



Legislation Text

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Summary

To: Mayor & Commissioners
From: JP Murphy
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Subject:
2017 Legislative Report

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Legislative Report

The 2017 Legislative Session ended on May 8. A total of 3,052 bills were filed including 13 concurrent resolutions, 89 single chamber resolutions, 1,606 general bills, 70 local bills, 43 joint resolutions, 21 memorials and 1,210 appropriation projects. Of those, only 249 bills passed both chambers.

A full legislative report provided by the Florida League of Cities has been emailed to you. For the sake of brevity, the staff has excerpted a number of legislative changes that affect the town.

Expanded Homestead Exemption

HJR 7105 (House Ways and Means Committee) proposes an amendment to the state constitution to provide a homestead exemption, for all levies other than school district levies, on the assessed value of property greater than \$100,000 and up to \$125,000. This will have an estimated negative \$644 million impact on cities, counties and special districts. Effective January 1, 2019, if approved by 60 percent of voters at the November 2018 general election. (Hughes).

Town Impact: Early estimates by staff, place this annual loss of ad valorem revenue to be in excess of \$225,000 based on current values, if approved. The loss of this revenue, as well as the potential loss of the Penny for Pinellas, would amount to near \$700,000 reduction annually, which would require some combination of service cuts, capital deferral, and tax & fee increases to balance future budgets. In millage terms, \$700,000 is just a little over one mill of proceeds.

Implementation of New Homestead Exemption

HB 7107 (House Ways and Means Committee) implements the additional homestead exemption HJR 7105 by amending the dollar threshold in the statute to reflect the change in the constitution. Additionally, the bill provides that the rolled-back rate used by local governments in the fiscal year 2019-2020 must be calculated as if the tax base had not been reduced by the increased homestead exemption. Meaning, the value lost to the additional homestead exemption will be added back into the tax roll, and the calculated rolled-back rate will be artificially decreased. This provision also applies to the calculation of higher millage rates that may be levied with either a two-thirds or unanimous vote by a local governing board. The bill directs the Legislature to appropriate funds to offset ad valorem tax revenue losses in fiscally constrained counties, attributable to the reduction in the property tax base caused by the increased homestead exemption. Effective contingent upon voter approval of HJR 7105 (discussed above). Chapter No. 2017-35. (Hughes)

Town Impact: HJR 7105 & 7107 are linked together, If approved, the roll back rate calculation would assume revenues that were never collected for purposes of calculating the new millage rate. The effect is a misleading comparison of the prior year's collection versus the proposed assessment. It would likely require that any millage increases be approved by a supermajority of the commission.

Ad Valorem: Limitation on Property Tax Assessment

CS/HJR 21 (Burton) proposes an amendment to the state constitution to retain provisions adopted in 2008 that limit increases in assessments, except for school district levies, of certain non-homestead real property to 10 percent each year. The amendment removes the scheduled January 1, 2019, repeal of that provision. The bill provisions will take effect January 1, 2019, if approved by the electors at the November 2018 general election. (Hughes)

Wireless Communication Devices (5G Bill)

CS/CS/HB 687 (La Rosa) preempts local government control of taxpayer-owned rights of way for placement of “small” or “micro” wireless antennas and equipment. Among other various provisions, the bill bars local governments from prohibiting or regulating the placement of “small” or “micro” wireless facilities on or next to existing cellphone towers and utility poles within municipally owned rights of way. The bill requires a local government to approve or deny an application for a permit to collocate small wireless facilities within 60 days of receipt of the application. An additional 30 days is provided to the local government after the date of the permit request to negotiate an alternative location for the equipment facilities, and if the application is not processed within that time frame, it is deemed approved. Local governments are also prohibited from imposing minimum distances between small wireless equipment. This “micro” equipment/infrastructure can be as large as six cubic feet in volume (for instance, 2 feet by 3 feet). All other wireless equipment associated with the facility cumulatively can be as large as 28 cubic feet in volume (the approximate size of a small refrigerator). The Florida Department of Transportation, deed-restricted retirement communities that have more than 5,000 residents and have underground utilities for electric transmission or distribution, and municipalities that are located on a coastal barrier island that has a land area of less than five square miles and fewer than 10,000 residents are exempted from all provisions of the bill. Also, the bill sets an arbitrary price cap of \$150 per attachment per year. Also, the height of a small wireless facility is restricted to no more than 10 feet above the utility pole. Unless waived by the local government, the height of a new pole is limited to the tallest existing utility pole located in the right of way. If there is no utility pole within 500 feet of the proposed location, then the new utility pole can be no taller than 50 feet. An applicant seeking to collocate small wireless facilities can file a consolidated application and receive a single permit for the collection of no more than 30 small wireless facilities. The bill allows for some minimum design standards and for the wireless communications provider and the local government to negotiate those design standards at the local level. Effective July 1, 2017. (Sirjane-Sampes)

Town Impact: This is just a bad bill for municipalities, and is a direct subsidy to wireless communications companies. The town will have to amend its ordinances to properly regulate and permit these types of devices. The consequences of this bill will not be felt until it is too late. Our limited right of way and predominantly residential character will create conflict once new wireless utility poles and their related infrastructure are being placed around town. The bill would allow for wireless communications devices to be placed on existing utility poles, existing lighting poles, and new poles to be installed anywhere in the right of way. Staff will be working diligently to come up with some design standards and a permitting process for inclusion into the town code. To further complicate matters, the “micro” wireless antennas may be spaced as little as 200-300 feet apart.

Drones

CS/HB 1027 (Yarborough) preempts local governments from enacting or enforcing any ordinance or resolution relating to the design, manufacture, testing, maintenance, licensing, registration, certification or operation of an unmanned aircraft system. This preemption includes airspace, altitude, flight paths, equipment or technology requirements. Pilot, operator or observer qualifications and training and certification requirements are also preempted to the state. However, local governments do retain authority to enact and enforce local ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage or other illegal acts arising from the use of unmanned aircraft systems provided the ordinances do not specifically relate to the use of an unmanned aircraft system. Also, the bill prohibits a person from knowingly and willfully operating a drone over, or allowing a drone to make contact with or come within a specific distance of, a critical infrastructure facility that is close enough to interfere with the operations of, or cause a disturbance to, the facility. Counties or municipalities do retain the authority to regulate the operation of personal delivery devices and are authorized to adopt regulations for the safe operation of these devices. Effective July 1, 2017. (Sirjane-Samples)

Town Impact: The town will need to amend its ordinance relating to aircraft. The Commission may wish to take the opportunity to attach additional restrictions as allowed by law.

Transportation Network Companies

CS/HB 221 (Sprowls) is a comprehensive bill that completely preempts local governments from regulating transportation network companies (TNCs) such as Uber or Lyft. The bill establishes a statewide regulatory scheme that includes insurance coverage standards, fare and rate disclosure requirements, antidiscrimination policies, minimum background checks (Level 2 not required) and other provisions. The bill prohibits local governments from imposing a tax, requiring a license, or subjecting a TNC or a driver to any local government requirements. The bill authorizes seaports and airports to collect pickup fees as long as they do not exceed what a seaport or an airport charges taxis. Effective July 1, 2017. Chapter No. 2017-12. (Sirjane-Samples)

Public Records Reform

CS/CS/SB 80 (Steube) requires the court to award reasonable costs of enforcement and attorney fees in a public record lawsuit if the governmental entity unlawfully refused to allow a record to be inspected or copied and the complainant provided written notice to the governmental entities custodian of records five business days before filing the civil action. The notice provision applies only if the governmental entity has posted the contact information for the agency's custodian of records in its primary administrative building where public records are usually created, maintained and requested, and on the government's website. The bill requires the court to assess and award reasonable costs of enforcement and attorney fees against the complainant if the request or lawsuit was filed for an improper purpose. Finally, the bills clarify that Chapter 119 does not create a private right of action authorizing the award of monetary damages for a person who brings an action to enforce the provisions of the public record law. Payments by the responsible agency may only include the reasonable cost of enforcement, including reasonable attorney fees, directly attributable to a civil action brought to enforce the public record law. Effective May 23, 2017. Chapter No. 2017-21. (Cook)

Town Impact: This was a good bill for public agencies everywhere as it provides better protection from civil action arising from the mishandling of public records requests. The town already completed public records training but this bill allows the town to correct any complaints before any lawsuit. The Clerk's information is already posted online and in the town hall.

Public Works Project

CS/CS/HB 599 (Williamson) prohibits local government contracts for public works projects from including restrictive conditions on contractors, subcontractors or material suppliers or carriers. Cities can no longer

require contractors to: pay employees a predetermined wage rate; provide employees a specified type or amount of benefits; limit the amount of staffing on a particular job; or require that employees be recruited, trained or hired from a designated source. The bill also prevents cities from prohibiting any contractor, subcontractor or material supplier that is qualified to perform the work from submitting a bid on a public works project. Provisions of the bill apply to only those public works projects that are funded with 50 percent or more state-appropriated funds. Effective July 1, 2017. (Cook)

Town Impact: The portion of this bill that is of most concern is “The bill also prevents cities from prohibiting any contractor, subcontractor or material supplier that is qualified to perform the work from submitting a bid on a public works project.” As it would seemingly prevent the town from disqualifying any contractors which it had a negative dealing with in the past, for any cooperatively funded contracts with 50% or more state funding. The staff is working on some strategies to address future qualification.

Law Enforcement/Body Cameras

CS/HB 305 (Harrison) requires law enforcement agencies to develop guidelines allowing a police officer to review body camera footage of an incident before writing a report or providing a statement. Effective July 1, 2017. Chapter No. 2017-15. (Conn)

Medical Use of Marijuana

SB 8-1 (Bradley) Providing an exemption from the state tax on sales, use, and other transactions for marijuana and marijuana delivery devices used for medical purposes; providing qualifying medical conditions for a patient to be eligible to receive marijuana or a marijuana delivery device; providing for the establishment of medical marijuana testing laboratories; establishing the Coalition for Medical Marijuana Research and Education within the H. Lee Moffitt Cancer Center and Research Institute, Inc., etc. APPROPRIATION: \$15,143,440.00

SB 8-A implements the provisions of s. 29, Art. X, of the State Constitution. The bill: Exempts the sale of marijuana and marijuana delivery devices from sales tax. Establishes procedures for physicians to issue physician certifications to patients who have qualifying medical conditions. Establishes residency requirements for patients to be issued a Medical Marijuana Use Registry Identification Card (ID card). Establishes qualifications required to become a caregiver including requiring the Department of Health (DOH) to create a caregiver certification course that each caregiver must take. Limits the number of caregivers each patient may have and the number of patients each caregiver may assist. Changes the name of the Compassionate Use Registry to the Medical Marijuana Use Registry and requires the DOH to issue ID cards to patients and caregivers. Details requirements for MMTC applicants and standards that each MMTC must meet to maintain licensure. Grandfathers in existing dispensing organizations as MMTCs and requires the DOH to license 10 new MMTCs by October 3, 2017, and then four new MMTCs each time the registry increases by 100,000 registered patients. Limits the number of dispensing facilities each MMTC may operate to 25 statewide and per region based on the percentage of the population in each region. The total number of dispensing facilities each MMTC may operate increases by five per 100,000 patients registered in the Medical Marijuana Use Registry. MMTCs may sell dispensing facility slots to each other. These caps expire on April 1, 2020. Requires laboratory testing of MMTC products and creates a certification program for medical marijuana testing laboratories. Preempts the regulation of cultivation and processing of marijuana to the state. ***Allows local governments to ban MMTC dispensing facilities. If a local government does not ban dispensing facilities, it may not place any restrictions on the number of dispensing facilities allowed and may not adopt any regulations for dispensing facilities that are more restrictive than its ordinances regulating pharmacies.***

Town Impact: It is feasible under the current town code that MMTC’s would be allowed in three zoning

districts: Professional Products District C-2, Commercial Products District C-3 and Semi-Public Medical (SPM). In practice, MMTC 's would only be allowed on three parcels; the parcels occupied by Belleair Storage, Biltmore Construction, and the Morton-Plant Rehab Center. The Commission may choose to ban MMTC's or take no action and allow for their use under the code just as it would allow for pharmacies (or drug stores as listed in the code).

Reverse Osmosis Funding:

The town was not successful in securing funding for the reverse osmosis process. Upon the advice of our representatives, we will be submitting again in 2018.