it has yet to be heard by a committee. At this time it is questionable whether the Senate will consider any attempts to repeal red light cameras.

PUBLIC RECORDS LEGISLATION READY FOR FINAL VOTE

[CS/CS/SB 80](#), by Sen. Stuebe, was considered by the full Senate this week. The bill addresses the award of attorney’s fees and costs in civil actions brought to enforce the state’s public records laws. In particular, SB 80 requires a court to award attorney fees and enforcement costs, if the court determines that:

- ✚ An agency unlawfully refused a person access to a public record; and
- ✚ The complainant provided written notice of the public records request to the agency’s custodian of public records at least five business days before filing a civil action. The five-day notice period excludes holidays and weekends.

If the court determines, however, the complainant made the public records request for an improper purpose, the court must award reasonable costs and attorney fees against the complainant. An improper purpose is defined to mean a request to inspect or copy a records mainly to harass the agency, cause a violation of the public records law, or for a frivolous purpose.

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A complainant need not provide advance written notice if an agency fails to prominently post contact information for the agency's public records custodian in the primary administrative building in which public records are routinely created, sent, received, maintained, and requested, and on the agency's website. SB 80 also makes clear that monetary damages are not available in an action to enforce the public records laws. Finally, if the bill becomes law, then its provisions will apply prospectively to public records requests made on or after its effective date.

The bill was discussed by Senate members and rolled over to Third Reading for a final vote next Wednesday, March 29th. The House companion, [CS/HB 163](#) is presently awaiting its final hearing in the House Government Accountability Committee.

INCREASED HOMESTEAD PROPERTY TAX EXEMPTION PASSES 1ST HURDLE

The Senate Community Affairs Committee this week passed [SJR 1774](#) on a 5-1 vote. Pursuant to Article VII, §6(a) of the State Constitution, every individual that has legal and equitable title to property and who maintains his or her permanent residence on that property (i.e., homestead property) is eligible for a \$25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts. A second \$25,000 exemption applies to homestead property value between \$50,000 and \$75,000. This second homestead exemption does not apply to ad valorem taxes levied by school districts.

SJR 1774 proposes an amendment to the Florida Constitution to increase the second homestead exemption to \$50,000. If passed by 60% of the membership of each chamber and approved by 60% of the voters, the second exemption will apply to all, non-school district property tax levies, on assessed value of greater than \$50,000 and up to \$100,000. The proposed constitutional amendment would take effect on January 1, 2019, if approved.

The joint resolution next goes before the Senate Subcommittee on Finance and Tax. Presently, there is no House companion measure.

COASTAL MANAGEMENT BILLS PASS COMMITTEES

[CS/SB 1590](#) by Senate Appropriations Chair Latvala and [CS/HB 1213](#) by Rep. Peters, unanimously passed through their respective committees. The Senate bill revises the beach nourishment and inlet management project funding criteria and requires a minimum \$50 million distribution from the Land Acquisition Trust Fund to be appropriated annually for projects that preserve and repair the state's beaches in accordance with the revised project funding criteria.

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The House bill (HB 1213) differs from the Senate version as it does not mention an appropriation from the Land Acquisition Trust Fund. Rather, it lays out several criterion that DEP must consider when ranking inlet management projects. SB 1590 was amended before the committee's approval to delay, until July 1, 2018, the changes relating to the scoring system for beach management funding and the procedure for the approval of projects for beach and inlet management.

CS/SB 1590 next goes to the Senate Appropriations Subcommittee on the Environment and Natural Resources. HB 1213 is scheduled for consideration on March 28th before the House Agriculture & Natural Resources Appropriations Subcommittee.

SFRTA INDEMNIFICATION BILL MOVES FORWARD

The House Transportation & Infrastructure Subcommittee unanimously passed [CS/HB 695](#) by Rep. Santiago, which addresses liability issues regarding the use of a rail corridor. Specifically, the bill authorizes the SFRTA to indemnify the Florida East Coast Railway (FECR) and All Aboard Florida (AAF) under certain circumstances. The bill also identifies who is responsible for property damage and injury to certain persons associated with several scenarios involving rail accidents, and also provides an allocation of risk between the parties and includes provisions for passengers and other rail corridor invitees.

Furthermore, the bill authorizes SFRTA to purchase railroad liability insurance of \$295 million per occurrence, and allows it to adjust the limit in accordance with applicable law. SFRTA is also required to maintain a \$5 million self-insurance retention account. Finally, the Department of Transportation (DOT) is authorized to indemnify and insure certain rail services on a DOT-owned rail corridor.

Similarly, [CS/SB 842](#) by Sen. Artiles, passed the Senate Transportation Committee on March 22nd. The bill authorizes SFRTA to enter into contractual indemnification agreements. The bill also requires FDOT to make quarterly payments from the State Transportation Fund to the SFRTA for maintenance and dispatch on the South Florida Rail Corridor.

CS/HB 695 next goes to the House Transportation & Tourism Appropriations Subcommittee. CS/SB 842 also moves to the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee.

PUBLIC WORKS PROJECTS STALLS IN HOUSE; MOVES IN SENATE

The House Government Accountability Committee temporarily postponed a vote on the Public Works Projects bill, [CS/HB 599](#), by Rep. Williamson. The bill prohibits the state or local governments from requiring a contractor, or material supplier or carrier engaged in a public works project to:

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- ✚ Pay employees a predetermined amount of wages or prescribe any wage rate;
- ✚ Provide employees a specified type, amount, or rate of employee benefits;
- ✚ Control, limit, or expand staffing; or
- ✚ Recruit, train, or hire employees from a designated, restricted, or single source.

Similarly, [CS/CS/SB 534](#) by Sen. Perry specifies that public works projects receiving 50 percent or more in state-appropriated funds, cannot restrict a qualified contractor, subcontractor, or material supplier or carrier from submitting a bid on any public works project or being awarded any contract, subcontract, material order, or carrying order. The bill also places the same restrictions regarding wage rates, employee benefits, staffing or hiring sources as CS/HB 599. CS/CS/SB 534 squeaked by the Senate Government Oversight and Accountability Committee on a 4-3 vote, and it now moves to the Senate Appropriations Committee.

RECOVERED MATERIALS BILL

[CS/HB 1133](#) relating to Recovered Materials, passed (12-1) in the Natural Resources & Public Lands Subcommittee. The bill adds wood, asphalt, and concrete to the list of materials that are considered “recovered materials.” This change would exempt wood, asphalt, and concrete materials and facilities that store, process, resale, or reuse them, from solid waste regulations, if they meet the statutory criteria. Thus, facilities storing, processing, reselling, or reusing these materials would not have to meet the criteria, if applicable, for construction and demolition debris facilities. These facilities could only engage in the storage, processing, resale, or reuse of recovered materials to utilize the exemption.

Presently certain wastes and activities are exempt from solid waste regulations, including recovered materials and recovered materials processing facilities, if:

- ✚ A majority of the recovered materials at the facility are demonstrated to be sold, used, or reused within one year;
- ✚ The recovered materials handled by the facility or the products or byproducts of operations that process recovered materials are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water by the owner or operator of such facility so that a threat of contamination in excess of the applicable DEP standards and criteria is caused;
- ✚ The recovered materials handled by the facility are not hazardous wastes; and
- ✚ The facility is registered with the DEP.

A similar bill ([SB 1288](#)) has been filed by Sen. Baxley. This bill will be considered in the Environmental Preservation and Conservation Committee on March 28th.

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COUNTY OFFICER LEGISLATION ON THE MOVE

A series of bills affecting County Constitutional Officers made forward progress. These proposed constitutional amendments would remove the power that currently exists for voters to modify or abolish these offices pursuant to county charter or special law subject to a vote of the electors. The bills also provide that the exclusive manner for selecting, abolishing, or transferring the duties of each respective office can only be by a statewide constitutional amendment in the future.

- ✚ [HJR 271](#) – by Rep. B. Cortes received a favorable 7-4 vote by the House Local, Federal, & Veterans Affairs Subcommittee enabling the bill to move towards its next committee stop – Judiciary. As passed in committee, HJR 271 is a proposed constitutional amendment that creates a Tax Collector constitutional office in each county including Miami-Dade County. The Senate companion [SJR 132](#) has yet to be heard in any of its referred committees. If this amendment becomes law, Broward County would be required to institute a Tax Collector Constitutional County Office.
- ✚ [SJR 136](#) – by Sen. Artilles passed 7-1 in the Senate Community Affairs Committee. SJR 136 is a proposed constitutional amendment that creates a Property Appraiser constitutional office in each county including Miami-Dade County. Miami-Dade County's Property Appraiser, although elected, is considered to be a charter officer, rather than a constitutional office. The bill will be considered in Ethics & Elections on March 28th. The House Companion, [HJR 187](#), by Rep. M. Diaz awaits consideration by the Government Accountability Committee.
- ✚ [SJR 134](#) – by Sen. Artilles will also be considered in Ethics and Elections on March 28th. This proposed constitutional amendment creates a Sheriff constitutional office in each county including Miami-Dade County. Presently, Miami-Dade vests its Sheriff function with its strong Mayor and the Director of the Police Department. This bill removes the home rule authority of citizens to make changes to the Sheriff's Office by County Charter or special laws. Meanwhile, the House companion, [CS/CS/HJR 721](#) by Rep. Fischer passed the Judiciary Committee (13-5). It now moves to its last committee of reference – Government Accountability.
- ✚ [HJR 1129](#) – by Rep. Drake also received a favorable 6-4 vote by the House Local, Federal & Veterans Affairs Subcommittee. The proposed constitutional amendment creates a Supervisor of Election constitutional office in each county including Miami-Dade County. The joint resolution now awaits consideration in the Judiciary Committee. The Senate companion, [SJR 138](#), by Sen. Artilles, has yet to be heard in any of its referred committees.

FEDERAL IMMIGRATION ENFORCEMENT PASSES SECOND COMMITTEE IN HOUSE

After emotional debates and 9-5 party line vote, the House Local, Federal & Veterans Affairs Subcommittee, on March 21st, approved [CS/HB 697](#) relating to federal immigration enforcement. The bill prohibits sanctuary policies and jurisdictions, authorizes court actions against sanctuary jurisdictions, requires local governments

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and local law enforcement agencies to cooperate with federal immigration officials, and makes sanctuary jurisdictions ineligible for state grants for a period of five years. Before approving the bill, the Committee adopted one amendment which:

- ✚ Removed a reference to a specific immigration program, clarifying that state or local law enforcement agencies must view any information available from a federal immigration agency;
- ✚ Required a state or local law enforcement agency to provide immediate notice of the arrest and charges of a person determined to not be a citizen of the United States and unlawfully present under federal immigration law; and
- ✚ Created a civil cause of action for personal injury or wrongful death attributable to a state entity, local government entity, or state or local law enforcement agency not complying with an immigration detainer.

The Committee rejected six amendments offered by Rep. Smith of Orlando. The amendments were intended to correct the bill's perceived constitutional infirmities. CS/HB 697 now moves on to its last committee of reference – the Judiciary Committee.

5G WIRELESS LEGISLATION MOVES FORWARD

Two bills have been filed aimed at bringing 5G wireless capability to the state. The Advanced Wireless Infrastructure Deployment Act, [CS/SB 596](#), by Sen Hutson, establishes statewide rates, terms, and conditions for wireless providers. The bill authorizes persons who provide wireless services and persons who build or install wireless communication transmission equipment, facilities, and support structures, to place certain “small wireless facilities” on, under, within, or adjacent to any utility pole or any other freestanding structure within the public rights-of-way that is owned by an “authority” (i.e., a local government or FDOT), if the structure is designed to support, or is capable of supporting small wireless facilities. The bill also provides that an authority may not prohibit, regulate, or charge for the connection of small wireless facilities in the public rights-of-way, except as specified in the bill.

Additionally, the bill also provides that an authority must approve an application to place small wireless facilities on poles and structures within the public rights-of-way, unless the proposed collocation does not meet certain codes, including certain historic preservation zoning regulations and uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization, or local amendments to those codes. An authority may not apply other local land development or zoning codes in its review. The bill, however, does not apply to privately-owned utility poles and wireless support structures, or to utility poles owned by an electric

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cooperative or municipal electric utility. CS/SB 596 will be considered in Government Oversight and Accountability on March 27th.

Meanwhile, the House companion, [CS/HB 687](#) by Rep. La Rosa, is in its last committee of reference – Commerce. Proponents of both bills believe they will lay the framework for the installation, placement, maintenance, and replacement of micro-wireless facilities statewide.

BUDGET UPDATE

The House Appropriations Committee will submit its proposed 2017-18 budget plan on April 5th. Members have a series of deadlines to submit amendments:

- ✚ April 3rd – Main amendments to the budget must be filed.
- ✚ April 4th – All amendments to amendments and substitute amendments must be filed.
- ✚ April 6th – The General Appropriations bill and conforming legislation must be filed and published.
- ✚ April 10th – File main amendments on the floor.
- ✚ April 11th – Amendments to main amendments or substitute amendments for main floor amendments must be requested.

The House has tentatively scheduled to vote on its budget on April 13th. Earlier this month, House budget subcommittees came up with a pair of scenarios based on how quickly the state should move to reduce the future shortfalls, but the prescriptions were largely the same in critical funding areas such as cuts in payments to hospitals, reductions in spending on universities, and scaling back early-learning and other public-education programs.