



# CAPITOL UPDATE

## Converge Government Affairs

## The 2019 Legislative Session Has Concluded

The Town of Cutler Bay's priorities for the 2019 legislative session focused on measures related to environmental protection, infrastructure, maintaining home-rule authority, local economic development, and supporting the Miami-Dade school board's education priorities. Overall, fewer pre-emption bills passed than were anticipated and the legislative lobbying team, in conjuncture with the legislators who represent Cutler Bay, secured

\$200,000 in the state budget (pending Governor Ron DeSantis' approval) for critical drainage infrastructure improvements. In addition, the state budget included a \$248 increase in overall per-student funding and Governor Ron DeSantis' first veto was of a bill to restrict local government's ability to ban single-use plastic straws.

In an unusual extended session, the Florida Legislature concluded the 2019 Legislative Session on Saturday, May 4, a direct result of budget negotiations that did not finish with sufficient time for the constitutionally-

mandated 72 hour budget review period. The extended session was an anomaly in a session where the Legislature otherwise expeditiously resolved a large number of significant pieces of legislation related to education, health care, insurance, and transportation.

The 2019 session began with the House staking out an aggressive position on preemption of local governments. Bills were filed addressing plastic straws, plastic bags, vacation rentals, business regulations, and more. However, legislation requiring permit fee transparency, restricting the use of impact fees, prohibiting the imposition of a moratorium on the collocation of small wireless facilities, and providing attorney fees for a successful challenge of an ordinance as preempted by state law, did pass.

### *2019 Legislative Session Highlights*

- \$91.1 billion represents the total state budget for Fiscal Year 2019-2020
- \$30 million in water projects funded by the Legislature.
- 195 bills will be presented to the Governor after passing the House and Senate

In other policy areas, the Legislature enacted legislation to create the Family Empowerment Scholarship Program and to adopt the recommendations of the Marjory Stoneman Douglas High School Public Safety Commission, which included expanding the guardian program to include classroom teachers. Legislation was also passed to repeal the Miami-Dade Expressway Authority in favor of the creation of the Greater Miami Expressway Agency. Insurance fraud was addressed. Finally, the Legislature authorized the importation of prescription drugs from Canadian and international sources.

### Budget

The Legislature has appropriated \$91.1 billion for the 2019-2020 fiscal year state budget.

Appropriated within this amount is:

- \$23.9 billion for education, which includes a \$248 overall per student increase.
- \$37.7 billion for health care. 3% of safety net hospital funding is shifted to increase the base rates of all hospitals.
- \$30 million for local water projects.
- \$12.5 million for the initial planning stage of three toll roads that will run from Naples to the Georgia state line.

### Appropriations

Cutler Bay-Drainage Improvement Cutler Ridge Section 3 (HB 3769) (Senate Form 1781). ..... 200,000

### Legislation Passed by Both Chambers

#### **■ HB 9 - Community Redevelopment Agencies**

- The bill provides that the creation of new CRAs on or after October 1, 2019, may only occur upon approval at a county-wide referendum held during a primary or general election and approved by two-thirds of the qualified electors.
- It provides for the phase-out of existing CRAs at the earlier of the expiration date stated in the agency's charter or on September 30, 2039, with the exception of those CRAs with any outstanding bond obligations.
- However, the governing board of a creating local government entity may prevent the phase-out of a CRA by a two-thirds vote to retain the agency.

## ■ SB 82 - Vegetable Gardens

- The bill prohibits a county, municipality, or other political subdivision of the state from regulating vegetable gardens on residential properties.
- Additionally, any such local ordinance or regulation regarding vegetable gardens on residential properties is void and unenforceable.

## ■ HB 107 - Wireless Communications While Driving

- The bill changes current enforcement of the Florida Ban on Texting While Driving Law from a secondary offense to a primary offense, which will allow a law enforcement officer to stop a vehicle solely for texting while driving.
- It also expands the law from just texting while driving to using a wireless communications device for a multitude of uses while driving.

## ■ HB 127 - Permit Fees

- Requires counties and municipalities to post their permit and inspection fee schedules and building permit and inspection utilization reports on their websites.

## ■ SB 168 - Federal Immigration Enforcement

- Prohibits adoption of sanctuary policies by state entities, law enforcement agencies, or local government entities.
- Requires state entities, local governmental entities, and law enforcement agencies to use best efforts to support the enforcement of federal immigration law

## ■ HB 207 - Impact Fees

- The bill prohibits any local government from requiring payment of impact fees any time prior to issuing a building permit.
- The bill 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 the benefits accruing to the new construction.

## ■ HB 325 - Coastal Management

- For beach management projects, the bill revises and provides more detail on the criteria DEP must consider when ranking beach management projects for funding consideration and requires DEP to implement a scoring system for annual project funding priorities that consists of criteria divided into four tiers.
- The bill assigns each tier a certain percentage of overall point value and requires that the criteria be equally weighted within each tier.
- The bill changes how DEP may utilize surplus funds and the procedures that must be followed.

## ■ HB 447 - Building Permits

- The bill provides that local governments may close a building permit 6 years after the issuance of the permit if the local enforcement agency determines that there are no apparent safety hazards.
- The bill provides that local governments may not penalize an arms-length purchaser of property solely because a previous owner failed to close a building permit for the property.
- A local government must use any excess funds for enforcing the Florida Building Code that it is prohibited from carrying forward to rebate and reduce fees.

## ■ HB 771 - Environmental Regulation - (Vetoed by Governor DeSantis)

- The bill creates a moratorium on local governments regulating single-use plastic straws until July 1, 2024.
- Counties must implement a recyclable materials recycling program within their boundaries and are encouraged to work with municipalities to do so. Counties and municipalities may contract with private companies to operate their recycling programs.
- Water management districts and the Department of Environmental Protection may impose reasonable conditions and require environmental resource permits for certain construction activities that may harm water resources.
- The bill prohibits local governments from requiring further verification from DEP that a particular activity meets an ERP permit exception.

**■ SB 796 - Public Utility Storm Protection Plans**

- This bill creates a recovery clause for storm protection costs instead of recovering these costs through base rates, as is done now.
- The bill applies to only public utilities, which are the investor-owned utilities: Florida Power and Light, Duke Energy Florida, Gulf Power Company, Tampa Electric Company, and the Florida Public Utilities Corporation.

**■ HB 829 - Attorney Fees and Costs**

- This bill entitles a party to attorney fees and costs if the party prevails in an action challenging a local government ordinance as preempted. However, attorney fees and costs may not be awarded if the local government:
  - Receives written notice that an ordinance or proposed ordinance is expressly preempted; and
  - Within 21 days of receiving the notice, repeals or withdraws the ordinance

**■ SB 1000 - Communications Services**

- SB 1000 makes extensive changes to section 337.401, Florida Statutes, which governs the use of public rights-of-way by providers of communications services.
- The bill prohibits a municipality and county from imposing permit fees for the use of public rights-of-way by communications services providers if it had not levied permit fees as of January 1, 2019.
- In contrast, municipalities and counties that were imposing permit fees as of that date may continue to do so or may elect to no longer impose permit fees.

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**■ HB 7103 - Property Development**

- SB 7103 restricts counties and municipalities from imposing certain mandatory affordable housing ordinances.
- Imposes time limits for a county or municipality to review applications for development orders or permits and provides procedures for addressing deficiencies.
- Reduces the time from 30 business days to five business days for building departments to review permit applications when a private provider approves the plans
- Limits local government's authority to audit a private provider to four times annually and prohibits a building official from replicating plan reviews or inspections done by a private provider.
- Allows one hiring a private provider to seek judicial relief for noncompliance with the law.
- Amends how local governments impose or give credits for impact fees and clarifies that water and sewer connection fees are not governed as impact fees.
- Authorizes local governments to exempt or waive impact fees for affordable housing projects.
- Requires credits for required contributions for public educational facility development be allocated to reduce applicable impact fees on a dollar-for-dollar basis at fair market value for the entire impact fee imposed rather than just those exactions imposed for a specific educational facility.
- Requires municipal comprehensive plans adopted after January 1, 2019, and their corresponding land development regulations, to incorporate the terms of existing development orders.
- Prohibits a municipality from purchasing or annexing real property within the boundaries of another municipality without the latter's consent.

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## ■ **SB 7030-Implementation of Legislative Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission**

- SB 7030 builds upon the school safety and security foundation established in SB 7026 (2018 Reg. Session) by addressing the school safety and security recommendations of the Marjory Stoneman Douglas High School Public Safety Commission (commission), and strengthening accountability and compliance oversight authority.
- Specifically, the bill:
  - Improves school security measures
  - Expands the guardian program to include classroom teachers.
  - Enhances student safety
  - Provides school districts with greater flexibility to improve school safety by authorizing the transfer of additional categorical funds within the Florida Education Finance Program (FEFP) towards school safety expenditures, and expands authorized uses of the safe schools allocation.
  - Expands the authorized uses of the mental health assistance allocation, provides school district flexibility for expenditures, and requires a program and expenditure plan for school districts and charter schools.
  - Criminalizes the false personation of a school guardian.

**[END OF REPORT]**