



**2021**

**ST. LUCIE  
COUNTY  
FLORIDA**



LEGISLATIVE SESSION FINAL REPORT

# Session Summary

Despite what will go down as perhaps the most unusual legislative session in Florida's modern history, the State House and Senate still managed to consider and pass a high number of bills (275 total – the most since 2016), the largest state budget in history, COVID-specific legislation to both respond to the current situation and position the state for future emergencies, and many other topics. Due to COVID protocols the Florida Capitol, as you know, was effectively closed to the public with all testimony being taken via livestream from the Donald Tucker Center a few blocks from the Capitol.

Specific to the budget, what began in the Fall of 2020 with reports from Florida's Revenue Estimating Conference - a group of economists tasked with quarterly reporting to the legislature on actual and projected state revenue - as upwards of a \$5 billion deficit (\$2+ billion in the current year and an addition \$2+ billion for FY 21-22) became the largest state budget in history at more than \$101 billion. This was due to far-better than anticipated tax receipts (mostly derived from sales tax increases in many ways attributable to drive market tourism and travel to the state throughout the pandemic) along with the allocation of more than \$10 billion to the state from the American Rescue Plan passed by Congress in March. Ultimately, the legislature spent \$6.7 billion of the federal money in the budget, appropriating the balance to bolster reserves.

On the policy front, the legislature tackled many major initiatives throughout the 60 day session despite the limited public access to the Capitol building. From passing what has been labeled the largest school choice/voucher expansion in the nation, to COVID liability relief for all public and private sector entities, to limiting executive power (at state and local levels) in future emergencies and pandemic, to record environmental and water quality/quantity spending, to repealing the State's longstanding no fault auto insurance program, to reforming the property insurance market, and everything in between - including some local preemption bills that passed, and some that didn't – the House and Senate leadership did not stray far from what had been outlined before the session as an aggressive agenda for each chamber.

## Summary of State Budget

Senate Bill 2500, the General Appropriations Act for Fiscal Year 2021-2022, provides for a total budget of \$101.5 billion, including:

- \$36.3 billion from the General Revenue Fund (GR)
- \$2.4 billion from the Education Enhancement Trust Fund
- \$1.1 billion from the Public Education Capital Outlay Trust Fund (PECO TF)
- \$61.7 billion from other trust funds (TF)
- 113,742.76 full time equivalent positions (FTE)

### RESERVES

- Total: \$6 billion

### EDUCATION CAPITAL OUTLAY

Total: \$272.8 million [\$29.1 million GR, \$243.7 million PECO TF]

- Charter School Repairs and Maintenance - \$182.9 million [PECO TF]
- Developmental Research School Repairs and Maintenance - \$7.7 million [PECO TF]
- Other Public School Projects - \$9.4 million [PECO TF]
- Florida College System Projects - \$26 million [\$10.6 million GR, \$15.4 million PECO TF]
- State University System Projects - \$37.8 million [\$18.5 million GR, \$19.3 million PECO TF]
- School for the Deaf and Blind Repairs and Maintenance - \$2.7 million [PECO TF]
- Public Broadcasting - Health and Safety Issues - \$6 million [PECO TF]
- Division of Blind Services Repairs and Maintenance - \$315,000 [PECO TF]

In addition: \$46 million in authorization for State University System (SUS) Capital Improvement Student Fee Projects

## COMPENSATION AND BENEFITS

- Minimum Wage Increase to \$13 per hour for State Employees - \$43 million [\$26 million GR; \$17 million TF]
- State Attorney and Public Defender 10% Pay Increase - \$1.3 million GR
- DCA Judges 10% Pay Increase - \$1.6 million GR
- Florida Retirement System (State Agencies) - \$59 million [\$33 million GR; \$26 million TF]
- Federal Coronavirus State Fiscal Recovery Funds [\$6.7 billion total - contingent on receipt of Federal Coronavirus State Fiscal Recovery Funds]
- Budget Stabilization Fund: \$350 million

## EMERGENCY RESPONSE

- Emergency Preparedness and Response Fund - \$1 billion
- First Responders \$1,000 Bonus Payment - \$208.4 million
  - A first responder is defined as an essential frontline worker who is a sworn law enforcement officer, emergency medical technician, firefighter, paramedic, Institutional Security Officer, Chief, Specialist, or Supervisor of the Department of Children and Families or Agency for Persons with Disabilities, or Department of Corrections' Certified Correctional Officer, Certified Correctional Probation Officer, or IG Inspector.
- Child care and early learning instructors \$1,000 Bonus Payment - \$166 million\*
  - Authority is provided for the Department of Education to utilize additional federal funds to provide these bonuses.

- Classrooms teachers and principals \$1,000 Bonus Payment - \$215.7 million\*\*
  - Authority is provided for the Department of Education to utilize additional federal funds to provide these bonuses.
- Child care assistance for essential workers including health care sector employees, emergency responders, and sanitation workers - \$950.4 million\*\*\*

## INFRASTRUCTURE IMPROVEMENTS AND ENHANCEMENTS

- State Highway System and Florida Ports - \$2 billion
  - State Highway System - \$1.8 billion
  - Port Operations Grants - \$250 million
- Deferred Building Maintenance - \$350 million
- State Emergency Operations Center - \$100 million
- Florida National Guard New Armories / Immokalee and Zephyrhills - \$50 million

## WATER QUALITY AND ENVIRONMENTAL PROTECTION

- Resilient Florida Grants - \$500 million
- Wastewater Grant Program - \$500 million
- Wildlife Corridor (DEP Land Acquisition) - \$300 million
- Piney Point - \$100 million
- Coastal Mapping Services - \$100 million
- Everglades Restoration - \$59 million
- Beach Management Funding Assistance Program - \$50 million
- Petroleum Underground Storage Cleanup Program - \$50 million

- C-51 Reservoir - \$48 million
- Alternative Water Supply - \$40 million
- Springs Restoration - \$25 million
- Small Community Wastewater Grants - \$25 million
- Derelict Vessel Removal Program - \$25 million
- Total Maximum Daily Loads - \$20 million
- FWC Enhanced Aviation Support - 8.4 million

\* From Coronavirus Response and Relief Supplemental Appropriations Act – Child Care

**SPECIFIC FUNDS**

\*\* From American Rescue Plan Act – Education Specific Funds

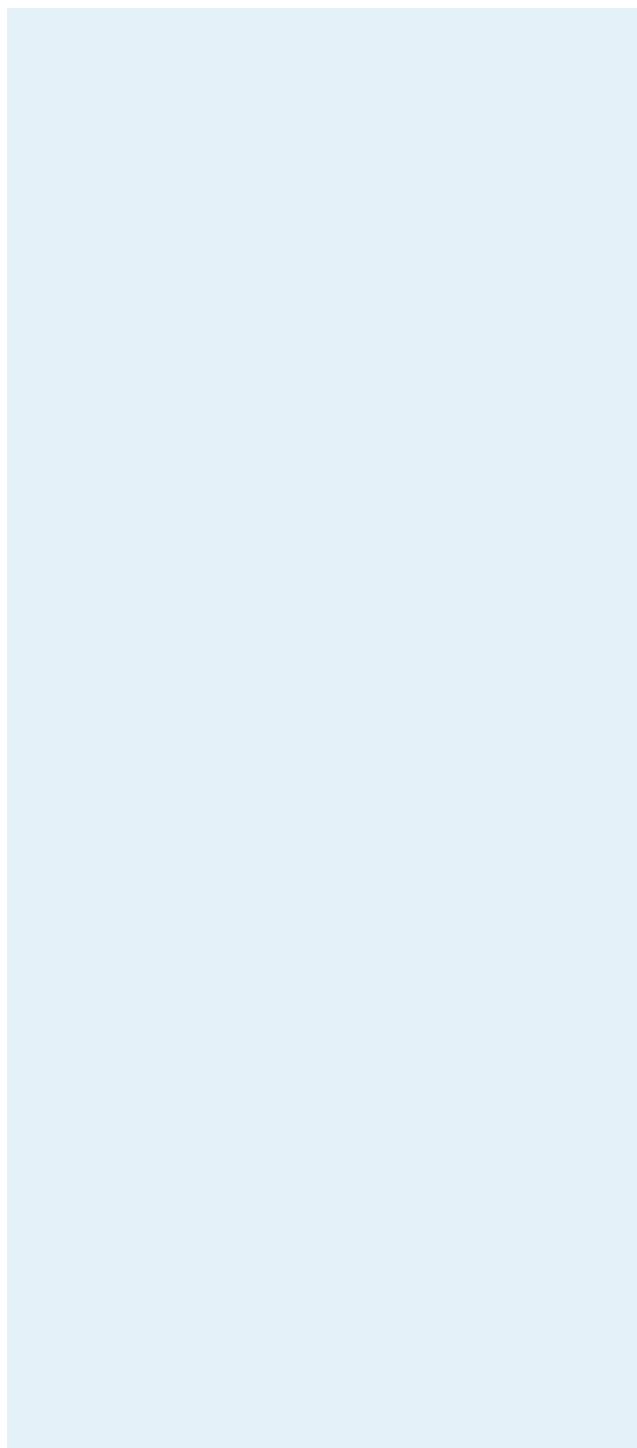
\*\*\* From American Rescue Plan Act – Child Care Specific Funds

**ECONOMIC DEVELOPMENT AND WORKFORCE SUPPORT**

- Workforce Information Technology System - \$100 million
- Reemployment Assistance System - \$56.4 million
- Jobs Growth Grant Fund - \$50 million
- African American Cultural and Historic Grant Program - \$30 million
- Visit Florida - \$25 million

**EDUCATION INITIATIVES AND FACILITY IMPROVEMENTS**

- Education Capital Outlay / PreK-12 Special Facilities - \$210.3 million
- Education Capital Outlay / Higher Education - \$190.9 million
- New Worlds Reading Initiative - \$125 million



# Summary Of Bills Passed As It Relates To Local Governments

## House Bill 1 Combating Public Disorder by Rep. Fernandez-Barquin

The bill (Chapter 2021-6, L.O.F.) addresses acts of public disorder and responses to public disorder by:

- Codifying the common law elements of the first degree misdemeanor offense of affray, which a person commits if he or she engages, by mutual consent, in fighting with another person in a public place to the terror of the people;
- Defining the third degree felony offense of riot, which a person commits if he or she willfully participates in a violent public disturbance involving an assembly of three or more persons, acting with a common intent to assist each other in violent and disorderly conduct, resulting in:
  - Injury to another person;
  - Damage to property; or
  - Imminent danger of injury to another person or damage to property;
- Creating the second degree felony offense of aggravated rioting, which a person commits if, in the course of committing a riot, he or she:
  - Participates with 25 or more persons;
  - Causes great bodily harm to a person not participating in the riot;
  - Causes property damage in excess of \$5,000;
  - Displays, uses, threatens to use, or attempts to use a deadly weapon; or
  - By force, or threat of force, endangers the safe movement of a vehicle traveling on a public street, highway, or road;
- Defining the third degree felony offense of inciting a riot, which a person commits when he or she willfully incites another person to participate in a riot, resulting in a riot or imminent danger of a riot;
- Creating the second degree felony offense of aggravated inciting a riot, which a person commits if he or she:
  - Incites a riot resulting in great bodily harm to another person not participating in the riot;
  - Incites a riot resulting in property damage in excess of \$5,000; or
  - Supplies a deadly weapon to another person or teaches another person to prepare a deadly weapon with intent that the deadly weapon be used in a riot for an unlawful purpose;
- Specifying that these public disorder offenses do not prohibit constitutionally protected activity such as peaceful protest;
- Requiring a person to be held in jail until he or she appears for a first appearance hearing and a court determines bond if the person was arrested for mob intimidation, riot, aggravated riot, inciting a riot, aggravated inciting a riot, unlawful assembly, theft or burglary committed during a riot or an aggravated riot, and theft committed within a county that is subject to a state of emergency (conforming to a current first appearance requirement for burglary committed within a county that is subject to a state of emergency);
- Authorizing the state attorney for the judicial circuit in which a municipality is located, or a member of the governing body of that municipality, to appeal to the Administration Commission a reduction in the operating budget of the municipal law enforcement agency, similar to the budget reduction appeals process available to sheriffs;

- Revising s. 316.2045, F.S., relating to obstruction of roadways, to remove language that federal courts found unconstitutional, modify the pedestrian violation for willful obstruction of roadways to add the element of remaining in the roadway but remove the element of approaching motor vehicles on the roadway, and specify that this pedestrian violation does not prohibit a local governmental entity from issuing a lawful special event permit;
- Providing that a municipality is civilly liable for specified damages proximately caused by the municipality's breach of a duty to allow the municipal law enforcement agency to respond appropriately to protect persons and property during a riot or an unlawful assembly (as specified in the bill), and providing that statutory sovereign immunity recovery limits do not apply to such action;
- Increasing penalties for assault and battery, and increasing offense severity level rankings for aggravated assault and aggravated battery, when committed in furtherance of a riot or an aggravated riot;
- Repealing s. 870.03, F.S., which punishes committing specific types of damage (to dwellings, buildings, ships, or vessels) during an unlawful assembly, since this type of public disorder would be punished by the offense of riot (as defined by the bill);
- Creating the first degree misdemeanor offense of mob intimidation, which is committed when a person, assembled with two or more other persons and acting with a common intent, uses force or threatens to use imminent force, to compel or induce, or attempt to compel or induce, another person to do or refrain from doing any act or to assume, abandon, or maintain a particular viewpoint against his or her will;
- Providing for a six-month mandatory minimum sentence for battery on a law enforcement officer if the offense was committed in furtherance of a riot or an aggravated riot;
- Increasing the offense severity level rankings for an assault or battery on a law enforcement officer or other specified official when the offense was committed in furtherance of a riot or an aggravated riot;
- Amending s. 806.13, F.S., relating to criminal mischief, to provide that it is a third degree felony for any person, without the consent of the owner of a memorial or historic property, to willfully and maliciously deface, injure, or otherwise damage the memorial or historic property if the value of the damage is greater than \$200, and requiring restitution of the full cost of repair or replacement of the memorial or historic property;
- Creating the second degree felony offense of willfully and maliciously destroying, demolishing, or pulling down any memorial or historic property unless authorized by the owner of the memorial or historic property, and requiring restitution of the full cost of repair or replacement of the memorial or historic property;
- Reclassifying the degree, and increasing the offense severity level ranking, of specified burglary and theft offenses committed during a riot or an aggravated riot when facilitated by conditions arising from the riot;
- Creating the first degree misdemeanor offense of cyberintimidation by publication, which a person commits if he or she electronically publishes another person's personal identification information with the intent to, or with the intent that a third party will use the information to: incite violence or commit a crime against the person; or threaten or harass the person, placing the other person in reasonable fear of bodily harm;
- Creating an affirmative defense in a civil action for damages for personal injury, wrongful death, or property damage that such action arose from an injury or damage sustained by a participant acting in furtherance of a riot;
- Increasing the offense severity ranking level of offenses involving willfully injuring or removing a tomb or monument; and
- Ranking battery during a riot or an aggravated riot and several other public disorder offenses in the offense severity level ranking chart of the Criminal Punishment Code.

These provisions were approved by the Governor and take effect April 19, 2021.

Vote: Senate 23-17; House 76-39

## House Bill 35 Legal Notice by Rep. Randy Fine

The bill provides an option for governmental agencies required by law to publish certain legal notices to publish those notices on a newspaper's website in lieu of a paper-based publication.

An agency wishing to exercise this option may only do so upon the agency finding, pursuant to a publicly noticed hearing, that such an Internet-based publication is in the public interest and that residents have sufficient access to the Internet in order to review any legal notices published in this format. This determination must be made by a majority vote of the governing body.

If a governmental agency exercises the option to publish legal notices on a newspaper website, the agency must provide an additional notice at least once per week in a print edition newspaper of general circulation. This notice must contain a statement that legal notices pertaining to the agency do not all appear in the print edition of the local newspaper and that a full listing may be accessed on the statewide legal notice website located at the website managed by the Florida Press Association.

The bill expands the types of publications that qualify to publish legal notices. Currently, a newspaper must, among other requirements, be "for sale to the general public" and be qualified to be admitted and entered as a periodical matter the local post office. By removing these two requirements, the bill will allow for legal notices to be published in some smaller publications that are free to the public.

The bill requires the Florida Press Association to ensure that minority populations throughout the state have equitable access to legal notices that are posted on the statewide website. Additionally, the association must publish a quarterly report with the following information:

- A list of all newspapers that placed notices on the statewide legal notices website.
- The number of unique visitors to the statewide legal notices website;
- The number of legal notices published in print;
- The number of legal notices published by Internet-only publication; and
- The statutory criteria that qualified each newspaper to publish legal notices and advertisements.

If approved by the Governor, these provisions take effect January 1, 2022.

Vote: Senate 39-0; House 105-9

## Senate Bill 44 Use of Drones by Government Agencies by Senator Wright

The bill provides additional exceptions in s. 934.50(4), F.S., for law enforcement agencies, fire departments, state agencies, and political subdivisions to use drones. The new exceptions allow law enforcement agencies to use drones to gain an aerial perspective of a crowd of 50 or more persons; assist with traffic management, except that the agency may not issue a traffic infraction based on images or video captured by a drone; and facilitate evidence collection at a crime scene or traffic crash scene.

The bill requires policies and procedures for law enforcement agencies that use a drone to gain an aerial perspective of a crowd of 50 or more people. The bill allows the use of a drone by a state agency or political subdivision for the assessment of damage due to a flood, a wildfire, or any other natural disaster that is the subject of a state of emergency declared by the state before the expiration of the emergency declaration, or by a political subdivision for vegetation and wildlife management purposes on publicly owned land or water. The bill also allows certified fire department personnel to use drones to perform tasks within the scope and practice authorized under their certification.

The bill also limits drone purchase, acquisition, or use by governmental agencies to drones manufactured by an approved manufacturer. Governmental agency is defined as any state, county, local, or municipal governmental entity or any unit of government created or established by law that uses a drone for any purpose. The bill requires the Department of Management Services, in consultation with the state chief information officer, to develop and publish a list of approved manufacturers by January 1, 2022. Upon publication of the list of approved manufacturers, a governmental agency may only purchase or acquire a drone from an approved manufacturer.

The department will adopt rules identifying the requirements of a comprehensive plan governmental agencies must follow for discontinuing the use of drones not produced by an approved manufacturer by July 1, 2022. By January 1, 2023, all governmental agencies must discontinue the use of drones not produced by an approved manufacturer. The department will establish by rule, consistent with federal guidance on drone security, minimum security requirements for data collected, transmitted, or stored by a governmental agency drone.

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

Vote: Senate 40-0; House 88-24

## **Senate Bill 50 Taxation by Senator Gruters**

Chapter 2021-2, L.O.F., the "Park Randall 'Randy' Miller Act," contains provisions related to the sales and use tax and the reemployment tax.

### **Sales and Use Tax**

The law requires out-of-state retailers and marketplace providers with no physical presence in Florida to collect Florida's sales tax on sales of taxable items delivered to purchasers in Florida if the out-of-state retailer or marketplace provider made a substantial number of sales into Florida in the previous calendar year. A substantial number of remote sales is sales in an amount exceeding \$100,000. Effective April 1, 2022, marketplace providers must also collect the following ancillary fees: the lead-acid battery fee, the waste tire fee, and the "E911" fee; and certain large retailers may contract with a marketplace provider to have the retailer be the party required to collect and remit the sales tax.

The law relieves most taxpayers and remote dealers of liability for tax, penalty, and interest for unpaid taxes on sales and uses that occurred prior to July 1, 2021; however, dealers are only relieved of liability if they register with the Department of Revenue by October 1, 2021. Marketplace sellers and providers are also largely relieved of liability.

The law repeals Florida's "bracket system" and requires dealers to use traditional rounding conventions to calculate sales taxes.

### **Reemployment Tax**

The law deposits an amount equal to the estimated revenues from the collection of sales and use tax from remote dealers into the Unemployment Compensation Trust Fund until such time the trust fund balance exceeds \$4.07 billion.

The law requires recalculation of the 2021 Reemployment Assistance Tax rates, disregarding the reemployment assistance benefits paid that were related to COVID-19, and authorizes refunds for taxpayers that have already paid the first calculation of the 2021 tax rates. Additionally, all future Reemployment Assistance Tax rates will be calculated disregarding benefit charges related to COVID-19.

### **Rental of Commercial Real Property**

The law reduces the tax rate on the rental of commercial real property from 5.5 percent to 2 percent beginning the second month after the Unemployment Compensation Trust Fund exceeds a balance of \$4.07 billion.

These provisions were approved by the Governor and take effect July 1, 2021, except where otherwise provided.

Vote: Senate 27-12; House 93-24

## House Bill 53 Public Works by Rep. DiCeglie

For competitive solicitations for construction services, the bill prohibits a local ordinance or regulation that prevents the participation of specified entities in the bidding process based upon: (1) maintaining an office or place of business within a particular local jurisdiction; (2) hiring employees or subcontractors from within a particular local jurisdiction; or (3) prior payment of local taxes, assessments, or duties within a particular local jurisdiction. The prohibitions apply if such solicitations will be paid for with any state-appropriated funds.

The bill provides that the definition of “public works project” applies to pre-bid prohibitions to activities that exceed \$1 million in value and that are paid for with any state-appropriated funds. The bill prohibits the state or any political subdivision that contracts for a public works project from preventing a certified, licensed, or registered contractor, subcontractor, or material supplier or carrier, from participating in the bidding process based on the geographic location of the company headquarters or offices of the contractor, subcontractor, or material supplier or carrier submitting a bid on a public works project or the residences of employees of such contractor, subcontractor, or material supplier or carrier.

The bill requires the Office of Economic & Demographic Research (EDR), beginning with the annual assessment due January 1, 2022, to include an analysis of the expenditures necessary to repair, replace, and expand water-related infrastructure in their annual assessment of Florida’s water resources and conservation lands.

By June 30, 2022, and every five years thereafter, the bill requires each county, municipality, or special district providing wastewater or stormwater services to develop a needs analysis for its jurisdiction over the subsequent 20 years. The analysis must be compiled and submitted to EDR, which must evaluate the compiled documents for the purpose of developing a statewide analysis for inclusion in the annual assessment due January 1, 2023. This bill provides that the analysis requirement applies to a rural area of opportunity as defined in s. 288.0656, F.S., unless such requirement would create an undue economic hardship for the county, municipality, or special district in the rural area of opportunity.

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

Vote: Senate 24-16; House 79-34

## House Bill 59 Growth Management by Rep. McClain

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

## **Senate Bill 60 County and Municipal Code Enforcement by Senator Bradley**

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

## **Senate Bill 64 Reclaimed Water by Senator Albritton**

The bill requires domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge to:

- Submit a plan to the Department of Environmental Protection (DEP) to eliminate nonbeneficial surface water discharges by November 1, 2021;
- Fully implement the plan to eliminate discharges by January 1, 2032; and
- If no plan is timely submitted or approved, eliminate discharges by January 1, 2028.

The bill requires DEP to submit a report to the Legislature by December 31, 2021, and annually thereafter, providing the average gallons per day that discharges are reduced, the average gallons per day of discharges that will continue, the level of treatment discharged water receives, and any modified or new plans submitted by a utility since the last report.

The bill does not apply to domestic wastewater treatment facilities in certain areas with limited fiscal resources and those operated by certain mobile home park operators.

The bill authorizes discharges that are being beneficially used or otherwise regulated, including:

- Discharges associated with an indirect potable reuse project;
- Permitted wet weather discharge;
- Discharges into a stormwater management system, which are subsequently withdrawn for irrigation purposes;
- Utilities that operate domestic wastewater treatment facilities with reuse systems that reuse at least 90 percent of a facility's annual average flow; or
- Discharges that provide direct ecological or public water supply benefits.

The bill also:

- Specifies that potable reuse is an alternative water supply, for purposes of making reuse projects eligible for alternative water supply funding;
- Incentivizes the development of potable reuse projects;
- Incentivizes residential developments that use graywater technologies; and
- Specifies the total dissolved solids allowable in aquifer storage and recovery in certain circumstances.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 32-0; House 118-0

## **Senate Bill 72 Civil Liability for Damages Relating by Senator Brandes**

The bill (Chapter 2021-1, L.O.F.) creates civil liability protections for individuals, businesses, governmental entities, and other organizations against COVID-19-related claims. The bill provides lesser liability protections to health care providers, who are defined in the bill, and provides procedures for civil actions against them.

### **Liability Protections for COVID-19-Related Claims**

For a claim against a person, business, or other entity, but generally not a health care provider, the bill establishes preliminary requirements that a plaintiff must complete before the case may proceed. A court must determine whether:

- The complaint was pled with particularity.
- The complaint is supported by a physician's affidavit attesting to the physician's belief, within a reasonable degree of medical certainty, that the defendant caused, through acts of omissions, the plaintiff's damages, injury, or death. If the plaintiff did not meet these requirements, the court must dismiss the action, but the plaintiff may correct the deficiencies and refile the claim.
- The defendant made a good faith effort to substantially comply with authoritative or controlling health standards when the actions accrued.

If the court determines that the defendant made the requisite good faith effort, the defendant is immune from civil liability. However, if the court determines that the defendant did not make the requisite good faith effort, the lawsuit may proceed.

If the defendant is not immune, the plaintiff must meet the heightened standard of proving that the defendant's acts or omissions were grossly negligent by the clear and convincing evidence standard.

### **Liability Protections for Health Care Providers**

The liability protections for COVID-19-related claims against a health care provider mainly relate to claims:

- Arising from the diagnosis or treatment of a person for COVID-19;
- The provision of a novel or experimental COVID-19 treatment;
- The transmission of COVID-19; and
- The delay or cancellation of a surgery or medical procedure.

To prevail in a claim against a health care provider, the plaintiff must plead the claim with particularity and generally must prove by the greater weight of the evidence that the health care provider was grossly negligent or engaged in intentional misconduct.

A COVID-19-related lawsuit against any type of defendant must be brought within 1 year after a cause of action accrues unless the cause of action occurred before the effective date of the bill. However, if a cause accrues before the effective date of the bill, the plaintiff has 1 year from the effective date of the act to bring the claim.

While the bill takes effect upon becoming a law, it applies retroactively. However, the bill does not apply in a civil action against a particular named defendant to a suit filed before the bill's effective date.

These provisions became law upon approval by the Governor on March 29, 2021.

Vote: Senate 24-15; House 83-31

### **House Bill 77 Diesel Exhaust Fluid by Rep. Overdorf**

The bill addresses safety issues associated with airport use of diesel exhaust fluid (DEF). The bill directs each public airport with specified uses of DEF to require a safety mitigation and exclusion plan for each fixed-base operator that performs onsite treatment of aviation fuel with a fuel system icing inhibitor and provides minimum requirements for the plan. By January 1, 2022, each airport must make the plan available for review during inspections by the Florida Department of Transportation (FDOT).

The bill also requires the FDOT, by November 1, 2021, to convene a workgroup of public airport representatives to develop uniform industry standards based on a National Air Transportation Association best practice relating to the handling of DEF, and authorizes the FDOT to adopt rules to develop a uniform industry standards form for the required plans based on the workgroup recommendations.

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

Vote: Senate 40-0; House 114-0

## **Senate Bill 88 Farming Operations by Senator Brodeur**

The bill (Chapter 2021-7, L.O.F.) amends the Florida Right to Farm Act. The general purpose of the act is to protect reasonable agricultural activities conducted on farm land from nuisance lawsuits. The bill provides stronger liability protections to farms that comply with best management practices and environmental regulations.

The definition of "farm operations" is expanded to add "agritourism" activities to the list of farm operations that receive limited legal protections from nuisance suits and other similar civil actions. The definition is further revised to include the generation of "particle emissions" to the list of conditions or activities that constitute farm operations.

The bill defines "established date of operation" for an agritourism activity as the date the specific agritourism activity commenced, providing for a separate established date of operation for an agritourism activity than for the farm operation.

The bill defines "nuisance" to mean any interference with the reasonable use and enjoyment of land, including, but not limited to, noise, smoke, odors, dust, fumes, particle emissions, or vibration. The term also includes all legal claims that meet the requirements of the definition of nuisance, regardless of whether a plaintiff designates those claims as brought in an action for nuisance, negligence, trespass, personal injury, strict liability, or some other tort.

The burden of proof that a plaintiff must meet in a nuisance action is raised to the clear and convincing evidence standard if the claim is based upon allegations that the defendant's conduct did not comply with state or federal environmental laws, regulations, or best management practices.

The bill limits those who may bring a nuisance action against a farm operation to people whose real property that is alleged to be damaged is located within one-half mile of the alleged source of the nuisance.

The bill limits compensatory damages in a private nuisance action to the reduction in the fair market value of the plaintiff's property, which may not exceed the fair market value of the property.

The bill prohibits a plaintiff from recovering punitive damages for a farm operation in a nuisance action unless the alleged nuisance is based on substantially the same conduct that was subject to a civil enforcement judgment or criminal conviction and the conviction or judgment occurred within 3 years of the first action that formed the basis of the nuisance action.

A losing plaintiff is liable for a farm's litigation costs and expenses incurred defending a nuisance action if the farm operation has been in existence for 1 year or more before the legal action was instituted and the farm operation conforms to generally accepted agricultural and management practices or government environmental laws.

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

Vote: Senate 37-1; House 110-7

## **Senate Bill 90 Election Administration by Senator Baxley**

The bill revises the Election Code as follows to improve election security, transparency, and administration.

The bill creates:

- Requirements for civil actions challenging the validity of a provision of the Election Code in which a state or county agency or officer is a party in state or federal court.

- A prohibition against a governmental entity's use of private funds for election-related expenses.
- Additional requirements for the periodic risk assessments of the online voter registration system.
- A process by which the Department of Highway Safety and Motor Vehicles must assist the Department of State (DOS) in regularly identifying changes in voter addresses and providing that information to supervisors for their use in updating voter rolls.

Related to vote-by-mail ballots, the bill:

- Revises and creates new requirements for their duplication.
- Modifies the effective period for a ballot request to all elections held through the end of the calendar year of the next regularly scheduled general election and grandfathers in through the end of 2022 any request in place when the bill takes effect.
- Requires an additional elector identifier when a request for a ballot is made.
- Adds new categories to the types of information supervisors must record about each ballot request.
- Prohibits mailing or otherwise providing a ballot without a request.
- Creates new requirements for information that must be displayed on the outside of a return mailing envelope and prohibits display of an elector's political affiliation on a ballot envelope.
- Prohibits a supervisor from using knowledge of a voter's political affiliation during the signature comparison process.
- Extends the period during which tabulation of ballots can occur.
- Revises and creates new requirements for use of drop boxes, including, but not limited to:
  - Limiting use of drop boxes other than at a supervisor's office to early voting hours, and requiring in-person monitoring of all drop boxes while accessible for deposit of ballots.
  - Requiring each supervisor to publish the location of drop boxes at least 30 days in advance of each election.
  - Limits a person's lawful possession of ballots to his or her own, those of an immediate family member, and two others; expands the definition of "immediate family member" to include a grandchild; and clarifies that supervised voting at assisted living facilities and nursing homes is not subject to the limit.

Related to no-solicitation zones, the bill:

- Conforms the distances for statutory no-solicitation zones.
- Adds drop box sites to the locations protected by the zones.
- Expands the definition of "solicitation" and specifies that the definition does not prohibit supervisors' staff from providing nonpartisan assistance or items to voters within the zone.

Related to county canvassing boards, the bill:

- Requires names of canvassing board members to be published on the supervisor's website upon completion of the logic and accuracy test.
- Creates new access requirements at meetings for a political party or candidate to observe signature matching and other processes.
- Adds names of canvassing board members and alternates to the types of information that must be noticed in advance of meetings.

Related to election data reporting, the bill:

- Clarifies an existing exception for ballot types or precinct subtotals with fewer than 30 voters voting.
- Creates new requirements for reporting live voter turnout data and vote-by-mail ballot information.
- Combines the required overvote/undervote report and audit report and extends the deadlines for their submission.

To comply with court orders, the bill:

- Returns the language for the declaration of felon voting eligibility to its pre-2019 form and repeals a corresponding public-records exemption that will no longer be necessary.
- Revises provisions governing third-party voter registration organizations.
- The bill also:
- Requires submission of an additional elector identifier for requested changes to voter registration.
- Repeals provisions requiring an elective office vacated due to the resign-to-run requirement be filled by election and permitting the unexpired term of an elective charter county officer or elective municipal officer required to resign under the resign-to-run law to be filled in a manner provided by the county or municipal charter.
- Prohibits a person from seeking to qualify for office as a candidate with no party affiliation if he or she has been a registered member of any political party within the 365 days preceding the beginning of the qualifying period, and requires a person seeking nomination as a candidate of a political party to have been a member of the party for the 365 days preceding the beginning of the qualifying period.
- Clarifies a state executive committee's role in filling certain vacancies in office.
- Revises requirements for poll watchers.
- Conforms to federal law the time frame for retention of election materials.
- Extends the deadline by which the DOS must approve or disapprove a voting system submitted for certification.
- Expands the ballot materials that must be made available for public inspection and creates new access provisions for a candidate, political party official, political committee official, or designee thereof.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 23-17; House 77-40

## Senate Bill 100 Highway Projects by Senator Harrell

The bill repeals the Multi-use Corridors of Regional Economic Significance (M-CORES) program and related provisions and instead creates programs related to arterial highway projects. More specifically, the bill:

- Authorizes the Florida Department of Transportation (FDOT) to upgrade existing arterial roadways with targeted improvements, such as adding new tolled or non-tolled limited access alignments to manage congestion points and retrofitting roadways with tolled or non-tolled grade separations that provide alternatives to a signalized intersection for through traffic.
- Prohibits reduction of any non-tolled general use lanes of an existing facility, requires maintenance of existing access points, and limits the location of any tolling points such that a non-tolled alternative exists for local traffic.

- Provides that all existing applicable requirements relating to FDOT or turnpike projects apply to any projects undertaken. Further, the FDOT and the Florida Turnpike Enterprise must take into consideration the guidance and recommendations of any previous studies or reports relevant to the projects.
- Directs the FDOT to develop by December 31, 2035, and include in the work program, construction of controlled access facilities to achieve free flow of traffic on U.S. 19 and requires the facility to be developed using existing or portions of existing roadway by specified improvements.
- Directs the FDOT to identify and include in the work program projects to widen certain two lane arterial rural roads serving high volumes of truck traffic to four lanes.
- Directs the FDOT to begin the project development and environmental phase for a project to extend the Florida Turnpike from its current terminus in Wildwood to a terminus as determined by the FDOT, and to submit a summary report by December 31, 2022.

The revenue redirected to the State Transportation Trust Fund (STTF) as a result of the 2019 M-CORES legislation is retained in the STTF and is dedicated for purposes of funding the authorized controlled access facility projects and widening projects on arterial rural highways. Additionally, beginning July 1, 2023, the distribution of \$35 million to the Florida Turnpike Enterprise for feeder roads and related projects is discontinued; such funds will remain in the STTF to support statewide transportation priorities.

If approved by the Governor, these provisions take effect July 1, 2021, except as otherwise provided.  
Vote: Senate 39-1; House 115-0

## Senate Bill 148 Beverage Law by Senator Bradley

The bill permits certain public food service establishments (restaurants) with an alcoholic beverage vendor license to sell and deliver for off-premises consumption alcoholic beverage drinks prepared and sealed by the vendor under certain conditions. Alcoholic beverages sold for off-premises consumption in containers sealed by the vendor must be accompanied by the sale of food within the same order.

The bill applies to restaurants with a "quota alcoholic beverage" license, i.e., vendors licensed to sell beer, wine and liquor for on-premises consumption and "special restaurant" alcoholic beverage licensees, known as "SRX licensees."

Current law permits SRX licensees to sell beer, wine and liquor for on-premises consumption with certain conditions, including the requirements that the business derive at least 51 percent of gross food and beverage revenue from the sale of food and nonalcoholic beverages, and may not sell alcoholic beverages after the hours of serving or consumption of food have elapsed. Under current law, an SRX licensee may not sell manufacturer-sealed containers of beer, wine, or liquor for off-premises consumption. The bill permits an SRX licensee to sell manufacturer-sealed containers of beer and wine for off-premises consumption. The bill also permits an SRX licensee to sell and deliver alcoholic beverage drinks in containers sealed by the licensee. However, the bill prohibits an SRX licensee from selling bottles of distilled spirits for off-premises consumption.

Current law permits a restaurant with a consumption on-premises quota license (quota licensee) to sell manufacturer-sealed containers of beer, wine, and liquor for off-premises consumption. Under the bill, a quota licensee may sell containers of alcoholic beverages sealed by the licensee or its employees only if: the quota licensee is also licensed as a public food service establishment under ch. 509, F.S., the sale or delivery of the sealed containers is accompanied by the sale of food within the same order, the charge for the sale of food and nonalcoholic beverages is at least 40 percent of the total charge for the order, and the sale or delivery of the sealed containers does not occur after food preparation has stopped for the day or midnight, whichever is earlier. The percentage of food sales requirement does not apply to sales by SRX licensees.

The bill requires alcoholic beverage drinks prepared by the licensee to be sealed by the licensee with an unbroken seal that prevents the beverage from being consumed, and placed in a bag or other container secured in such a

manner that it is visibly apparent if the container has been opened or tampered with. A dated receipt of the beverage and meal must be provided and attached to the container. Alcoholic beverages prepared and sealed by the licensee that are delivered or transported by motor vehicle must be placed in a locked compartment, locked trunk, or other area behind the last upright seat of the motor vehicle.

Additionally, the bill provides that allowing a person under 21 years of age to deliver an alcoholic beverage on behalf of an alcoholic beverage vendor is a violation of the prohibition against selling, giving, or serving alcoholic beverages to a person under 21 years of age. It also requires an alcoholic beverage vendor or an agent or employee of a vendor to verify that the person making a delivery of an alcoholic beverage is at least 21 years of age.

The bill also amends s. 564.09, F.S., which under current law permits a restaurant patron to take home a partially consumed bottle of wine under certain conditions if the restaurant patron purchases and consumes a full course meal consisting of an entrée, salad or vegetable, beverage, and bread. The amendment repeals the requirement that the meal purchased and consumed by the patron be a full course meal consisting of an entrée, salad or vegetable, beverage, and bread.

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

Vote: Senate 40-0; House 111-1

### **Senate Joint Resolution 204 Abolishing the Constitution Revision Commission by Senator Brandes**

The joint resolution proposes to abolish the Constitution Revision Commission by repealing provisions establishing commission in the State Constitution. Currently, the State Constitution requires that a constitution revision commission be convened once every 20 years to examine the State Constitution and propose any amendments that it deems appropriate.

The joint resolution will be placed on the 2022 General Election ballot or at an earlier special election specifically authorized by law for that purpose. If approved by at least 60 percent of the votes cast on the measure, the proposed amendment will take effect January 3, 2023.

If approved by the voters, this amendment will take effect January 3, 2023.

Vote: Senate 27-12; House 86-28

### **House Bill 223 Marina Evacuations by Rep. Plasencia**

Upon the issuance of a hurricane watch that affects the waters of marinas located in a deepwater seaport, the bill prohibits vessels under 500 gross tons from remaining in the waters of such marinas that have been deemed not suitable for refuge during a hurricane. The bill requires that vessel owners promptly remove their vessels from the waterways upon an evacuation order issued by the deepwater seaport.

A marina owner, operator, employee, or agent (marina owner), is required to remove the vessel, if reasonable, from its slip, if the Coast Guard Captain of the Port sets the port condition to "Yankee" and a vessel owner has failed to remove his or her vessel. The marina owner may charge the vessel owner a reasonable fee for removing the vessel. "Yankee" means that gale force winds (39-54 miles per hour) from a tropical or hurricane force storm are predicted to make landfall at the port within 24 hours, the port is closed to inbound traffic, and vessel traffic control measures are in effect on vessel movements within the port.

The bill provides that a marina owner may not be held liable for any damage to the vessel from a hurricane and is held harmless for removing the vessel. The bill provides that after a hurricane watch has been issued, if a vessel owner has not removed the vessel pursuant to an order from the seaport, the owner may be fined by the deepwater seaport.

The bill does not provide immunity to a marina owner for any damage caused by intentional acts or negligence when removing a vessel. The bill does not require a deepwater seaport to issue an order to evacuate vessels or fine a vessel owner that has failed to remove the vessel.

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

Vote: Senate 40-0; House 116-0

### **House Bill 327 Public Records Exemption for Persons in Public Shelters by Rep. Rommel**

The bill exempts from public inspection and copying requirements the address and telephone number of a person who takes refuge at a public emergency shelter during a storm or catastrophic event.

The bill provides that the exemption created under the bill is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and will be repealed on October 2, 2026, unless reviewed and saved from repeal by the Legislature.

As the bill itself states, the bill is necessary in order to limit the amount of privacy a person must forfeit by choosing to enter a shelter, and to protect a person from those who might seek to exploit their vulnerability following a catastrophic event.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-1; House 115-0

### **House Bill 337 Impact Fees by Rep. DiCeglie**

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 annual increments;
- 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

### **Senate Bill 400 Public Records by Senator Rodrigues**

The bill amends s. 119.07, F.S., to prohibit an agency that receives a public record request from responding to the request by filing an action for declaratory relief against the requester to determine whether that record meets the definition of a public record or if it is confidential or exempt.

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

Vote: Senate 39-0; House 113-0

### **House Bill 401 Florida Building Code by Rep. Fetterhoff**

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

## House Bill 403 Home-based Businesses by Rep. Giallombardo

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

## House Bill 421 Relief from Burdens on Real Property Rights by Rep. Tuck

The bill amends the Bert J. Harris, Jr., Private Property Rights Protection Act and the Florida Land Use and Environmental Dispute Resolution Act. Both acts provide procedures and remedies to land owners whose property is inordinately burdened by a local government regulation. In the Bert Harris Act, the definitions of an "action of a governmental entity" is revised to include government actions that affect "real property including acting on an application or permit or adopting or enforcing any ordinance, resolution, regulation, rule, or policy." The term "real property" is amended to mean, in part, land and any surface, subsurface, or mineral estates and any appurtenances and improvements to the land, including other relevant interests.

The bill also revises the definition of "land" or "real property" in The Florida Land Use and Environmental Dispute Resolution Act to match, by cross-reference, the newly amended definition of real property in the Bert Harris Act. Additionally, the bill revises the Bert Harris Act to:

- Reduce the timeframe under which a claimant must notify the government before filing an action for compensation;
- Specify that written settlement offers are presumed to protect the public interest;
- Allow the claimant to have the court, rather than a jury, determine damages;
- Extend the point in time from which a prevailing claimant may recover attorney fees and costs; and
- Authorize a property owner to pursue a claim for compensation in certain circumstances without first formally pursuing an application for a development order, development permit, or building permit when doing so is deemed to constitute a waste of resources.

The Bert Harris Act is also amended to provide that a real property owner who files a claim under the Act remains entitled to relief for that claim even if he or she subsequently relinquishes legal title to the real property in question before the conclusion of proceedings to resolve the claim. (This appears to reverse the holding in a recent Second District Court of Appeals case in which the plaintiff, who sold the property while litigating a claim, was determined to no longer be a "property owner" entitled to relief under the Act. The appellate court certified the issue raised in the case to the Florida Supreme Court as an issue of great public importance.)

The bill also allows a property owner to sue for injunctive relief, and a court to declare, that a prohibited exaction is invalid. Current law defines a "prohibited exaction" as a condition imposed by a governmental entity on a property owner's proposed use of real property that does not have an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the governmental entity is seeking to avoid, minimize, or mitigate. The bill revises the statutes relating to prohibited exactions to expressly allow a property owner to sue for injunctive relief, and a court to declare, that a prohibited exaction is invalid. Additionally, the bill provides that the property owner does not have to exhaust all administrative remedies before filing suit to declare a prohibited exaction invalid and recover damages.

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

Vote: Senate 34-6; House 79-37

## **House Bill 597 Homestead Exemption for Seniors 65 and Older by Rep. Woodson**

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.

The bill 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

## **House Bill 663 Cottage Food Operations by Rep. Salzman**

The bill revises the regulations on cottage food operations and cottage food sales. Under current law, a cottage food operation is a natural person who produces or packages cottage food products, defined by the Department of Agriculture as any food that is not a potentially hazardous food, at his or her residence.

The bill allows individual cottage food operations to sell, offer for sale, and accept payment for cottage food products as a business entity. The bill also allows cottage food products to be sold, offered for sale, and paid for by mail order, and permits cottage food products to be delivered by mail.

Under current law, cottage food operations are exempt from food permitting requirements if the cottage food seller complies with s. 500.80, F.S., and has annual gross sales of up to \$50,000. The bill increases the maximum allowable gross sales to \$250,000.

The bill preempts the regulation of cottage food operations to the state. However, cottage food operations must comply with all applicable county and municipal laws and ordinances regulating traffic, parking, noise, signage, and hours of retail operation.

The bill provides that this act may be cited as the "Home Sweet Home Act."

Under the bill, cottage food operations must comply with the conditions for the operation of home-based businesses under s. 559.955, F.S., which is a provision created by CS/HB 403 to prohibit the licensing and regulation of home-based businesses by local governments. CS/HB 403 also establishes standards for the conduct of a home-based business, including requiring compliance with relevant traffic, noise, and signage requirements. CS/HB 403 was adopted by the Legislature during the 2021 Regular Session. If approved by the Governor, CS/HB 403 takes effect July 1, 2021.

If approved by the Governor, these provisions take effect on the same date that HB 403 or similar legislation takes effect, if such legislation is adopted in this legislative session and becomes law.

Vote: Senate 30-10; House 90-28

## **House Bill 667 Building Inspections by Rep. Mooney, Jr.**

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

## **Senate Bill 694 Waste Management by Senator Rodrigues**

The bill requires the Department of Environmental Protection (DEP) to review and update its 2010 report analyzing the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags. DEP must submit the updated report to the Legislature no later than December 31, 2021.

The bill amends requirements for a local government that provides solid waste collection services which displace a private waste company, prohibiting the private company from continuing to provide the same service. The local government must provide three years' notice to the private company before engaging in such services. At the end of the three-year notice period, the local government must pay the displaced company an amount equal to the company's preceding 18 months' gross receipts for the displaced service in the displacement area. The local government and the displaced company may voluntarily negotiate a different notice period or amount of compensation. The bill does not apply to any displacement where the local government provided the three years' notice on or before December 31, 2020.

The bill provides that a private solid waste or debris management service provider is not required to collect storm-generated yard trash, unless otherwise specified in a contract or franchise agreement between a local government and a private solid waste or debris management service provider. The bill defines "storm-generated yard trash."

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

Vote: Senate 40-0; House 112-2

## **House Bill 735 Preemption of Local Occupational Licensing by Rep. Harding**

The bill expressly preempts the licensing of occupations to the state and supersedes any local government licensing of occupations, with the exception of local government licensing of occupations authorized by general law or occupational licenses imposed by a local government before January 1, 2021. However, the exception for local government licensing imposed by a local government expires July 1, 2023. Local government occupational licensing requirements in place by January 1, 2021 may not be increased or modified thereafter.

The bill specifically prohibits local governments from requiring a license for a person whose job scope does not substantially correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board, within the Department of Business and Professional Regulation. It specifically precludes local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, handyman services, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, and canvas awning and ornamental iron installation.

The bill authorizes counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical, and HVAC trades, as well as the electrical and alarm system trades, which is the current practice by counties and municipalities. As a result of this authorization in general law, local journeyman licensing is excepted from the preemption of local licensing to the state under the bill.

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

Vote: Senate 22-18; House 82-32

## **House Bill 805 Volunteer Ambulance Services by Rep. Caruso**

The bill authorizes vehicles of certain not-for-profit faith-based volunteer ambulance services ("volunteer ambulance services,") as authorized by the chief of police of an incorporated city or any sheriff of any county, to display red lights and operate emergency lights and sirens while responding to an emergency. The bill also authorizes privately owned vehicles belonging to medical staff physicians and technicians of volunteer ambulance services to use red lights on privately owned vehicles and to disregard specified traffic laws and ordinances while responding to an emergency. Under the bill any emergency medical technician, doctor, or paramedic who is using his or her personal vehicle with a red light to respond to an emergency call must have completed a 16-hour emergency vehicle operator course.

The bill provides a legislative finding that is in the public interest to foster the development of emergency medical services that address religious sensitivities and recognizes the value of augmenting existing county and municipal emergency medical services with those provided by volunteer service organizations.

Under current law, to be licensed as a basic or advanced life support service by the Department of Health, an applicant must obtain a certificate of public convenience and necessity (COPCN) from each county in which it will operate. The bill exempts certain not-for-profit faith-based volunteer first responder agencies who have been operating in this state for at least 10 years, and which provide advanced or basic life support services solely through at least 50 unpaid licensed emergency medical technician or paramedic volunteers, from COPCN requirements. To be exempt from the COPCN requirements, the volunteer ambulance service must also provide services free of charge, not receive government funding (excluding specialty license plate proceeds), provide a disclaimer on all written materials that the volunteer ambulance service is not associated with the state's 911 system, and meet other requirements as outlined in the bill. The COPCN exemption created in the bill may be granted to no more than four counties.

The bill requires an applicant to take all reasonable efforts to enter into a memorandum of understanding with the emergency medical services licensee within whose jurisdiction the applicant will provide services in order to facilitate

communications and coordinate emergency services for situations beyond the scope of the applicant's capacity and for situations of advanced life support that are deemed priority 1 or priority 2 emergencies.

The bill prohibits county and municipal governments from limiting, prohibiting, or preventing volunteer ambulance services from responding to emergencies or providing emergency medical services or transport; and from requiring volunteer ambulance services to obtain a license or certificate or pay a fee.

Under the bill, an emergency medical services provider or fire rescue services provider operated by a county, municipality, or special district is responsible for the care and transport of an unresponsive patient if a volunteer ambulance service arrives at the scene of an emergency simultaneously with such a provider and a person authorized to consent to the medical treatment of the unresponsive patient is not present.

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

Vote: Senate 40-0; House 98-12

### **House Bill 839 Express Preemption of Fuel Retailers by Rep. Fabricio**

The bill expressly preempts a municipality, county, special district, or political subdivision from adopting a law, an ordinance, a regulation, a policy, or a resolution that:

- Prohibits the siting, development, or redevelopment of a fuel retailer or its necessary related transportation infrastructure;
- Results in a de facto prohibition on a fuel retailer or its necessary related transportation infrastructure;
- Requires a fuel retailer to install or invest in a particular kind of fuel infrastructure.

The bill does not preempt any such action which is consistent with zoning, land use, and other allowable uses and general law, as long as it does not result in a de facto prohibition of fuel retailers or related transportation infrastructure. Definitions for the terms "fuel retailer," and "related transportation energy infrastructure" are provided for in the bill.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 26-12; House 79-38

### **Senate Bill 912 Land Use and Developments by Senator Albritton**

#### **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

### **House Bill 919 Preemption Over Restriction of Utility Services by Rep. Tomkow**

The bill prohibits municipalities, counties, special districts, or other political subdivisions from enacting or enforcing a resolution, ordinance, rule, code, or policy that restricts or prohibits, or has the effect of restricting or prohibiting the types or the fuel sources of energy production used, delivered, converted, or supplied to customers by:

- Public or electric utilities;
- Entities created pursuant to an interlocal agreement that generate, sell, or transmit electrical energy;
- Natural gas utilities or transmission companies; or
- Liquid petroleum gas dealers, dispensers, or cylinder exchange operators.

The bill expressly states that a municipality's board or a governmental entity is not prevented from passing rules, regulations, or policies governing an electric or natural gas utility that it owns or operates and directly controls. The bill further states that it does not expand or alter the jurisdiction of the Public Service Commission over public or electric utilities. The bill voids any charter, resolution, ordinance, rule, code, policy, or action by any municipality, county, special district, or political subdivision, existing on or before the bill's effective date, which is preempted by this bill.

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

Vote: Senate 27-13; House 81-34

### **House Bill 1059 Construction Permits by Rep. Robinson**

The bill 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

## **Senate Bill 1080 Tobacco and Nicotine Products by Senator Hudson**

The bill revises the regulation of the retail sale of tobacco products and nicotine products. The bill:

- Increases the minimum age to lawfully purchase and possess tobacco products and nicotine products from 18 years of age to 21 years of age. However, the bill keeps the exemption in current law for underage persons in the military and persons acting in the scope of lawful employment.
- Creates a new part of ch. 569, F.S., to regulate the sale of, and create a separate licensing structure for, the retail sale of "nicotine dispensing devices" and nicotine products. Under the bill, nicotine products and "nicotine dispensing devices" are not classified as tobacco products.
- Regulates tobacco products under ch. 569, part I, F.S., which consists of the current-law provisions.
- Regulates nicotine products under ch. 569, part II, F.S., which includes the requirements in current law for the sale of nicotine products, including applicable penalties for the illegal possession or sale, and provides additional provisions for the regulation of nicotine product sales that are the same as currently apply to the regulation of tobacco product sales.
- Requires retail dealers of nicotine products to have a permit issued by the Division of Alcoholic Beverages and Tobacco, but does not require a fee for the permit. However, the holder of a retail tobacco products dealer permit may sell nicotine products without an additional permit.
- Requires applicants for a retail tobacco products dealer permit and a retail nicotine products dealer permit to be at least 21 years of age.

- Preempts to the state the establishment of a minimum age for purchasing or possessing tobacco or nicotine products as well as regulation of the marketing, sale, or delivery of tobacco or nicotine products.
- Prohibits smoking and vaping by any person under 21 years of age on or near school property. (Current law applies the prohibition to persons under 18 years of age).
- Requires age verification before a sale or delivery of tobacco products and nicotine products to persons who appear to be under 30 years of age.

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

Vote: Senate 29-9; House 103-13

### **House Bill 1103 Special District Accountability by Rep. Maggard**

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

## Senate Bill 1194 Transportation by Senator Hooper

The bill contains various transportation-related provisions, including the following:

- Authorizes a municipal or county governing body to abandon roads and rights of way dedicated in a recorded residential subdivision plat and to simultaneously convey the municipality's or the county's interest to a community development district under specified conditions.
- Precludes a governmental entity from prohibiting a bid relating to the entity's procurement of certain contractual services from vendors holding specified certificates or licenses.
- Provides that with respect to any port that has received or is eligible to apply for or receive certain state seaport funding, a local ballot initiative or referendum may not restrict maritime commerce in such port based on specified but unlimited factors. These provisions apply retroactively and prospectively, prohibiting, rendering void, and preempting to the state any conflicting initiative or referendum.
- Authorizes on roadways with a posted speed limit of 55 miles per hour or higher:
  - Construction equipment in a work zone to display a combination of flashing green, amber, and red lights during periods when workers are present.
  - Flashing lights on vehicles during periods of extremely low visibility.
- Increases the penalties for violations of a prohibition against modification of a motor vehicle exhaust system so that the noise emitted by the motor vehicle is above that emitted by the vehicle as originally manufactured.
- Substitutes an affidavit with an attestation on a form provided by the Florida Department of Highway Safety and Motor Vehicles (DHSMV) as a requirement for an insurance company to receive from the DHSMV a salvage certificate of title or certificate of destruction for motor vehicles and mobile homes.
- Clarifies that the types of vehicles authorized to elect a permanent registration period are rental vehicles, making clear that the authorization does not apply to leased vehicles.
- Requires motor vehicle dealer licensees to deliver to the DHSMV copies of renewed, continued, changed, or new insurance policies, surety bonds, or irrevocable letters of credit within 10 days after any renewal, continuation, change, or new issuance of the same, ensuring continuous insurance coverage.
- Removes a prohibition against the Miami-Dade County metropolitan planning organization (MPO) from assessing fees against governmental-entity members of the MPO.
- Dissolves the inactive Northwest Florida Transportation Corridor Authority and repeals ch. 343, part III, F.S., under which the authority was established.
- Authorizes a mayor to appoint a specified designee to attend a Tampa Bay Area Regional Transit Authority (TBARTA) meeting to act in his or her place with full voting rights on all issues, revising quorum requirements for the TBARTA board, revises the organization of the Chair's Coordinating Committee (CCC), removes the requirement for the TBARTA to provide administrative support and direction to the CCC, and removes obsolete language.
- Increases the number of the Governor's appointees to the Greater Miami Expressway Authority from three to four, one of which must be member of the Miami-Dade County MPO, and providing for staggered terms.
- Prohibits the Central Florida Expressway Authority from constructing any extensions, additions, or improvements to the Central Florida Expressway System in Lake County without prior consultation with, rather than consent of, the Secretary of Transportation.
- Increases from 40 years to 99 years an existing limitation on the term of a lease into which the Jacksonville Transportation Authority may enter.

- Revises provisions relating to an annual cap on the Florida Department of Transportation's (FDOT) authorization to enter into contracts for innovative transportation projects.
- Amends financial statement requirements relating to applications for certificates of qualification to bid on contracts for the performance of work for the FDOT under certain construction contracts.
- Excludes certain airports from the prohibition against the same entity performing design and performing construction engineering and inspection services on a project funded by the FDOT and administered by a local governmental entity.
- Substantially revises provisions relating to the State Arbitration Board, which hears claims for additional compensation arising out of construction and maintenance contracts between the FDOT and its contractors.
- Authorizes the FDOT to use surplus toll revenue to support public transportation projects that benefit the operation of high-occupancy toll lanes or express lanes on the State Highway System.
- Defines the term "borrow pit" and requires a borrow pit operator to provide a notice of intent to extract to the Florida Department of Environmental Protection; prohibits the FDOT, and its contractors and subcontractors, from purchasing or using specified substances extracted from a borrow pit unless conditions relating to compliance with existing statutory requirements and permitting are met; and requires the FDOT, if it determines substances are being obtained and used from a noncompliant borrow pit, to cease accepting any substances within 48 hours.
- Requires the FDOT to create and implement a publicly accessible electronic database for sign permit information; specifies requirements for the database; prohibits the department from furnishing permanent metal permit tags or replacement tags and from enforcing related provisions once the department creates and implements the database.

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

Vote: Senate 21-17; House 75-40

## **House Bill 1239 Broadband Internet Infrastructure by Rep. Tomkow**

The bill, which may be cited as the "Florida Broadband Deployment Act of 2021," revises the Office of Broadband's (office) strategic plan related to goals and strategies for increasing and improving broadband availability and access; creates the Broadband Opportunity Program to award grants; provides an appropriation to the Department of Economic Opportunity (DEO) for geographic information system mapping of broadband internet service; and establishes a promotional period for one dollar pole attachments of broadband facilities to municipal electric utility poles.

As to the office and its strategic plan, the bill revises the duties of the office to include improving the availability of, access to, and use of broadband. The bill requires the strategic plan to incorporate applicable federal broadband activities and identify available federal funding. The strategic plan must be submitted to the Governor, the Senate President, and the Speaker of the House by June 30, 2022, and updated biennially. Local technology planning teams are required by the bill to work with rural communities in order to help communities understand current broadband availability, locate unserved and underserved businesses and residents, identify assets relevant to deployment, build partnerships with providers, and identify opportunities. It requires the teams to be proactive in fiscally constrained counties to apply for federal grants.

The terms "broadband Internet service," "deployed," "sustainable adoption," "underserved," and "unserved," are provided for in this section of the bill.

A non-recurring sum of \$1,500,000 for the 2021-2022 fiscal year, is appropriated from the General Revenue Fund to the DEO, to develop geographic information system maps of broadband Internet service availability through the

state. The bill specifies the content required to be included in the maps and that they must be developed by June 30, 2022.

The bill creates the Broadband Opportunity Program, housed in the office, to award grants, subject to appropriation, to applicants who seek to install or deploy infrastructure that expands broadband service to unserved areas. The bill specifies the types of entities eligible for such grants, provides application requirements and evaluation criteria, and requires the office to enter into an agreement with each grant recipient that specifies performance conditions, including potential sanctions. The bill establishes a process by which an existing broadband provider may challenge a grant application on the grounds that the provider already offers or plans to offer service in the area at issue. The bill limits grant awards to 50 percent of the total cost of a project, but no more than five million dollars per grant, and prohibits grant awards for projects that receive other federal funding. The bill requires the office to prepare an annual report summarizing the activity under this program.

The bill creates s. 288.9963, F.S., relating to attachment of broadband facilities to municipal electric utility poles, which requires municipal electric utilities to provide broadband providers access for attachments to utility poles at a promotional rate of one dollar per attachment per pole, from July 1, 2021, to July 1, 2024. The bill provides terms for these discounted attachments and specifies each party's responsibility for costs associated with replacement poles necessary to make attachments. The bill requires these attachments to be made following the higher of the safety standards in the National Electrical Safety Code or the standards set by the utility. The promotional rate is available after application and can be lost if unserved or underserved customers are not provided with broadband Internet access within twelve months of the attachments being made and the provider may be required to pay the prevailing rate for the attachments that failed to make broadband available to the intended customers. The bill prohibits municipal electric utilities from raising their current pole attachment rates for broadband providers between July 1, 2021, and July 31, 2022.

The bill also provides procedures for wireline attachments and allows for a one dollar promotional rate until July 1, 2024. Such attachments must comply with safety and reliability standards, however, wireline attachments that complied with safety and reliability standards when installed, do not need to be modified to comply with new requirements unless necessary for safety reasons as determined by municipal electric utilities.

The bill also provides for procedures and costs for replacement of utility poles by the municipal electric utilities where necessary to comply with applicable engineering and safety standards. If the replacement is necessary to correct an existing violation, to bring the pole into compliance, or because the pole is at the end of its useful life, the replacement cost may not be charged to the broadband provider.

Definitions for the terms "broadband provider," "broadband service," "safety and reliability standards," "underserved," "unserved," "wireline attachment," are provided for in this section.

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

Vote: Senate 40-0; House 115-0

### **House Bill 1289 Autonomous Vehicles**

The bill defines the term "low-speed autonomous delivery vehicle" as a fully autonomous vehicle that meets the current federal definition and authorizes such vehicles to operate only on streets or roads where the posted speed limit is 35 miles per hour or less. Such vehicles are not prohibited from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour. However, a low-speed autonomous delivery vehicle may operate on a street or road with a posted speed limit of more than 35 miles per hour, but no more than 45 miles per hour, if:

- The vehicle travels no more than one continuous mile, except that the entity with jurisdiction over the street or road may authorize travel in excess of that distance;
- The vehicle operates exclusively in the right lane, other than for the purpose of completing a turn; and
- On a two-lane street or road where overtaking and passing another vehicle is unsafe, and five or more vehicles are formed in a line behind the low-speed autonomous delivery vehicle, the delivery vehicle exits the roadway wherever sufficient space exists, to permit the following vehicles to proceed.

The bill sets out equipment requirements for such vehicles and provides that the new provisions are superseded by any conflicting federal regulations. The bill also establishes insurance coverage requirements for such vehicles and exempts them from specified provisions of law relating to authorized use of golf carts, low-speed vehicles, and utility vehicles.

The provisions of any motor vehicle equipment laws or regulations of this state, relating to or supporting motor vehicle operation by a human driver but not relevant for an automated driving system, are rendered inapplicable to fully autonomous vehicles designed to be operated exclusively by the automated driving system for all trips.

The bill also revises the definition of the terms:

“Autocycle,” by clarifying that the required brakes on such autocycles must meet the requirements of a specified Federal Motor Vehicle Safety Standard relating to antilock brakes, and by revising the requirement for a steering “wheel” to a steering “mechanism.”

“Personal delivery device,” by removing the current 80-pound weight limitation (excluding cargo) and replacing it with a weight that does not exceed the maximum established by rule by the Florida Department of Transportation (FDOT).

The bill authorizes the FDOT to adopt rules to implement provisions of law relating to personal delivery devices.

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

Vote: Senate 39-1; House 116-0

### **House Bill 1309 Environmental Regulation by Rep. Payne**

The bill ratifies the Department of Environmental Protection’s (DEP’s) biosolids rules, Rule Chapter 62-640 of the Florida Administrative Code. The bill exempts the rules from review and approval by the Environmental Regulation Commission.

The bill also ratifies DEP’s rules for the Central Florida Water Initiative (CFWI), Rules 62-41.300 – 62-41.305, Florida Administrative Code. Additionally, the bill:

Revises the required rulemaking to include an annual supplemental irrigation requirement allocation for agricultural uses and a process for examining an agriculture user’s average annual supplemental irrigation needs.

- Establishes a grant program for CFWI within DEP, subject to appropriation, which will promote alternative water supply and protect groundwater resources. The bill requires DEP to give priority to certain projects.
- Revises the priority system for the Drinking Water State Revolving Loan Fund to give special consideration to projects that implement water supply plans and develop water sources as an alternative to continued reliance on the Floridan aquifer under the CFWI.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 114-0

## House Bill 1463 Department of Economic Opportunity by Rep. LaMarca

### DEO Secretary

The bill changes the title for the head of the Department of Economic Opportunity (DEO) from “Executive Director” to “Secretary of Economic Opportunity,” and creates the Office of Economic Accountability and Transparency in the DEO. It adds the secretary or his or her designee to the Enterprise Florida, Inc., board of directors and the CareerSource Florida, Inc., board of directors, and allows the secretary to create offices and appoint division directors.

### Community Development Block Grants

The bill expands the grant categories that applicants may compete for funding under the Florida Small Cities Community Development Block Grant (CDBG) Program, increases the percentage of CDBG funds that the DEO may set aside annually for use in local government jurisdictions for which an emergency or natural disaster has been declared, and removes distribution limitations. The bill repeals a provision that limits the number of grant applications a local government may submit during each CDBG cycle, as well as a provision that requires unused economic development grant funds to be awarded on a first come, first serve basis. The DEO is authorized to prohibit an applicant from receiving a grant or to penalize an applicant in the rating of a current application under certain circumstances. The bill also requires local governments to expedite the approval of building permits applied for by contractors on behalf of a property owner participating in the CDBG-Disaster Recovery program.

### Workforce and Reemployment

The bill provides that the DEO, for Fiscal Year 2021-2022, must take actions to modernize the reemployment assistance information system to support the efficient distribution of benefits and the effective operation and management of the reemployment assistance program as provided in the General Appropriations Act.

The bill will allow regional workforce boards to conduct level 2 background screenings, and expands the definition of “temporary layoff” to include an employer initiated furlough. The requirement that a reemployment assistance claimant must provide the telephone number of each prospective employer contacted for each week of unemployment claimed is repealed, and “address” means a website address, a physical address, or an e-mail address for purposes of reporting the address of each prospective employer contacted. A provision that provides that a domestic violence claimant is ineligible for reemployment assistance benefits if the claimant refuses an employer’s reasonable accommodation is removed, and employers are required to respond to a notice of claim within 14 days, instead of 20 days. The bill also imposes a 5-year statute of limitations on reemployment assistance appeals, and removes the requirement that reemployment assistance appeals referees must be Florida attorneys. Additionally, a process to allow for employer-assisted reemployment assistance claims is created to provide a way for employers to notify the DEO of a mass separation (1,000 or more employees) and to make a group filing on behalf of the employer’s similarly situated employees.

If approved by the Governor, these provisions take effect upon becoming a law.

Vote: Senate 40-0; House 118-0

## Senate Bill 1884 Preemption of Firearms and Ammunition Regulations by Senator Rodrigues

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

### **Senate Bill 1946 Anchoring Limitation Areas by Senator Polsky**

The bill provides that, notwithstanding the existing prohibition on local regulation of anchoring vessels outside of the marked boundaries of mooring fields, a county may establish an anchoring limitation area, adjacent to urban areas that have residential docking facilities and significant recreational boating traffic, which meets certain requirements imposed under the bill. The bill requires counties proposing to establish an anchoring limitation area to provide notice to the Fish and Wildlife Conservation Commission (FWC) 30 days before final adoption of an ordinance.

The bill prohibits anchoring a vessel for more than 45 consecutive days in a 6-month period in an anchoring limitation area, except under the exceptions in current law. The bill ensures that, upon an inquiry by a law enforcement officer or agency, a vessel owner or operator has the opportunity to provide proof that the vessel has not exceeded this time limitation.

The bill designates Monroe County as an anchoring limitation area within which a vessel may be anchored for a maximum of 90 days. This anchoring limitation area is not effective until the county approves, permits, and opens at least 250 new moorings for public use within 1 mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field. The bill requires FWC to designate the area within 1 mile of the Key West Bight City Dock as a priority for the investigation and removal of derelict vessels until the county approves, permits, and opens the new moorings.

The bill declares a vessel that is the subject of more than three violations within 12 months, which resulted in dispositions other than acquittal or dismissal, as a public nuisance.

The bill expressly grandfathers-in the geographic areas already designated as anchoring limitation areas in Florida Statutes.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 116-1

### **Senate Bill 1954 Statewide Flooding and Sea Level Rise Resilience by Senator Rodrigues**

The bill establishes statewide programs for adaptation to flooding and sea level rise. The programs are intended to address flooding all across the state. The bill creates:

- The Resilient Florida Grant Program within the Department of Environmental Protection (DEP) to provide grants to counties or municipalities for community resilience planning, such as vulnerability assessments, plan development, and projects to adapt critical assets. The bill provides a comprehensive definition for "critical asset." Specified information from such vulnerability assessments must be submitted to DEP.

- The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment, which must be updated at least every five years. The bill requires DEP to:
- By July 1, 2022, develop a statewide data set, including statewide sea level rise projections, containing information necessary to determine the risks of flooding and sea level rise to inland and coastal communities.
- By July 1, 2023, develop a statewide assessment, using the statewide data set, identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets.
- The Statewide Flooding and Sea Level Rise Resilience Plan. By December 1, 2021, and each December 1 thereafter, DEP must develop the plan on a three-year planning horizon and submit it to the Governor and Legislature. The plan must consist of ranked projects addressing the risks of flooding and sea level rise to communities in the state. The funding proposed in the plan may not exceed \$100 million in one year and is subject to review and appropriation by the Legislature. Each project must have a minimum 50 percent cost-share unless it assists or is within a financially disadvantaged small community, as defined in the bill. Counties, municipalities, and regional resilience entities are authorized to submit to DEP lists of proposed projects for inclusion in the plan, and water management districts and flood control districts are authorized to submit to DEP lists of proposed projects specifically relating to water supplies or water resources for inclusion in the plan. DEP must assess projects for inclusion in the plan by implementing a four-tiered scoring system specified in the bill.

The bill authorizes DEP to provide funding to regional resilience entities for providing technical assistance to counties and municipalities, coordinating multijurisdictional vulnerability assessments, and developing project proposals for the statewide resilience plan.

The bill requires DEP to initiate rulemaking by August 1, 2021, to implement the statewide resilience programs.

The bill creates the Florida Flood Hub for Applied Research and Innovation (Hub) within the University of South Florida (USF) College of Marine Science. USF's College of Marine Science or its successor will serve as the lead institution to coordinate efforts to support applied research and innovation to address flooding and sea level rise in the state. The Hub must conduct activities specified in the bill, including developing data and modeling, coordinating research funds across participating entities, establishing community-based programs, and assisting with training and workforce development. By July 1, 2022, and each July 1 thereafter, the Hub must submit to the Governor and Legislature an annual comprehensive report on its goals and its efforts and progress on reaching those goals.

The bill requires the Office of Economic and Demographic Research to include in its annual assessment of Florida's water resources and conservation lands an analysis of flooding issues, including resilience efforts. When appropriations or expenditures are made to address flooding, the analysis must identify any gaps between estimated revenues and projected expenditures.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 118-0

## **Senate Bill 2006 Emergency Management by Senator Burgess**

The bill better equips Florida to address a pandemic or other public health emergency, prohibits requirements of COVID-19-vaccination documentation to access, enter, or receive service from businesses, governmental entities, and educational institutions, and protects Floridians from local orders that unnecessarily infringe rights or liberties in the name of addressing a purported emergency.

The bill requires state agencies to take the following actions to prepare for the next public health emergency:

- The Department of Health must create a state public health emergency management plan, and requires the Division of Emergency Management to incorporate that plan into the state's comprehensive emergency management plan; and
- The Division of Emergency Management must:
  - Maintain an inventory of state-owned personal protective equipment; and
  - Include provisions in its statewide emergency shelter plan to address sheltering during a pandemic that requires distancing.

The bill also provides additional transparency and legislative oversight of the executive branch's emergency powers. The bill:

- Limits emergency orders, proclamations, and rules to 60-day durations that can be renewed as long as the emergency conditions persist;
- Requires the Governor, if he or she closes schools or businesses, to state specific reasons why the schools or businesses need to close and reassess the closure regularly; and
- Authorizes the Legislature to pass a concurrent resolution to terminate orders and directives issued under a state of emergency, instead of just the state of emergency itself.

The bill also targets county and city emergency orders that address purported emergencies but that also infringe the rights or liberties of Floridians. To protect Floridians from these orders the bill:

- Requires the governmental entity imposing an ordinance or other measure that deprives a person of a right or liberty to prove that the measure is "narrowly tailored" to address a "compelling public health or safety purpose";
- Authorizes the Governor to invalidate an order that "unnecessarily restricts individual rights or liberties"; and
- Limits the duration of emergency orders to 7 days, with the option to renew the orders up to 5 times.

The bill also prohibits requirements of COVID-19-vaccination documentation to access, enter, or receive service from businesses, governmental entities, and educational institution. The bill prohibits such entities from requiring Floridians to provide proof of vaccination or post-infection recovery from COVID-19 but does not restrict the use of screening protocols.

Finally, the bill includes several provisions to better address the financial strain that emergencies place on state and local government. Specifically the bill,

- Provides legislative intent that during an emergency, spending will first come from funds specifically appropriated to state and local agencies for disaster relief.
- Provides that the second recourse for funding is the newly created Emergency Response Fund.
- Provides that if additional funds are needed during an emergency beyond what is already appropriated in the new Emergency Response Trust Fund, the Governor can request additional funds by submitting a budget amendment through the LBC, requesting more funds in the Trust Fund.

These provisions take effect July 1, 2021, except where otherwise provided. (Chapter 2021-8, L.O.F.)  
Vote: Senate 23-15; House 78-36

## Senate Bill 2512 Documentary Stamp Tax Distributions by Appropriations Committee

SB 2512 conforms statutes to the funding decisions related to Documentary Stamp Distributions in the General Appropriations Act (GAA) for Fiscal Year 2021-2022. The bill:

- Revises the Documentary Stamp Tax distributions of the remainder after distributions are made to the Land Acquisition Trust Fund, Department of Revenue Administration cost, and the General Revenue Service Charge by:
  - Adding a distribution of 5.4175 percent of the remainder to the newly created Resilient Florida Trust Fund to be used for the new Resilient Florida Program.
  - Adding a distribution of 5.4175 percent of the remainder to the Water Sustainability and Accountability Program Trust Fund to be used for the wastewater grant program provided in s. 403.0673, F.S.
  - Amending the distributions made to the State Housing Trust Fund and Local Government Housing Trust Fund to 9.70254 percent of the remainder. Also, prevents funds distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund from being transferred to General Revenue.
- Amends the use of the Water Protection and Sustainability Program Trust Fund to authorize the fund to be used for the wastewater grant program.
- Makes other technical adjustments to clean up the subsection.
- Is linked to Resilient Florida Trust Fund bill (SB 2514) and Statewide Flooding and Sea-Level Rise Resilience (SB 1954)

If approved by the Governor, these provisions take effect on July 1, 2021, only if SB 1954 or similar legislation and SB 2514 or similar legislation are adopted in this legislative session and become law.

Vote: Senate 25-14; House 78-38

## Senate Bill 2514 Resilient Florida Trust Fund by Appropriations Committee

SB 2514 conforms statutes to the funding decisions related to the Resilient Florida Trust Fund in the General Appropriations Act (GAA) for Fiscal Year 2021-2022. The bill:

- Creates the Resilient Florida Trust Fund within the Department of Environmental Protection and provides that the trust fund is established as a depository for documentary stamp revenues dedicated to resiliency projects as provided for in SB 2512.

If approved by the Governor, these provisions take effect on the same date as SB 1954 or similar legislation takes effect, if such legislation is adopted in this legislative session.

Vote: Senate 40-0; House 118-0

## House Bill 7061 Taxation by Rep. Payne

The bill contains provisions for tax relief, changes to tax policy, and changes to tax administration.

### Sales Tax

- The bill provides a 10-day "back-to-school" tax holiday from July 31, 2021, through August 9, 2021, for certain clothing, school supplies, and personal computers.

- The bill provides a 10-day "disaster preparedness" tax holiday from May 28, 2021, through June 6, 2021, for specified disaster items.
- The bill provides a 7-day "recreation" tax holiday from July 1, 2021, through July 7, 2021, for admissions to certain events and purchases of sports equipment, outdoor supplies and items, boating and water activities supplies, camping supplies, and fishing supplies.
- The bill creates a sales tax exemption for independent living items, exempting grab bars, bed transfer handles, bed rails, and shower seats.
- The bill allows businesses to pay sales tax on behalf of their customers.
- The bill extends the date from 2022 to 2027 in which a data center may qualify to receive an exemption certificate that allows the owner or tenants of a data center to purchase certain personal property or electricity exempt from sales tax.

### **Ad Valorem Tax**

- The bill increases the discount for multi-unit property used for affordable housing from 50 percent to 100 percent.
- The bill clarifies the property tax treatment of property damaged by calamity or disaster.
- The bill provides two situations when title to homestead property may change without the property being reassessed at just value.
- The bill provides property tax exemptions for certain property used for educational purposes.
- The bill clarifies the tax treatment of property that is partially exempt.
- The bill implements HJR 1377 (SJR 1182) related to flood mitigation by providing an assessment limitation for properties that are voluntarily elevated. These provisions become effective if HJR 1377 is approved by the electors at the general election in November of 2022.
- The bill repeals charitable hospital reporting requirements.

### **Corporate Income Tax**

- The bill creates a corporate tax credit program for businesses that hire student interns. The program is only for Fiscal Years 2021-2022 and 2022-2023 and is capped at \$2.5 million for each fiscal year.
- The bill increases the credits available to corporations that clean contaminated property in Florida by \$17.5 million for Fiscal Year 21-22.

### **Documentary Stamp Tax**

- The bill provides a documentary stamp tax exemption for documents that must be updated with a new interest rate index.

### **Various Taxes**

- The bill creates a tax credit program for businesses contributing to charities that provide counseling for families. The program is capped at \$5.0 million per fiscal year.
- The bill repeals the Sports Development Program.
- The bill increases the distribution of cigarette tax revenues to the H. Lee Moffitt Cancer Center and Research Institute from 4.04 percent to 7 percent beginning July 1, 2021. Beginning July 1, 2024, the distribution increases to 10 percent.

## Tax Administration

- The bill requires the Department of Revenue to use the prior year's tax rate on titanium dioxide in the event the index upon which the tax rate is calculated is unavailable.
- The bill removes penalties for persons who choose to pay their property taxes in installments, but fail to pay the first installment timely.
- The bill provides a process for freight forwarding companies to document exempt sales for export.
- The bill allows collection periods to be aggregated when determining the severity of offense committed by a person who fails to remit taxes.
- The bill requires dealers who maintain their records in an electronic format to provide them electronically when under audit.

If approved by the Governor, these provisions take effect July 1, 2021, except as otherwise provided in the act.

Vote: Senate 40-0; House 117-1









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