



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: June 18, 2019

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Bills with Significant Impact to Cities

Background: I've asked the City Attorney to brief the Council on the legislative changes that may impact the City. Attached is the Florida League of Cities' memorandum regarding bills adopted this session affecting cities.

Staff Recommendation: None at this time

Suggested Motion: None

Alternatives: N/A

Fiscal Impact: TBD

Attachments: FLC Memo



Memorandum

TO: City Attorneys, City Managers, City Finance Officers

FROM: David Cruz, Legislative Counsel
Rebecca O'Hara, Deputy General Counsel
Kraig Conn, General Counsel

SUBJ: Bills with Significant Impacts to Cities
(Many Effective on July 1, 2019 or before)

DATE: May 23, 2019

The following are just some of the bills passed by the Legislature that have an impact on municipal operations. However, these bills will have an immediate fiscal, practice or policy impact on your city, with many becoming effective upon becoming law (signed by the Governor) or on July 1, 2019. Therefore, these bills will have an impact mid-fiscal year and will likely require your city to take some form of immediate action.

You can link to the bills and to several additional summaries from this document. To obtain a copy of a bill passed by the Legislature, copy only the ENROLLED version of the bill, which is typically identified as the "ER" version (disregard all other versions of the bill). The bill's legislative history will indicate what action the Governor has taken on the bill.

Firefighters / Benefits for Firefighters with Cancer **[CS/CS/SB 426](#)** **Chapter 2019-21, Laws of Florida**

The law provides various benefits to qualifying full-time employed (and post-employed) firefighters who receive a diagnosis of certain specified cancers. (The law does not apply to volunteer firefighters.) The definitions and standards applicable to each benefit must be reviewed closely to determine when a particular benefit must be provided. A detailed summary of the law is available by clicking on this link: [CS/CS/SB 426 Summary](#). Unlike prior "presumption" laws (e.g. heart disease, hypertension) with application mainly for workers' compensation benefits, the law creates a new section 112.1816, Florida Statutes, and provides two new employer-funded benefits as an alternative to workers' compensation benefits and enhances existing disability and death benefits for firefighters. The new benefits become effective on July 1, 2019.

In broad summary, a firefighter meeting the conditions under the law will be entitled to:

- Cancer treatment covered within an employer-sponsored health plan or through a group health insurance trust fund
- Reimbursement by the employer of any out-of-pocket deductible, copayment, or coinsurance costs incurred due to the treatment of cancer
- A one-time cash payout of \$25,000 upon the initial diagnosis of cancer
- In the line of duty disability retirement plan benefits (this benefit must be provided by the employer even if the firefighter does not participate in an employer-sponsored retirement plan)
- In the line of duty death benefit under the retirement plan (this benefit must be provided by the employer even if the firefighter does not participate in an employer-sponsored retirement plan)
- Death benefit under section 112.191(2)(a), Florida Statutes.

The law may have an immediate fiscal impact on local governments, and each local government should make plans to provide the various benefits prior to the July 1, 2019 effective date.

The law also requires the Division of State Fire Marshal within the Florida Department of Financial Services to adopt rules to establish employer cancer prevention best practices as it relates to personal protection equipment, decontamination, fire suppression apparatus, and fire stations.

Effective date: July 1, 2019.

Attorney Fees and Costs / Preemption Litigation **[CS/CS/CS/HB 829](#)**

The bill creates a new section of law providing for a mandatory award of attorney fees, costs and damages to the prevailing party in a civil action where the adoption or enforcement of a local government ordinance is alleged to have been expressly preempted by the state Constitution or by state law. Fees may not be awarded if written notice is provided to the local government that a proposed or adopted ordinance may be expressly preempted and the local government withdraws a proposed ordinance within 30 days of receipt of the notice or, in the case of an adopted ordinance, notices the ordinance for repeal within 30 days of receipt of the notice and repeals the ordinance within 30 days thereafter. The bill is prospective in nature and applies only to cases commenced on or after July 1, 2019. In addition, it exempts ordinances adopted pursuant to part II of chapter 163, s. 553.73, or s. 633.202. Finally, the bill provides that a county or municipality may continue to enforce a regulation, moratorium or policy adopted before February 1, 2019, relating to the land application of Class B biosolids until it is repealed or until the effective date of rules adopted by the Florida Department of Environmental Protection, whichever occurs first.

Effective date: July 1, 2019.

Local Government Financial Reporting and Website Posting **HB 861**

The bill requires municipal and county budget officers to report certain information regarding the local government's budget and economic status to the Office of Economic and Demographic Research annually in a format specified by the Office. The reporting begins October 15, 2019 and includes:

1. Government spending per resident, including, at a minimum, the spending per resident for the previous 5 fiscal years.
2. Government debt per resident, including, at a minimum, the debt per resident for the previous 5 fiscal years.
3. Median income within the municipality (or county).
4. The average municipal (or county) employee salary.
5. Percent of budget spent on salaries and benefits for municipal (or county) employees.
6. Number of special taxing districts, wholly or partially, within the municipality (or county).

The bill also requires city and county tentative budgets to remain on the website for at least 45 days and for the final budget to remain on the website for at least 2 years.

Effective date: Upon becoming law.

Impact Fees **CS/HB 207**

The bill prohibits any local government from requiring payment of impact fees any time prior to issuing a building permit. It codifies the requirement for impact fees to bear a rational nexus both to the need for additional capital facilities and to the expenditure of funds collected and to the benefits accruing to the new construction (the "dual rational nexus test"). The bill requires local governments to designate the funds collected by the impact fees for acquiring, constructing, or improving the capital facilities to benefit the new users. It prohibits impact fees collected by a local government from being used to pay existing debt or to pay for prior approved projects unless such expenditure has a rational nexus to the impact generated by the new construction. Fees charged for water and sewer system connections are excluded from the bill's requirements.

Effective date: July 1, 2019.

Community Planning, Land Development Regulations, and Affordable Housing **CS/CS/HB 7103**

The bill addresses land use and property development relating to inclusionary housing ordinances, the timing of development approvals, impact fees, and private providers of building inspection services. It maintains the authority of local governments to adopt and enforce inclusionary zoning ordinances but requires a local government to provide incentives to fully offset the costs to the developer of its affordable housing contribution. Incentives may include, but are not limited to, density or intensity bonuses or reduced/waived fees. In addition, the bill requires a local government, upon receiving an application for approval of a development order or permit, to

review the application for completeness within 30 days. An applicant will have an additional 30 days to address deficiencies in the application, if identified by the local government. A local government then has 120 days to approve, approve with conditions, or deny the application. For applications requiring final action through a quasi-judicial or public hearing, a local government would have 180 days to approve, approve with conditions, or deny the application. The parties may agree to extend these time frames.

The bill addresses the effect of development orders in newly incorporated municipalities by specifying that all land development regulations adopted to implement a comprehensive plan adopted after January 2019 must incorporate each development order existing before the plan's effective date and must vest the density and intensity approved by the development order. The bill specifies that school proportionate-share mitigation credit shall be based on the total impact fee assessed and not on the impact fee for any type of school. It codifies the dual-rational nexus test for determining the legal validity of impact fees and provides the impact fee may not be collected earlier than the date of issuance of the building permit. It specifies the local government must credit against the collection of the impact fee any contribution related to school facilities on a dollar-for-dollar basis. It further specifies that if a local government increases its impact fee rates, the holder of any impact fee credits that were in existence before the increase, is entitled to the full benefit of the intensity or density prepaid by the credit balance as of the date it was first established. It authorizes a local government to waive impact fees for the development of affordable housing and specifies that a local government is not required to use any revenues to offset the impact.

The bill authorizes parties to a development order challenge to use summary proceedings under section 51.011, F.S., and provides that a prevailing party in a challenge to a development order is entitled to recover attorney fees and costs. The bill revises current law regarding the tolling and extension of permits and other authorizations to provide that time is extended only during declared states of emergency for natural (i.e. weather-related) emergencies. The bill expands the scope of work for private providers who review site plans and inspect buildings. It prohibits local governments from charging fees for inspections if a private provider is used but authorizes a local government to charge a reasonable administrative fee when a private provider is used. It reduces the time from 30 business days to 20 business days for building departments to review permit applications when a private provider approves the plans. It limits a local government's authority to audit a private provider to four times annually and prohibits a building official from replicating the plan reviews of inspections done by a private provider. The bill extends the date for condominium associations (not timeshare condo associations) that are part of a high-rise residential building to retrofit either a fire sprinkler system or an engineered life safety system from January 2020 to January 2024.

Effective date: July 1, 2019.

Private Property Rights / Tree Trimming Ordinances **[CS/HB 1159](#)**

The bill imposes restrictions on the enforcement of local government tree ordinances and imposes notice requirements on county property appraisers. HB 1159 provides that a local government may

not enforce its tree requirements against a residential property owner for the trimming or removal of a tree if the owner obtains documentation from a certified arborist or a licensed landscape architect that the tree presents a danger to persons or property. The bill specifically prohibits a local government from requiring the property owner to replant a tree that was removed under such circumstances. The bill does not affect authority delegated under the state's mangrove protection laws. The bill allows a property owner adjacent to an electric utility right-of-way to request the electric utility perform tree trimming in the right-of-way without local government approval. The bill requires each county property appraiser office to post on its website a "property owner bill of rights" to identify certain existing rights afforded to property owners, including the following: the right to acquire, possess, and protect property; the right to use and enjoy property; the right to exclude others from property; the right to dispose of property; the right to due process; the right to just compensation when property is taken for public purpose; and the right to

relief when a government action "unfairly affects" property. The bill specifies the required contents for the bill of rights and specifies the bill of rights does not create a civil cause of action.

Effective date: July 1, 2019.

Communications Services **CS/CS/CS/SB 1000**

The bill makes extensive changes to section 337.401, Florida Statutes, which governs the use of public rights-of-way by providers of communications services, including provisions on small wireless infrastructure. Current law contains a statement of legislative intent that local governments treat providers of communications services in a nondiscriminatory and competitively neutral manner. In direct contrast to this "nondiscrimination language," the bill requires local governments to consider factors, such as distinct engineering, or construction and operation considerations, when imposing rules or regulations on the placement or maintenance of communications facilities in right-of-way. In addition, the bill eliminates many provisions of the Advanced Wireless Infrastructure Deployment Act of 2017 and modifies several definitions, including the definitions of "application," "applicable codes", "wireless infrastructure provider," and "wireless support structure."

The definition of "application" now includes both a permit to collocate small wireless facilities and a request to place a new utility pole to support a small wireless facility. The definition of "applicable codes" removes reference to "objective design standards." The bill creates a new subsection 377.401(7)(r), which provides that local governments may require providers comply with objective design standards established by ordinance and modifies the standards to address both small wireless facilities and new utility poles. The definition of "applicable codes" also includes reference to the National Electrical Safety Code and the 2017 edition of the FDOT-Utility Accommodation Manual.

Under the 2017 law, the installation of a new utility pole in the rights-of-way to support a small wireless facility was subject to certain spacing, height and permit application review timeframes, but a local government was authorized to otherwise apply its "rules and regulations governing the placement of utility poles in the rights of way." The bill deletes this language. In addition, the bill

requires a local government to treat a permit application to locate a new utility pole in the right-of-way the same as a permit application to collocate a small wireless facility onto an existing utility pole (this includes the “shot clock” timeframe for permit approvals and other prohibitions and limitations applicable to review of collocation of small wireless facilities). The bill prohibits a local government from instituting a moratorium, either expressly or de facto, that would delay the filing or processing of registrations, or issuance of permits or other approvals for the collocation of small wireless facilities or installation of utility poles.

Current law prohibits a local government from requiring the placement of small wireless facilities on any specific pole. The bill adds to this prohibition, and specifies a local government may not:

- Require a demonstration that collocation on an existing structure is not legally or technically possible as a condition for granting a permit;
- Require, in a right-of-way controlled by FDOT, compliance with local government rules and regulations absent a delegation from FDOT;
- Require a meeting before filing an application;
- Require direct or indirect public notification or a public meeting before placement of the facilities in the right-of-way;
- Limit the size or configuration of a small wireless facility;
- Prohibit installation of a new pole to support collocation if the installation otherwise meets the requirements of the law; or
- Require that any component of a small wireless facility be placed underground, except as provided in the law.

The bill eliminates the ability of local governments to require performance bonds or security funds from providers. It allows local governments to require a construction bond limited to no more than 18 months after the construction is completed. Also, the bill prohibits a local government from requiring a provider to indemnify it for liabilities not caused by the provider.

Current law requires that a provider comply with a local government’s nondiscriminatory undergrounding requirements that prohibit above-ground structures in the right-of-way. The bill specifies conditions under which a local government may prohibit the placement of new poles used to support small wireless facilities in areas where the local government has required undergrounding. A local government may prohibit the placement of new poles if: the undergrounding requirements were in place at least 90 days prior to the permit application; structures that are allowed to remain above ground are reasonably available to providers for the collocation of small wireless facilities; and the provider is allowed to install a new pole in a designated area of the right-of-way that complies with these requirements, provided it is not reasonably able to provide the service by collocating on any remaining utility pole or other structure in the right-of-way. If small wireless facilities were installed prior to the local government’s adoption of undergrounding requirements, the local government must allow the facilities to remain in place or allow the provider to replace the associated pole within 50 feet of the prior location.

In addition, the bill prohibits a local government from requiring wireless providers to submit certain information, such as an inventory of communications facilities, maps, locations of such facilities or other information, as a condition of registration, renewal or for any other purpose. It

authorizes a local government to require, as part of a permit application, that the applicant identify ground-level communications facilities within 50 feet of the proposed installation location for the placement of at-grade communications facilities. The bill also prohibits requiring a wireless provider to pay any fee, cost or other charge for registration or renewal; adoption or enforcement of any ordinances, regulations or requirements as to the placement or operation of communications facilities in a right-of-way by a communications services provider; or imposition or collection of any tax or charge for providing communications services over the communications services provider's communications facilities in a right-of-way.

The bill creates a cause of action for any person aggrieved by a violation of section 337.401. A party may bring a civil action in a U.S. district court or any other court of competent jurisdiction, and the court may grant temporary or permanent injunctions to prevent or restrain violations and direct the recovery of full costs, including the award of reasonable attorney fees.

Effective date: July 1, 2019.

Posting Building Permit Fees to Website **[CS/HB 127](#)**

The bill requires the governing bodies of counties and municipalities to post permit and inspection fee schedules and building permit and section utilization reports on their websites by December 31, 2020. The information in the report must be derived from relevant information available in the most recently completed financial audit. After December 31, 2020, a local government that provides a schedule of fees must update its building permit and inspection utilization report before adjusting the fee schedule. The report must include the following information:

- Direct and indirect costs incurred by the local government to enforce the Florida Building Code, including costs related to personnel services costs (including salary and related employee benefit costs), and operating expenditures and expenses;
- Permit and inspection utilization information, including:
 - Number of building permit applications submitted.
 - Number of building permit permits issued or approved.
 - Number of building inspections and reinspections requested.
 - Number of building inspections and reinspections conducted.
 - Number of building inspections conducted by a private provider.
 - Number of building audits provided by the local government of the building inspections conducted by a private provider.
 - Number of positions dedicated by the local government to enforce the Florida Building Code, issue building permits, and conduct inspections.
 - Certain other permissible activities for enforcing the Florida Building Code.
- Revenue information, including revenue derived from certain fees, fines, investment earnings from investment of revenue derived from fees and fines, balances carried forward and balances refunded by the local government, and revenue derived from other sources, including general revenue.

Effective date: July 1, 2019.

Vegetable Gardens

[CS/SB 82](#)

The bill preempts any local ordinance or regulation of vegetable gardens on residential property. While local governments would be preempted from prohibiting vegetable gardens, the bill allows for local ordinances to regulate the use of water during droughts, fertilizer use, or invasive species control. The bill does not apply to homeowner's association regulations or deed-restricted communities.

Effective date: July 1, 2019.

Building Permits / Expired Permits

[CS/CS/HB 447](#)

The bill addresses a variety of issues relating to the Florida Building Code and building permits. It allows the Florida Building Commission to approve updates to the Florida Building Code every three years. The bill creates a process, at the discretion of a local government, for it to send notice to the owner or contractor listed on a building permit that a permit is about to expire. It expands current exemptions from the requirement to use a licensed contractor where the contractor listed on the permit substantially completed the project as determined by the local permitting agency for a one-family or two-family residence, townhome, or individual residential condominium or cooperative unit, under specified conditions. The bill specifies processes by which a property owner may close a building permit and clarifies that a building department may close a permit six years after the permit is issued instead of six years after the permit expires. The bill prohibits a local government from penalizing a purchaser of property solely because a previous owner failed to close a building permit. It prohibits a local government from denying a contractor a permit solely because the contractor has expired building permits. The bill provides that a contractor who takes over a job from previous contractor is not liable for previous contractor's defects. The bill provides that a local government may charge a person only one search fee, commensurate with the research and time costs incurred by the local government, for identifying a building permit for each unit or subunit assigned by the local government to a parcel. The bill also prohibits a local government from carrying forward an amount exceeding the average of its operating budget for enforcing the Code for the preceding four fiscal years (excluding reserves). The local government must use any excess funds that it is prohibited from carrying forward to rebate and reduce building permit fees.

Effective date: October 1, 2019.

Community Redevelopment Agencies

[CS/HB 9](#)

The bill increases audit, ethics, reporting and accountability measures for community redevelopment agencies (CRAs). The bill requires CRAs to annually submit additional reporting information to the state, including performance data for each CRA plan, number of projects started, total number of projects completed, commercial property vacancy rates, and amount expended on affordable housing. The bill requires CRA procurement to comport with the city or county procurement procedures that created the CRA. The bill provides that a CRA that has no financial activity for six consecutive years may be declared inactive by the Department of Economic

Opportunity. The bill provides that a CRA in existence on October 1, 2019, shall terminate on the expiration date provided in its charter or on September 30, 2039, whichever is earlier, unless the city or county that created the CRA approves its continued existence by a majority vote. It requires monies in a CRA trust fund be expended only pursuant to an annual budget adopted by the CRA board and requires the budget for a CRA created by a municipality to be submitted annually to the county commission within 10 days of adoption of the budget. Beginning October 1, 2019, CRA monies may be expended only for undertakings of the CRA as described in the community redevelopment plan pursuant to an adopted annual budget and for the purposes specifically authorized in current law. The bill authorizes the city or county that created the CRA to determine the amount of tax increment financing available to the CRA and set the level of funding at any amount between 50 percent and 95 percent of the increment (only Miami-Dade County has this authority under current law).

Effective Date: October 1, 2019.

Micromobility Devices

[CS/CS/HB 453](#)

The bill establishes a regulatory framework for authorizing the operation of micromobility devices and motorized scooters. It defines “micromobility device” and revises the definition of “motorized scooter.” It grants certain rights and requires certain duties to the operator of a micromobility device or motorized scooter that are the same as those as a bicycle rider. The bill specifies that a local government is not prohibited from regulating the operation of micromobility devices or motorized scooters on streets, highways, or sidewalks within their jurisdictions. It allows the operation of such devices without a driver license. The bill excludes such devices from compliance with vehicle registration, licensing, and insurance requirements; equipment requirements for slow-moving vehicles; and motor vehicle provisions relating to licensing and license-plate display. Finally, the bill requires a person who offers such devices for hire to secure all such devices located in any area of the state where an active tropical storm or hurricane warning has been issued.

Effective date: Upon becoming law.