



Broward SLI

State Legislative Information

2017 Session – Week Two
March 13-17, 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.

BROWARD DESCENDS UPON TALLAHASSEE



2017 Broward Days occurred on March 15th and 16th – city and county commissioners, as well as staff, descended upon Tallahassee legislators discussing the priorities and appropriation requests. Commissioners Udine, LaMarca, and Geller were in attendance as Broward Days kicked off the first day with a luncheon and workshop on the hot new topic relating to medical marijuana. The guest speaker at the luncheon was House Appropriations Chairman Carlos Trujillo, who gave a grave outlook for the state’s budget. On day two, the Florida Professional Firefighters hosted attendees at their new location and discussed security issues in light of the Pulse and Ft. Lauderdale Airport shootings. Senate Appropriations Chairman Latvala also attended the breakfast and stressed the importance of local government. Both days also consisted of member meetings, in which both cities and counties met with Senate and House members to discuss their priorities. Overall, Broward Days 2017 was a success.

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FEDERAL IMMIGRATION ENFORCEMENT BILL PASSESS HOUSE COMMITTEE

The House Civil Justice and Claims Subcommittee voted for HB 697, by Rep. Metz, which would help enforce President Trump's promised crackdown on sanctuary jurisdictions.

The bill prohibits sanctuary policies and requires that state agencies, counties, cities, and law enforcement agencies cooperate with the federal immigration authorities enforcing the nation's immigration laws. The bill requires that state agencies and local governments comply with federal immigration detention requests commonly known as ICE detainers. Any existing "sanctuary" policies would have to be repealed within 90 days. It would also require public employees report violations to the attorney general or a state attorney, with penalties including removal from office. The bill requires the Attorney General to prescribe a complaint form and to bring actions against sanctuary jurisdictions to invalidate a jurisdiction's sanctuary policy. Courts may impose civil penalties up to \$5,000 per day for each day a sanctuary policy was found to be in effect, and the bill also creates a cause of action against a government entity that may be brought by an individual injured by an undocumented person where the government entity's sanctuary policy violation contributed to the individual's injuries.

A similar bill by Rep. Metz, last year passed the Florida House of Representatives, but was never considered by the Senate. The companion measure, SB 786, has been filed, but has not been scheduled for a hearing in its first committee of reference.

WORKER'S COMPENSATION

The House Insurance & Banking Subcommittee approved overwhelmingly PCB IBS 17-01, relating to workers' compensation issues, such as the duration of benefits for some injured workers and the fees hospitals and ambulatory surgical centers get paid to provide outpatient care to injured workers. Essentially, the bill's main purpose is to address court decisions which have recently found parts of the state's workers' compensation law unconstitutional. As passed, the bill makes changes in the following areas:

Attorney fees

- ✚ Repeals provisions that prohibit attorneys from accepting and the JCC from approving attorney's fees paid directly by or on behalf of the injured worker outside of an award against the employer/carrier.
- ✚ Provides authority for attorneys to accept fees paid directly by or on behalf of the injured worker outside of an award against the employer/carrier.
- ✚ Requires the filing of retainer agreements with the JCC, but the retainers are not subject to JCC approval.
- ✚ Provides authority to the JCC to approve an attorney fee that departs from the statutory attorney fee schedule, if:



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- The statutory attorney fee schedule produces an equivalent hourly rate that is less than 40 percent or more than 125 percent of the fee customarily charged in the locality for similar legal services.
- Incorporates factors to guide the JCC when awarding a departure fee.
- ✚ Provides discretion to JCC to determine the precise hourly amount of the departure fee that is awarded, in \$10 increments.
- ✚ Caps the amount the carrier must pay under a departure fee at \$250 per hour, thus limiting how much of the attorney fees would be payable by the carrier; the injured worker may be responsible for any attorney fees due after award of the statutory fee schedule amount or the departure fee, as applicable, pursuant to a retainer agreement.
- ✚ Creates a statutory adjustment of the \$250 per hour cap to occur annually. It will adjust each year by the same percentage as that year's change in the statewide average weekly wage (SAWW) and requires the Deputy Chief Judge of Compensation Claims to determine the adjusted hourly rate limit cap and publish it each year.
- ✚ Prohibits the award of carrier paid attorney fees for services provided prior to the filing of a petition for benefits.
- ✚ Extends the attachment of attorney fees following the filing of a petition for benefits from 30 days to 45 days.

Temporary Total Disability and Temporary Partial Disability Benefits

- ✚ Increases the allowed total combined number of weeks of temporary total disability (TTD) and temporary partial disability (TPD) from 104 weeks to 260 weeks. The extension of the duration of TTD/TPD benefits also increases the opportunity for the injured worker to receive training and education. The duration of training and education benefits are not expanded, but since they are provided within the duration of TTD/TPD benefits, the timeframe in which they may be received is changed.
- ✚ Provides a limited extension of TTD benefits for up to 26 additional weeks when the injured worker reaches the maximum number of weeks but permanent benefits cannot begin because the injured worker is not at overall maximum medical improvement and/or does not have an overall permanent impairment rating.
 - If the injured worker is not at overall maximum medical improvement after the extended TTD benefit is exhausted, the JCC is required, upon motion, to determine the injured workers' eligibility for permanent total disability benefits.
- ✚ Requires the provisional payment of Impairment Benefits (IBs) if the injured worker reaches the maximum number of weeks of TPD benefits (i.e., 260 weeks) but permanent benefits cannot begin because the injured worker is not at overall maximum medical improvement and/or does not have an overall permanent impairment rating.
 - Pays provisional IBs consistent with the single highest permanent impairment rating and credits this amount to the carrier when final IBs payment occurs upon achieving overall maximum medical improvement and receiving overall permanent impairment rating.

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Petitions for Benefits

- ✚ Requires greater specificity when reporting defense attorney fees as required by statute. For litigated claims, the total amount of attorney fees and the total number of attorney hours will be filed with the OJCC. For attorney fees unrelated to litigation, only the total amount of attorney fees will be filed.

Three-Member Panel

- ✚ Creates a requirement that the Governor fill a vacancy on the Three-Member Panel within 45 days and requires the Chief Financial Officer (CFO) to fill the vacancy if the Governor does not make an appointment timely. The CFO's appointment period will also be 45 days. The CFO's appointee is subject to Senate ratification.
- ✚ Authorizes the Three-Member Panel to fill gaps in statutory reimbursement methodologies so that they may adopt schedules of maximum reimbursement allowances, as required, in a comprehensive manner.

Medical Care Authorizations

- ✚ Provides that carriers must authorize or deny medical authorization requests within the current 3 day or 10 day periods, but they are allowed to return a request for material deficiency, e.g., incomplete or improper forms or missing required documentation.

Outpatient Medical Care Reimbursement

- ✚ Changes the reimbursement methodology for outpatient services provided by hospitals and ambulatory surgical centers from a charge based reimbursement to a percentage of the fee or rate established under the Medicare Outpatient Prospective Payment System (OPPS).
 - The applicable reimbursement is:
 - For hospital outpatient services, 200 percent of OPPS fee or rate, except scheduled surgery is reimbursed 160 percent of OPPS fee or rate (i.e., $200\% \times 80\% = 160\%$).
 - For ambulatory surgical center care, 160 percent of OPPS fee or rate.
 - Incorporates into statute the current reimbursement methodology adopted by the Three-Member Panel for outpatient services that are not reimbursable under OPPS. This is either 75 percent (hospitals generally) or 60 percent (hospital scheduled surgery or ambulatory surgical center care) of the statewide average charge for the applicable procedure, as derived from the Division's database of billed charges at a frequency of 50 or more charges. And, for those procedures that lack an allowed amount under the primary or secondary method, then reimbursement would occur at either 75 percent or 60 percent, as applicable, of the facility's actual billed charge.

Carrier Competition/Premium Discount

- ✚ Authorizes a carrier to depart from required premiums in a uniform way by no more than five percent, if they notify OIR of such a departure within 30 days of implementation. No review or approval is required by OIR; however, OIR may disallow the lower rate if it violates the ratemaking standards, imperils the financial condition of the carrier, or results in predatory pricing.

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A Senate measure ([SB 1582](#)) has been filed by Sen. Rob Bradley, but it has not been placed on any committee agenda yet.

TNC LEGISLATION MOVES IN SENATE

The Senate Banking and Insurance Committee approved [SB 340](#), relating to Transportation Network Companies, as a committee substitute on a 7-2 vote. The bill creates statewide regulatory standards for ridesharing companies like UBER and Lyft, including insurance, background-checks and other requirements for TNCs and its drivers. An amendment by Sen. Farmer to fund accessibility for the disabled failed on a voice vote.

As approved, the bill was amended to allow seaports to charge reasonable pickup fees as charged to taxicab companies for use of a seaport's facilities, or prohibit a seaport from designating locations for staging, pickups or other similar operations. In the original bill, only airports were allowed to charge pickup fees. However, the bill continues to preempt the County and other local governments from otherwise regulating TNCs, TNC drivers, and TNC vehicles. The bill must be approved by two additional Senate committees before consideration by the full Senate. Meanwhile, the House companion, [HB 221](#), is ready for the House floor.

FLORIDA BUILDING CODE AMENDMENT PASSES

The Senate General Government Appropriations Subcommittee on March 15th unanimously approved [CS/SB 7000](#), a committee bill of the Senate Community Affairs Committee, which changes the process for revising the Florida Building Code. Current law requires the Florida Building Commission (FBC) to revise the Florida Building Code every three years and automatically adopt the most recent versions of the International Code Council I-Codes (I-Codes) and the International Energy Conservation Code (IECC) into the foundation of the Florida Building Code. Additionally, under current law, amendments and modifications to the Florida Building Code only remain in effect until the effective date of a new edition of the Florida Building Code.

Under the new process proposed in [CS/SB 7000](#), the FBC will start with the current Florida Building Code, evaluate the changes made in the I-Codes and the IECC, and adopt changes the commission deems appropriate. The FBC, however, must adopt any provision from the I-Codes, the National Electrical Code, or any other code necessary to maintain eligibility for federal funding from the National Flood Insurance Program, the Federal Emergency Management Agency, and the United States Department of Housing and Urban Development and maintain the efficiencies of the Florida Energy Efficiency Code for Building Construction. If amendments or modifications are made to the Florida Building Code, those amendments and modifications will be carried forward until the next edition of the Florida Building Code. The Florida Building Code updating process will remain on a three-year cycle.

Before giving the bill its final approval, the Committee also adopted an amendment sought by Broward County. Sen. Campbell offered an amendment providing that a



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technical amendment to the Florida Building Code, relating to water conservation practices or design criteria, that is adopted by a local government is not rendered void when the Florida Building Code is updated if the amendment is necessary to protect or provide for more efficient use of water resources as provided in s. 373.621, F.S. However, any such technical amendment carried forward into the next edition of the Florida Building Code is subject to review or modification. This amendment is the substance of [HB 691](#) by Rep. Jacobs and a county priority.

Finally, the bill further requires the FBC to adopt the Florida Building Code by a three-fourths vote of the members present. However, a technical advisory committee may favorably recommend a proposal to the FBC with a two-thirds vote of the members present only.

AFFORDABLE HOUSING GETS TASKFORCE

[CS/SB 854](#) creates a 13-member task force on affordable housing which is assigned to the Florida Housing Finance Corporation (FHFC) for administrative purposes. The task force must develop recommendations for Florida's affordable housing needs.

The recommendations of the task force must include, but are not limited to, a review of market rate developments; affordable housing developments; land use for affordable housing developments; building codes for affordable housing developments; the states' implementation of the low-income housing tax credit; private and public sector development and construction industries; and the rental market for assisted rental housing. The task force must also include recommendations for the development of strategies and pathways for low-income housing. In a unanimous vote, the bill moves on to its next committee of reference - Appropriations.

HIGH SPEED RAIL, SPEEDS ALONG TO NEXT COMMITTEE STOP

[CS/SB 386](#) by Sen. Mayfield, unanimously passed out of Senate Transportation. The bill creates the Florida High-Speed Passenger Rail Safety (HSPR) Act, assigning various duties to the FDOT related to certain privately owned HSPR operations. The bill also imposes certain reporting requirements on railroad companies, requires installation of certain technology and equipment, and allocates costs and responsibility for certain rail corridor improvements and upgrades. The bill provides for enforcement jurisdiction and authorizes the FDOT to bring actions for assessment and collection of penalties or for injunctive relief pursuant to federal law. Its House companion, [HB 269](#) by Rep. Magar, has yet to be placed on the agenda of its first committee of reference.

TRANSPORTATION BILL SHIFTS FUNDING

On Tuesday, March 14th, the Senate Transportation Committee voted (4-0), sending [SB 654](#), by Sen. Latvala to its next committee stop – Appropriations Committee for Finance and Tax. Section 320.08, F.S., imposes annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles, tri-vehicles, trailers, and mobile homes. A portion of the taxes revenues derived from the initial or renewal registration licenses are deposited in the state's General Revenue Fund. The bill shifts the distribution of the annual license taxes imposed on certain motor vehicle registrations from the General

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Revenue Fund to the State Transportation Trust Fund. Beginning in Fiscal Year 2019-2020, 50 percent of the portion of the annual license tax that is deposited into the General Revenue Fund is shifted to the State Transportation Trust Fund; and in Fiscal Year 2020-2021, the remaining 50 percent is also shifted. The registration tax amount for each class and type of motor vehicle, however, is not changed by the bill.

BEACH MANAGEMENT LEGISLATION FILED

SB 1590, relating to Coastal Management, has been filed by Sen. Latvala. Miles of Florida beaches are heavily eroded due to natural disasters, construction, maintenance of inlets, and imprudent projects along the coast. Presently, the Beach Management Funding Assistance Program within the Department of Environmental Protection (DEP) works with local sponsors to protect and restore the state's beaches through a comprehensive beach management planning program. Annually, local sponsors submit annual funding requests to DEP for beach management and inlet management projects, they are ranked, and DEP provides its funding recommendation to the Legislature.

As filed, the bill replaces the \$30 million documentary stamp tax allocation with an annual minimum of \$50 million from the Land Acquisition Trust Fund (LATF). The bill also refines the criteria the DEP must consider when ranking beach management projects for funding consideration. The bill requires DEP to adopt rules that divide the criteria into a four tier scoring system. In addition to adopting rules and specific criteria, DEP must assign each tier a certain percentage of overall point value. DEP must weigh the criteria equally within each tier.



The first tier addresses tourism related return on investment and the economic impact of beach management projects; this tier must account for 20 percent of the total score. The second tier must account for 45 percent of the total score; weighing the availability of federal matching dollars; storm damage reduction benefit; and the cost effectiveness of the proposed beach management project. The third tier must account for 20 percent of the total score; in which the weight of these criterion are evaluated equally – previous state commitment, recreational benefit, mitigation of adverse impact on nearby inlets; and degree that the beach management project addresses most significant beach erosion problems.

Finally, the bill changes how the DEP may utilize surplus funding and the procedures it must follow to use surplus funding. Specifically addressing the following:

Inlet Management Projects

- ✚ Revises and updates the criteria DEP must consider when ranking inlet management projects for funding consideration. DEP must weigh each criterion equally;

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- ✚ Authorizes DEP to pay up to 75 percent of the construction costs of an initial major inlet management project component. DEP may share the costs of the other components of inlet management projects equally with the local sponsor;
- ✚ Requires DEP to rank inlet monitoring activities for inlet management projects as one overall subcategory request for funding separate from the beach management project funding requests; and
- ✚ Eliminates the requirement for the Legislature to designate one of the three highest ranked inlet management projects on the priority list as the Inlet of the Year.

Comprehensive Long-Term Beach Management Plan

The bill updates how DEP must develop and maintain its comprehensive long-term beach management plan; and requires DEP's comprehensive long-term management plan include a strategic beach management plan, a critically eroded beaches report, and a statewide long-range budget plan, which includes a three-year work plan that identifies beach nourishment and inlet management projects viable for implementation during the ensuing fiscal years.

A companion bill, [HB 1213](#) by Rep. Peters, is scheduled to be heard on March 20th before the House Natural Resources and Public Lands Subcommittee.

VACATION RENTALS PASSES FIRST COMMITTEE



Vacation Rentals Passes first Committee [HB 425](#), by Rep. La Rosa, attempts to streamline regulation for vacation rental properties across the state; on March 14th it passed the House Agriculture & Property Rights Subcommittee on a 9-6 vote. A vacation rental is classified as any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit, not a timeshare project, which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, or advertised to the public as a place regularly rented to guests.

In 2011, Chapter 2011-119, Laws of Florida, preempted vacation rental regulation to the state, and prevented local governments from enacting any new law, ordinance, or regulation that prohibited, restricted the use of, or regulated vacation rentals based on classification, use, or occupancy. The legislation grandfathered any local law, ordinance, or regulation enacted by a local government on or prior to June 1, 2011. However, in 2014, chapter 2014-71, Laws of Florida, narrowed the preemption authority to the state and as a result, current law allows local governments to regulate vacation rentals, provided those regulations do not prohibit, or regulate the duration or frequency of, the vacation rental.

The bill returns the preemption authority to the 2011 enactment. Specifically, the bill prevents local governments from enacting any new law, ordinance, or regulation that prohibits, restricts the use of, or regulates vacation rentals based on

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classification, use, or occupancy. While the bill maintains the grandfather provision relating to local regulations enacted prior to June 1, 2011, regulations enacted after June 1, 2011, including those enacted pursuant to the standards under the 2014 law, will be preempted, and will be void and unenforceable. An identical bill, [SB 188](#), by Sen. Steube, is scheduled to be heard before the Senate regulated Industries Committee on March 21st.

BROWARD APPROPRIATIONS REQUESTS

HB 3808 (Senate Project #1616) – Rep. Jacobs and Sen. Book - \$80 million - C-51 Reservoir Phase I – regional alternative water supply and storage project for South Florida.

HB 3801 (Senate Project #1604) – Rep. Jacobs and Sen. Farmer - \$1.0 million - Osborne Reef Tire Removal Project – continued for the removal of tires dumped to create artificial coral reef in the 1970s.

HB 3763 (Senate Project #1004) – Rep. J. Diaz and Sen. Book - \$250,000 - Nancy J. Cotterman Center State Attorney Liaison Program – funding for program that assists victims of sexual abuse navigate the criminal justice system.

HB 2613 (Senate Project #1566) – Rep. Jenne and Sen. Thurston - \$4 million - Courthouse Reimbursement – seeking reimbursement of the costs for furnishings and equipment Broward County purchased for the non-public areas of the new courthouse (i.e., the offices of the state court system, state attorney, public defender, clerk of court, and guardian ad litem), which are state’s responsibility.

HB 3805 (Senate Project #1626) – Rep. Jacobs and Sen. Farmer - \$2.15 million; 2.165 million, respectively - Coral Disease Water Quality Monitoring Program - seeks funding to enhance, preserve, and improve the environmental, and fish and wildlife quality of the Northern Florida Coral Reef Tract.