



## Session 2023 - Week 4 Report

Enclosed is our 2023 Session week 4 report which includes the latest update important legislative issues. As we move through Session and issues arise, we will include those in our weekly reports as well. Please let us know if you have questions on issues included in this report, or on any other issue of concern.

### ➤ Legislative Issues:

**Housing:** SB 102 has passed and was signed into law by the Governor-Chapter No. [2023-17](#)

**School Choice/Universal Voucher:** HB 1 has passed and has been signed into law-Chapter No. [2023-16](#)

**Civil Remedies:** HB 837 has passed and has been signed into law by the Governor-Chapter No. [2023-15](#)

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**Agricultural Property** (SB 1678/HB 1529)

**Agricultural Lands** (SB 1184/HB 1343)

**Palm Beach County/Creates Village of Loxahatchee** (HB 1113)

**Local Regulation of Nonconforming or Unsafe Structures:** (HB 1317)

**Solid Waste Management** (HB 975)

**Sovereign Immunity:** (SB 604/HB 401)

**Recall of County Officers and Commissioners:** (SJR 1066/HJR 131)

**Financial Disclosure for Elected Officials:** (SB 774/HB 37)

**Local Ordinances/Business Impact Estimate:** (SB 170/HB 1515)

**Homestead Exemptions for Persons Age 65 and Older:** (SB 124/HB 161)

**Homestead Assessments:** (SB 120/HB 471)

**Vacation Rentals:** (SB 714/HB 833)

**Public Nuisance** (SB 994/HB 269)

**Careless Driving / The Anthony Reznik Act:** (SB 544) has not been heard.

**Municipal Utilities:** (HB 1331/SB 1380)

**Land Use and Development Regulations:** (HB 439/SB 1604)

**Land and Water Management:** (SB 1240/HB 1197) has not been heard.

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**Agricultural Property:** (SB 1678/HB 1529) Filed by Senator Calatayud and Representative Roth, this bill authorizes property to be classified as agricultural property at the time of purchase if the following conditions are met:

- The Department of Agriculture certifies that the purchaser owns an agriculture business in this state, that such business has been in operation for at least 5 years, and that such business is located on land that has received an agricultural classification under this section.
- The Department of Agriculture certifies that the purchaser has completed all recommended training and certification programs, including best management practices.
- The property is zoned for agricultural use.
- The purchaser submits a site plan, including a building construction plan.
- The purchaser completes the application for agricultural classification.

The bill further specifies that it be obtained within 5 years and addresses retroactive classification.

Neither SB 1678 nor HB 1529 have been heard.

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**Agricultural Lands:** (SB 1184/HB 1343) Sponsored by Senator Collins and Representative Tuck, this bill would accomplish the following:

- Prohibits a county from levying any special assessment on lands classified as agricultural.
- Specifies that the construction or installation of housing for migrant farmworkers, who are legally eligible for participation in the workforce, is authorized on land zoned for agricultural use and operated as a bona fide farm.
- Prohibits a county or municipality from requiring the removal or relinquishment of an agricultural classification for land that is subject to a contract for sale that requires a development permit as a condition precedent of sale if the landowner notifies the county or municipality that the reclassification is requested as a condition precedent for a pending sale of the land. The agricultural classification for the land may not be removed or relinquished until the landowner notifies the county or municipality that the contract has closed, and the property has been conveyed to the contract purchaser.

SB 1184 has passed its first of three committees, and HB 1343 has passed its first of three committees.

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**Palm Beach County/Creates Village of Loxahatchee** (HB 1113 -a local bill) Would provide charter, require a referendum to create the Village of Loxahatchee, only upon its approval by a majority vote of those qualified electors residing within the proposed corporate limits of the proposed Village of Loxahatchee as described in section 4, voting in a referendum election to be called by the Palm Beach County Commission and to be held on November 7, 2023.

HB 1113 has not yet been heard.

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**Local Regulation of Nonconforming or Unsafe Structures:** (HB 1317) The House bill was up this week in its second committee hearing. A strike everything amendment was previously filed to the bill which had an even more detrimental affect on historically designated structures. In conjunction with City officials and staff, Diana Ferguson, Rutledge Ecenia and our firm, Ronald L. Book, P.A. met with the House sponsor Representative Roach several times, including this week, to express our opposition. Additionally, we offered language that would resolve the City's issues with this legislation. Our meetings included the City's legislators, Senator Garcia and Representative Basabe, and with Senator Avila's staff, wiht Senator Jones and Senator Rodriguez. The Sponsor committed to and did withdraw his amendment in committee, agreed to work with all who had come to him with concerns, and redraft his legislation to address these issues.

As stated in committee, the bill sponsor, Representative Roach, explained the intent of his bill is to apply to nonconforming buildings, buildings that are deemed unsafe by local government, and buildings that are ordered to be demolished by a local government. Those three categories only, giving locals as much control as possible. He further stated that the intent is that replacement buildings would still have to follow local requirements when building new structures. He voiced his commitment to bring back a more clear iteration of the legislation in the next committee hearing.

After the withdrawal of the amendment, the House and Senate bill are still largely identical. The legislation would create the "Resiliency and Safe Structures Act," which provides that:

- A “nonconforming structure” means a structure located in a coastal high-hazard area according to a Flood Insurance Rate Map issued by the Federal Emergency Management Agency which does not conform to the requirements for new construction issued by the National Flood Insurance Program.
- A local government may not prohibit, restrict, or prevent the demolition of any nonconforming structures, any structure determined to be unsafe by a local building official, or any structure ordered to be demolished by a local government for any reason other than public safety, unless the structure is a single-family home or individually listed on the National Register of Historic Places.
- A local government may not impose or enforce any limitation or condition on the approval of a replacement structure including a requirement for replication of the demolished structure, a limitation on the size or height of the replacement structure, or the maintenance of any of the demolished structure's elements.
- A local government may not in any way limit the demolition of structures and buildings to which the act is applicable or limit the development of a replacement structure in a way that would divest property owners or developers of land use, zoning, or other land development rights for demolishing a structure in accordance with the bill.

HB 1317 has passed two of its three committees.

SB 1346 will be heard next week on 4/4 in the Environment and Natural Resources committee.

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**Solid Waste Management (HB 975)** the House bill was amended in committee and would now provide for the following:

- The bill would prevent municipalities or counties from prohibiting private entities from providing recycling or solid waste management services to commercial, industrial, or multifamily residential properties, including condominiums, within the municipality or county.
- A municipality or county can require the private entity to obtain a permit, license, or nonexclusive franchise equivalent, but the permit, license or nonexclusive franchise equivalent may not cost more than the administrative cost to issue the permit, license, or nonexclusive franchise equivalent.
- The bill requires a county or municipality to change a uniform franchise fee to all permit, license, or nonexclusive franchise equivalent holders. Contracts or franchises in place as of January 1, 2023, will be recognized and protected until the contract expires. A municipality or county may recognize a renewal option on an existing contract during 2023, but may not recognize an evergreen contract or an additional renewal or extension of a contract.
- For the duration of any existing contract (including any authorized renewal period), a municipality or county may charge a franchise fee in excess of administrative costs, as long that franchise fee is uniform among all service providers.
- The provisions of the bill do not apply to a municipality or county that is the sole provider of solid waste collection services in its jurisdiction performed by employees of municipality or county using municipal or county-owned equipment.

HB 975 has been heard in one of its three committees. SB798 has not been heard.

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**Sovereign Immunity: (SB 604/HB 401)** This bill would substantially raise the sovereign immunity caps for damages against state and local government entities and restructure the process by which claims are addressed. This would place an undue burden on large and small local governments alike. As such, the status of the bill to date is this: HB 401 passed its first committee in early February and has not moved to date, SB 604 has not yet been heard. However, we continue to voice opposition throughout the Session.

The bill would allow for the following:

- Amend s. 768.28, F.S., to increase the caps for tort damages against the state, its agencies, and its subdivisions from \$200,000 to \$2,500,000 per person, and from \$300,000 to \$5,000,000 per incident.
- Allow a subdivision of the state to settle a claim and pay the settled amount without the need for a claim bill.
- Eliminate any statute of limitations for filing a claim against a state or local government entity for sexual battery actions involving a victim who was younger than 16 years old at the time of the incident. However, the bill does not resuscitate any such claim which would have been time-barred as of July 1, 2010.
- Increase the time limitation for filing a claim from three years to four years after the claim accrues.
- Reduce from six months to three months the general pre-suit statutory time period for a government entity to review and dispose of a claim.

HB 401 passed its first committee, was scheduled in its second committee on 3/15, but was temporarily postponed; SB 604 has not yet been heard. It appears that the cap amounts are still being discussed as members attempt to come to an agreement. The bills have continued to remain stalled. We continue to voice opposition to this legislation with House and Senate leadership.

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**Recall of County Officers and Commissioners:** (SJR 1066/HJR 131) Senate and House joint resolutions sponsored by Senator Collins and Representative Rudman that proposes an amendment to the State Constitution to authorize the Legislature to provide by general law for the recall of County officers and Commissioners.

SJR 1066 will be heard in its second committee on 4/5. HJR 131 is now ready for the full House.

**SB 209** would implement HJR 131/SJR 1066 to authorize the Legislature to provide for the recall of County officers and commissioners. SB 209 has passed its 3 committee references.

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**Financial Disclosure for Elected Officials:** (SB 774/HB 37) The bill would require mayors, elected members of the governing body of a municipality, and county or municipal managers to begin filing the CE Form 6 annual disclosure starting January 1, 2024. Current law requires that these officials file only the limited disclosure of financial interests, Form 1.

SB 774 has passed both committees and is ready for the Senate, HB 37 has passed two of three committees of reference.

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**Local Ordinances/Business Impact Estimate:** (SB 170/HB 1515) The bill requires counties and cities to produce a “business impact estimate” prior to passing an ordinance, with exceptions. The estimate must be published on the local government’s website and include certain information, such as the proposed ordinance’s purpose, estimated economic impact on businesses, and compliance costs. Additionally, the bill imposes conditions on lawsuits brought by any party to challenge the legal validity of local ordinances as preempted by state law, arbitrary, or unreasonable. In these cases, the bill would require the following:

- Require the local government to suspend enforcement of an ordinance of such legal challenge, under certain circumstances.
- Require the court to give those cases in which enforcement of the ordinance is suspended priority over other pending cases and render a preliminary or final decision as expeditiously as possible.

- Provide that a court may award up to \$50,000 in attorney fees to a prevailing plaintiff who successfully challenges an ordinance as arbitrary or unreasonable.
- The bill also provides that properly noticed consideration of a proposed ordinance may be continued to a subsequent meeting under certain circumstances without further publication, mailing, or posted notice.

SB 170 has passed the full Senate, HB 1515 has passed all committees and is available to be heard by the full House.

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**Homestead Exemptions for Persons Age 65 and Older:** (SB 124/HB 161) this bill would increase the just value limit of real estate eligible for the homestead tax exemption that may be adopted by counties or municipalities for certain persons age 65 and older if SJR 126, HJR 159 or a similar constitutional amendment is approved by the voters at the next general election or at an earlier special election specifically authorized by law. It proposes to raise the eligible real estate value for the optional full homestead exemption on long-term, low-income seniors from \$250,000 to \$300,000. All of these bills have moved through their first committees but were not heard this week.

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**Homestead Assessments:** (SB 120/HB 471) This proposes a reduction to the Save Our Homes cap of 3%, established in 1994. This would lower the state's cap on annual increases to the assessed value of properties receiving homestead exemptions from 3% to 2%. This would need to pass in conjunction with the proposed companion joint resolution, SJR 122 and HJR 469, the constitutional amendment language which would be on the ballot in the next general election or at an earlier special election specifically authorized by law.

Both SB 120 and HB 471 have passed their first committees but were not heard this week.

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**Vacation Rentals:** (SB 714/HB 833) This version of the vacation rental legislation caps a local government registration fee of up to \$50 for an individual and \$100 for a collective vacation rental registration. Allows for fines for non-registration, parking and garbage requirements for all areas, not only the VR. Requires local governments to accept or deny a registration application in 15 days, and allows for "grandfathered" local laws adopted on or before June 1, 2011.

SB 714 has passed its first committee but was not heard this week. HB 833 passed its first committee.

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**Public Nuisance** (SB 994/HB 269) Among many threatening actions, this bill would prohibit the distribution of materials that involves religious or ethnic intimidation, threat, or intent to harm, to desecrate or destroy any religious cemetery, gravesite, or grave marker, including any Holocaust memorial of any type, school or community center, public or private property, and various other heinous acts detailed in the legislation. The bill was amended to reflect the following:

- Revises elements of new offenses relating to littering, harassment, and criminal mischief, including damaging any cemetery, grave, or memorial or any school or community center, unlawfully projecting images on buildings. It also revises the current offense relating to disturbing a school or place of worship to increase the penalty from a second degree misdemeanor to a first degree misdemeanor. Some offenses require evidence of religious or ethnic animus.

- Creates s. 810.098, F.S., which provides it is a first degree misdemeanor for a person to trespass on the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person, and the person is warned to depart and refuses to do so.
- Specifies what constitutes prima facie evidence for purpose of hate crimes penalty reclassification.
- Requires hate-crime reporting.
- Changes effective date from October 1, 2023 to upon becoming a law.

SB 994 passed its first committee as amended. HB 269 has passed its three committees and would next be heard by the House.

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**Careless Driving / The Anthony Reznik Act:** (SB 544) This bill would revise the definition of aggressive careless driving and would provide penalties for a number of violations outlined in the bill. However, there is no House companion bill filed and has not been heard in committee to date.

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**Municipal Utilities:** (HB 1331/SB 1380) The bill places limits on the portion of municipal utility revenues that may be used to fund or finance a municipality's non-utility related general government functions. In doing so, the bill limits the rate of transfer for municipal electric, natural gas, and water or wastewater utilities. Under the bill, the greater the proportion of customers outside of the city boundaries that a municipal utility serves, the lower the cap is on transfers.

However, if a municipal utility is governed by a utility authority board that, through the election of voting members from outside the municipal boundaries, provides for representation of retail customers located outside the municipal boundaries approximately proportionate to the percentage of such customers, then transfers of revenue are not subject to a reduced cap.

The bill removes a provision allowing water or sewer utilities to add, for consumers outside of its boundaries, a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries.

The bill changes the limit on the rates, fees, and charges such utility can impose on customers outside of municipal boundaries to no more than 25 percent above the total amount the municipal water or sewer utility charges customers within the municipal boundaries, provided rates for outside customers are set in a public hearing using the same methods as rates for other customers.

The bill limits the rates, fees, and charges that a municipal water or sewer utility that provides service to consumers within the boundaries of a separate municipality, using a water treatment plant or sewer treatment plant located within the boundaries of that separate municipality, by requiring that such charges are no more than the rates, fees, and charges imposed on consumers inside its own municipal boundaries.

HB 1331 has passed its first committee. SB 1380 will be heard on 4/4.

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**Land Use and Development Regulations:** (HB 439/SB 1604) The bill revises the Florida Land Use and Environmental Dispute Resolution Act (FLUEDRA) process to allow a negotiated settlement between a property owner and a local government to include the same types of relief that could be ordered by the special magistrate and provides that a special magistrate's recommendation or a negotiated settlement between the property owner and the local government may contain relief that would otherwise be inconsistent with the local government's comprehensive plan if the local government finds the relief is protects the public interest served by the comprehensive plan provisions with which it is inconsistent.

The bill makes a number of changes to statutes relating to comprehensive planning, including:

- Revising definitions and data sources that are used in consideration of the comprehensive plan and plan amendments
- Increasing the length of required planning period to 10 years and 20 years
- Removing a list of indicators, a local government must consider relating to urban sprawl, instead requiring local governments to discourage urban sprawl by more effectively planning for future growth
- Revising the comprehensive plan evaluation and appraisal process to ensure timely updates
- Requiring land development regulations adopted by a local government to establish minimum lot sizes consistent with the maximum density authorized by the comprehensive plan and to provide standards for infill residential development and
- Prohibits a local government from requiring building design elements for certain residential structures in planned unit developments, master planned communities, or communities with a design review board or architectural review board created on or after January 1, 2020.

HB 439 has passed one of three committees and SB 1604 will be heard in its first committee on 4/5.

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**Land and Water Management:** (SB 1240/HB 1197) This bill creates s. 373.027 F.S. Water management preemption- to preempt the following to the State by stating the following:

- (1) A county or municipality may not adopt laws, regulations, rules, or policies relating to any of the following: (a) Water quality. (b) Water quantity. (c) Pollution control. (d) Pollutant discharge prevention or removal. (e) Wetlands, including any delineation.
- (2) The regulation of water quality, water quantity, pollution control, pollutant discharge prevention and removal, and wetlands, including any delineation, is exclusively preempted to the state.
- (3) This section does not: (a) Apply to an interagency or interlocal agreement between the department and any agency, water management district, or local government conducting programs relating to or materially affecting the water resources of the state. (b) Affect the authority of a county or municipality to regulate and operate its own water system, wastewater system, or stormwater system.
- (4) If the department determines that a county or municipality is in violation of this section, the department shall notify the Chief Financial Officer of the violation and the Chief Financial Officer shall withhold any state funds to which the county or municipality may be entitled.

Neither bill has been heard to date.

➤ **2023 Regular Legislative Session Dates: March 7 through May 5**