

Brevard County
Save Our Indian River Lagoon Project Plan
Citizen Oversight Committee

April 16, 2021 – 8:30 to 11:30 am
Brevard County Government Center
2725 Judge Fran Jamieson Way Viera,
Florida 32940

On-line via Zoom Conference

- I. Call to Order
- II. Roll Call
- III. Minutes – Table approval to the May 21st meeting
- IV. Progress and Fiscal Reports
 - a. Monthly Progress Report – Virginia Barker, Director
 - b. Monthly Revenue Graph – Crystal Melton, Fiscal Analyst
- V. Other Reports and Special Presentations
 - a. Resilient Brevard - Tara McCue, East Coast Regional Planning Council
 - b. Sustainability and Resilience Opportunities – Chris Zambito, Senior Project Manager & Johanna Switzer, Sustainability Project Manager, Atkins North America, Inc.
 - c. Low Impact Development Retrofit Guide for Commercial and Light Industrial Facilities – Bach McClure, Brevard County Stormwater Administrator
 - d. Project Video – Draa Field Vegetative Harvesting, City of Titusville
- VI. Old Business
- VII. New Business
 - a. Legislative Session – Open Discussion
- VIII. General Public Comments
- IX. Final Comments by Chair and Committee Members
- X. Adjournment

**Save Our Indian River Lagoon
Citizen Oversight Committee Meeting Minutes**

March 19, 2021 – 8:30 a.m.
2725 Judge Fran Jamieson Way,
County Commission Chambers and On-line Zoom Conference
Viera, FL 32940

Members Present:

Expertise	Member	Present	Alternate	Present
Science	Lorraine Koss	Yes	Charles Venuto	Yes
Technology	Vinnie Taranto - Chair	Yes	Vacant	No
Education	Stephany Eley – Vice Chair	Yes	Kimberly Newton	Yes
Finance	Courtney Barker	Yes	Todd Swingle	Yes
Tourism	David Lane	Yes	Laurilee Thompson	Yes
Real Estate	Susan Hodgers	Yes	Dennis Basile	Yes
Lagoon Advocacy	John Windsor	Yes	Terry Casto	Yes

Staff Present:

Virginia Barker, Brevard County Natural Resources Management Director
Alex Esseesse, Assistant County Attorney
Matt Badolato, Associate Environmental Specialist
Terri Breeden, Associate Environmental Specialist
Jenny Hansen, Associate Environmental Specialist
Courtney Maier, Engineer
Walker Dawson, Engineer III
Anthony Gubler, Environmental Specialist
Crystal Melton, Department Finance Manager

I. Call to Order

II. Roll Call

A quorum was established.

III. Acceptance of Virtual Votes

Courtney Barker moved that the Committee accept the votes of any members not in the room and attending via zoom due to extenuating circumstances; Seconded by Vinnie Taranto. Motion was unanimously approved.

IV. Approval of the Agenda

Lorraine Koss moved to approve the Agenda as written; Seconded by Charlie Venuto. Motion was unanimously approved.

V. Introduction of New Committee Members

(This item was heard out of order)

Save Our Indian River Lagoon Citizen Oversight Committee Meeting
MINUTES – March 19, 2021

a. Susan Hammerling-Hodgers, Real Estate Member

Susan Hammerling-Hodgers, newly appointed Member of the Citizen Oversight Committee, introduced herself briefly to the committee.

VI. Selection of Chair and Vice-Chair

Courtney Barker moved to nominate Vinnie Taranto to serve as Chair; Seconded by Susan Hammerling-Hodgers. Motion was unanimously approved.

Susan Hammerling-Hodgers moved to nominate Stephany Eley to serve as Vice-Chair; Seconded by Courtney Barker. Motion was unanimously approved.

John Windsor handed over the gavel to Vinnie Taranto.

VII. Approval of Minutes

John Windsor moved to approve the January 15, 2021 minutes as written; Seconded by David Lane. Motion was unanimously approved.

VIII. Progress and Fiscal Reports

a. Monthly Progress Report – Virginia Barker

The Monthly Progress Report was given by Virginia Barker.

Discussion ensued. The Committee's questions were answered by Virginia Barker.

b. Monthly Revenue Graph – Crystal Melton

Crystal Melton reported on the Monthly Revenue Graph and the Quarterly Financial Statement.

c. Quarterly Financial Statement – Crystal Melton

(This item was heard under VIII.b. Monthly Revenue Graph.)

d. Quarterly Save Our Indian River Lagoon Project Performance Table Update – Terri Breeden

Terri Breeden reported on the Quarterly Progress Report Update from October 1 through December 31, 2020. Ms. Breeden reported on eight (8) completed stormwater projects, which included six (6) Biosorption Activated Media projects and two (2) Floating Wetland projects.

IX. Other Reports and Special Presentations

a. Water Quality Report – Dr. Chuck Jacoby, Supervising Environmental Scientist, Estuaries Section and Lead Scientist, Indian River Lagoon Basin, Bureau of Water Resources, St. Johns River Water Management District

Dr. Jacoby gave a power point presentation entitled, Indian River Lagoon Water Quality Update. Topics included: 1) chlorophyll concentrations and nutrients, 2) algal blooms, and fish kills; and, 3) water clarity and modeling.

Discussion ensued. The Committee's questions were answered by Dr. Jacoby.

Save Our Indian River Lagoon Citizen Oversight Committee Meeting
MINUTES – March 19, 2021

b. Community Transparency Project – Becky Clarkson, contract employee

Becky Clarkson gave a power point presentation entitled, TDC + Lagoon Transparency Strategy. Topics included: 1) Increase Transparency; 2) Information Gathering Survey/Common Themes; 3) Resident Survey/ Ads/ Mix/ Key Findings /Information Frequency/ Trusted Sources and Preferred Information Channels; 4) Tourist Survey /Ads and Key Findings; 5) Manatee Map Project; 6) Illustrated Infographics; 7) Informational flyers highlighting sources of lagoon pollution; 8) Informational Signage; 9) Testing Preferred Messengers; and 10) Final Report.

Discussion ensued. The Committee's questions were answered by Ms. Clarkson.

Lorraine Koss left the meeting at this time.

c. My Lagoon Story Video, Stephany Eley

(The video was shown out of order.)

A My Lagoon Story Video, featuring Stephany Eley was shown.

d. Project Video, septic upgrade

(The video was shown out of order.)

A septic upgrade project video was shown.

X. Old Business

None.

XI. New Business

a. Request for Contingency Funding (\$217,053.20) to Add the Berkeley Canal to the Grand Canal Muck Removal Project

(This item was heard out of order.)

Walker Dawson gave a summary on the request for a recommendation to the Citizen Oversight Committee to add the Berkley Canal to the existing Grand Canal muck removal project, utilizing Contingency Fund Reserves. The requested Save Our Indian River Lagoon Cost-Share increase of \$217,053.20 is to add the previously omitted portion of Berkeley Canal between Port Royal Boulevard and Saint Georges Court.

Discussion Ensued. The Committee's questions were answered by Walker Dawson and Virginia Barker.

There were no public comments.

Stephany Eley moved to recommend approval of a \$217,053.20 funding increase for the Grand Canal Muck Removal Project to add the previously omitted portion of Berkley Canal between Port Royal Boulevard and Saint Georges Court from Contingency Fund Reserves; Seconded by Courtney Barker. Motion was unanimously approved.

b. Request for Contingency Funding (\$40,368.00) for the City of Melbourne Pennwood Septic to Sewer Project

(This item was heard out of order.)

Virginia Barker noted that the City of Melbourne representative, Rebecca Thibert, Engineer, was in the audience to answer the Committee's questions.

Ms. Barker gave a summary of the City of Melbourne's request for a \$40,368 funding increase for the Pennwood Septic to Sewer Project. It was noted that the requested amount was less than the total eligibility under the current plan.

Discussion ensued. The Committee's questions were answered by Virginia Barker.

There were no public comments.

Stephany Eley moved to recommend approval of a \$40,368 funding increase from Contingency Fund Reserves for the City of Melbourne's Pennwood Septic to Sewer Project; Seconded by Charlie Venuto. Motion was unanimously approved.

c. Legislative Session – open discussion

Virginia Barker gave an update on Legislative Session 2021. Funding request updates included the following amounts in the House Budget: 1) \$225,000 for Indian River Lagoon, 50 Septic Upgrades to Advanced Treatment Systems; 2) \$292,500 for Indian River Lagoon, 65 Quick Connects to Sewer; and, 3) \$250,000 for Indian River Lagoon, FL-518 Bridge Muck Removal project.

Discussion ensued. The Committee's questions were answered by Virginia Barker.

XII. General Public Comment

Public comments were heard.

XIII. Final Comments by Chair and Committee Members

Final Comments were heard.

XIV. Adjournment



Save Our Indian River Lagoon Project Plan April 2021 Progress Report

WORK COMPLETED THIS MONTH:

- January revenues are consistent with forecasts used for the 2021 Plan Update
- Briarwood Mobile Home Park Septic-to-Sewer – project complete and reimbursed
- Sykes Creek N Septic-to-Sewer – Survey complete
- South Beaches O Septic-to-Sewer – Survey complete
- Grand Canal Muck Dredging – Dredging restarted March 29th
- Living Shoreline Performance - University of Central Florida final monitoring at St. Marks Academy found 43% of planted red mangroves remained but other plants were lost to terrestrial overgrowth and construction of a pier; two additional vegetated living shorelines had low survival of plants at 9 months post-planting, likely due to erosion from high water and wave energy over the winter.
- Oyster Bar Materials Testing - First quarter monitoring and second deployment of materials completed
- Draa Field Vegetative Harvesting Video complete
- Tourism + Lagoon grant-funded projects completed – including a Communication Transparency Study, Manatee Field Guide, and 60% Design for a Max Brewer Causeway Breakwater
- State Coastal Resilience grant secured to permit the Max Brewer Causeway Breakwater

WORK UNDERWAY THIS MONTH:

- Brevard County Smoke Testing – proposals opened, entering into negotiations with contractor
- Beaches Leaking Sewer Laterals – 63 of 280 repairs complete; 10 reimbursements processed to date
- Cone Road Septic-to-Sewer Phase 2 – 56 properties connected; 3 connections remaining
- Sylvan Estates Septic to Sewer – abandoning septic tanks and connecting to sanitary sewer
- Sykes Creek T Septic-to-Sewer – Sketch & Design started for Sykes T property
- South Central C Septic-to-Sewer – meeting with Home Owner's Association April 7; preparing bid docs
- South Beaches P Septic-to-Sewer – survey underway
- Micco Septic-to-Sewer – Department of Transportation permit mod in review; 90% design underway
- Septic Upgrades – 164 applications approved; 60 in progress; 18 reimbursements completed
- Stormwater Sunset Road/Serenity Park/Basin 26 and Johns Rd/Basin 62 - bid docs under review
- Cocoa Beach Phase IIb Muck Dredging – Dredging is approximately 78% complete
- Eau Gallie Northeast Muck Project – Final drafts of state and federal permit modifications underway
- Sykes Creek Phase I – contractor, Central Sand, has submitted a withdrawal of their bid
- My Lagoon Story and Draa Field Managed Aquatic Plant System videos scheduled
- Grass Clippings Campaign Focus Groups Underway
- Preparing Budget Change Requests for 2021 Plan Update; sharing documents for FY 2020 audit
- Budget: Preparing the Fiscal Year 2021-2022 Budget and Associated Capital Improvement Plan
- Contract prepared for Satellite Beach Jackson Court Stormwater Project
- Contracts amended for Melbourne's Pennwood Septic to Sewer and Titusville's Draa Field Managed Aquatic Plant Systems



PRESENTATIONS THIS MONTH:

March 24 – Palm Bay Lagoon Straight Talk – Virginia

March 26– Conservation Conversation with a Soil and Water Supervisor, Natural Resources Conservation Service and Brevard County Natural Resources via Facebook live - Virginia

April 14 – Brevard Soil and Water Board Presentation – Brandon and Anthony

April 15 - Brevard County Budget Workshop, 10-Year Save Our Lagoon Project Plan – Virginia

UPCOMING LAGOON SCIENCE FORUMS AND PUBLIC EVENTS:

Ongoing - [Marine Resources Council 3rd-6th grade Virtual Learning](#)

April 17 – [Boaters Exchange Boating and Fishing Expo](#)

May 4 – Marine Resources Council Lunch and Learn Webinar: [Endangered Sawfish of Florida](#)

UPCOMING VOLUNTEER PARTICIPATION OPPORTUNITIES:

March 19-April 24 – [City of Satellite Beach: Sampson Island Restoration](#)

April 3 & 4 – [Keep Brevard Beautiful: Trash Bash](#)

Rotary Park rain garden maintenance – [Email Carlos Cuevas for opportunities](#)

Storm drain marking in Cocoa – [Email Carlos Cuevas for opportunities](#)

Storm drain marking in Melbourne – [Email Nicole Broquet for opportunities](#)

Merritt Island National Wildlife Refuge Trash Cleanups Tuesday & Saturdays – [Email Micah Thomas](#)

WEBSITE AND SOCIAL MEDIA LINKS:

[Lagoon Loyal Outreach and Engagement Landing Page](#)

[Save Our Indian River Lagoon Website](#)

[Save Our Indian River Lagoon Facebook](#)

[Save Our Indian River Lagoon Instagram](#)

[Save Our Indian River Lagoon YouTube](#)

FUTURE TOPICS FOR SPECIAL PRESENTATIONS:

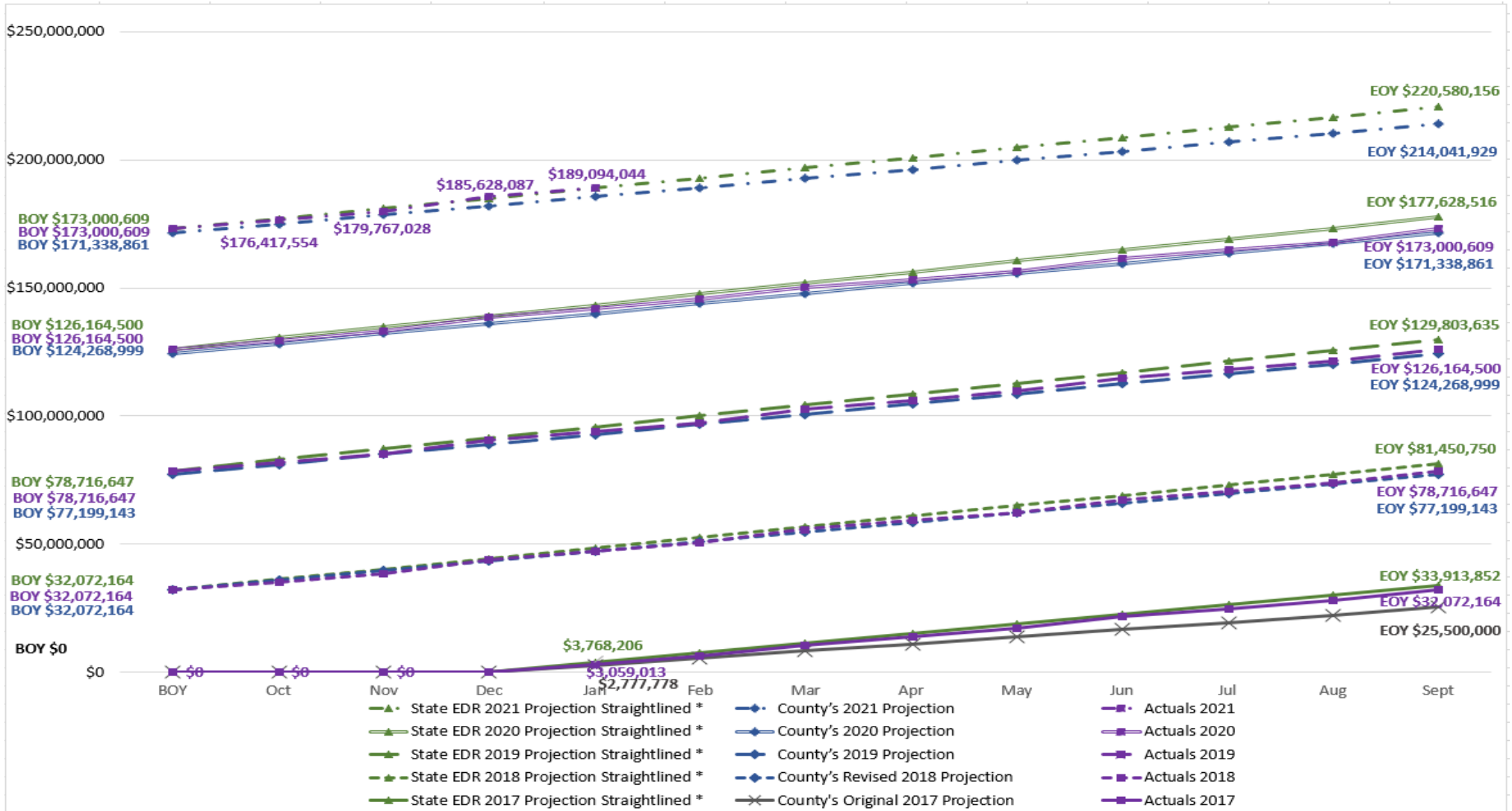
1. Low Impact Development/Resilience – Local examples, efforts and potential opportunities
2. Wastewater Utility Asset Management Planning – Todd Swingle
3. Re-use/Reclaimed Water – Nutrient Loading Impacts and Opportunities
4. Surface Water Remediation – Phosphorus Free, S.W.I.G., D.T.G., Chemical Tech, HABITATS
5. New Enhanced Ocean Inflow Research – Florida Tech Research Initiative
6. Completed and Ongoing Muck Research – Florida Tech Research Initiative
7. Indian River Lagoon Research News: TechCon, Shore, and Harbor Branch Symposium Highlights
8. Water Technology Conference/Industry Day – Economic Development and National Estuary Program
9. Coordinating Spoil Management with Florida Inland Navigation District
10. Pollution and Algal Bloom Mapping via Satellite Imagery Interpretation - Gybe
11. Lagoon Fish and Fisheries Research – Dr. Grant Gilmore
12. Lagoon projects managed and funded by other agencies, entities or grant programs
13. Climate change impacts to the Lagoon – Randy Parkinson
14. Project Monitoring Results

Save Our Indian River Lagoon Revenues Cumulative Graph

Fiscal Year 16-17 to Current Fiscal Year

* Economic and Demographic Research Data is sourced from Florida's Office of Economic & Demographic Research using their Estimation of Realized and Unrealized Tax Revenues Table

- Projected and Actual Data is from Systems, Applications and Products program
- EDR-Economic and Demographic Research Data, BOY-Beginning of Year, EOY-End of Year
- For Screen Readers use the Save Our Indian River Lagoon Revenues Cumulative Chart Fiscal Year 16-17 to Current Fiscal Year Table
- Updated the State EDR Beginning Of Year to match Actuals End Of Year to the prior Fiscal Years



Save Our Indian River Lagoon Revenues Cumulative Chart Fiscal Year 16-17 to Current Fiscal Year

Economic and Demographic Research Data is sourced from Florida's Office of Economic & Demographic Research using their Estimation of Realized and Unrealized Tax Revenues Table

- Projected and Actual Data is from Systems, Applications and Products program
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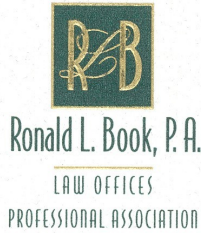
Month	State EDR 2021 Projection Straightlined *	County's 2021 Projection	Actuals 2021	State EDR 2020 Projection Straightlined *	County's 2020 Projection	Actuals 2020	State EDR 2019 Projection Straightlined *	County's 2019 Projection	Actuals 2019
BOY	\$173,000,609	\$173,000,609	\$173,000,609	\$126,164,500	\$124,268,999	\$126,164,500	\$78,716,647	\$77,199,143	\$78,716,647
Oct	\$176,965,571	\$176,986,181	\$176,417,554	\$130,453,168	\$128,191,487	\$129,590,162	\$82,973,896	\$81,121,631	\$81,926,390
Nov	\$180,930,533	\$180,544,770	\$179,767,028	\$134,741,836	\$132,113,976	\$133,089,868	\$87,231,145	\$85,044,119	\$85,225,970
Dec	\$184,895,496	\$184,103,359	\$185,628,087	\$139,030,504	\$136,036,464	\$138,551,296	\$91,488,394	\$88,966,607	\$90,640,944
Jan	\$188,860,458	\$187,661,948	\$189,094,044	\$143,319,172	\$139,958,953	\$142,014,229	\$95,745,643	\$92,889,095	\$93,950,291
Feb	\$192,825,420	\$191,220,537		\$147,607,840	\$143,881,441	\$145,518,464	\$100,002,892	\$96,811,583	\$97,296,142
Mar	\$196,790,382	\$194,779,126		\$151,896,508	\$147,803,930	\$150,424,958	\$104,260,141	\$100,734,071	\$102,671,360
Apr	\$200,755,345	\$198,337,715		\$156,185,176	\$151,726,418	\$153,099,730	\$108,517,390	\$104,656,559	\$106,219,161
May	\$204,720,307	\$201,896,304		\$160,473,844	\$155,648,907	\$156,326,096	\$112,774,639	\$108,579,047	\$109,784,828
Jun	\$208,685,269	\$205,454,893		\$164,762,512	\$159,571,395	\$161,413,353	\$117,031,888	\$112,501,535	\$114,720,850
Jul	\$212,650,231	\$209,013,482		\$169,051,180	\$163,493,884	\$164,827,524	\$121,289,137	\$116,424,023	\$118,207,520
Aug	\$216,615,194	\$212,572,071		\$173,339,848	\$167,416,372	\$167,886,836	\$125,546,386	\$120,346,511	\$121,640,336
Sept	\$220,580,156	\$216,130,660		\$177,628,516	\$171,338,861	\$173,000,609	\$129,803,635	\$124,268,999	\$126,164,500

Save Our Indian River Lagoon Revenues Cumulative Chart Fiscal Year 16-17 to Current Fiscal Year

Economic and Demographic Research Data is sourced from Florida's Office of Economic & Demographic Research using their Estimation of Realized and Unrealized Tax Revenues Table

- Projected and Actual Data is from Systems, Applications and Products program
- EDR-Economic and Demographic Research Data, BOY-Beginning of Year, EOY-End of Year

Month	State EDR 2018 Projection Straightlined *	County's Revised 2018 Projection	Actuals 2018	State EDR 2017 Projection Straightlined *	County's Original 2017 Projection	Actuals 2017
BOY	\$32,072,164	\$32,072,164	\$32,072,164	zero	zero	zero
Oct	\$36,187,046	\$35,832,746	\$35,300,032	zero	zero	zero
Nov	\$40,301,929	\$39,593,327	\$38,647,632	zero	zero	zero
Dec	\$44,416,811	\$43,353,909	\$43,870,270	0	0	0
Jan	\$48,531,693	\$47,114,490	\$47,150,412	\$3,768,206	\$2,777,778	\$3,059,013
Feb	\$52,646,575	\$50,875,072	\$50,484,322	\$7,536,412	\$5,555,556	\$6,217,230
Mar	\$56,761,457	\$54,635,653	\$55,782,660	\$11,304,617	\$8,333,334	\$10,686,395
Apr	\$60,876,340	\$58,396,235	\$59,191,675	\$15,072,823	\$11,111,112	\$13,941,510
May	\$64,991,222	\$62,156,817	\$62,444,639	\$18,841,029	\$13,888,890	\$17,177,137
Jun	\$69,106,104	\$65,917,398	\$67,409,450	\$22,609,235	\$16,666,668	\$21,754,009
Jul	\$73,220,986	\$69,677,980	\$70,776,206	\$26,377,441	\$19,444,446	\$24,898,729
Aug	\$77,335,868	\$73,438,561	\$74,021,947	\$30,145,647	\$22,222,224	\$27,890,034
Sept	\$81,450,750	\$77,199,143	\$78,716,647	\$33,913,852	\$25,500,000	\$32,072,164



Session 2021 Week 4 Report

Enclosed is our Session Report for week 4, which includes an update on legislative issues and funding requests. As we move through Session and new 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. We will be happy to provide information to you.

➤ **FUNDING REQUEST UPDATE:**

Emergency Operations Center (EOC) Construction: (LFIR 1637, HB 2885)

Amount Requested: \$1 million Sponsors: Senator Mayfield, Representative Sirois
Senate: \$500,000 (line 2592)
House: \$1 million (line 2592)

Indian River Lagoon, 50 Septic Upgrades to Advanced Treatment Systems: (LFIR 1389, HB 4103)

Amount Requested: \$450,000 Sponsors: Senator Mayfield, Representative Fine
Senate: \$0
House: \$225,000 (line 1607A)

Indian River Lagoon, 65 Quick Connects to Sewer: (LFIR 1388, HB 4101)

Amount Requested: \$585,000 Sponsor: Senator Mayfield, Representative Fine
Senate: \$0
House: \$292,500 (line 1607A)

Indian River Lagoon, FL-518 Bridge Muck Removal project: (LFIR 1391, HB 2623)

Amount Requested: \$2.5 million Sponsors: Senator Mayfield, Representative Altman
Senate: \$0
House: \$250,000 (line 1607A)

At this point during Session, we continue our meetings with leadership, working toward budget conference to push for full funding in the final budget.

This week, both the House and Senate produced a budget to be heard in their Appropriations committees and then on the House and Senate floor. At that point, they move into budget conference. As we continue our work, we meet frequently with both subcommittee chairs and with the Senate and House Appropriations chairs of the full committees, House Chair Trumbull and Senate Chair Stargel to advocate for this funding request.

➤ **ISSUES UPDATE:**

Combating Public Disorder/Sovereign Immunity Issues: HB 1 sponsored by Representative Fernandez-Barquin and its Senate companion bill, SB 484 by Senator Burgess, is intended to give law enforcement and prosecutors additional tools to prevent violence and property destruction and to hold any person who uses a protest as an opportunity to commit crime accountable for their actions. While HB 1 has passed the House, its destiny may not be as clear in the Senate, as it has not been heard in any committee to date.

Of note, included in this bill are provisions that directly affects municipalities and local governments. The bill:

- Creates a process by which a citizen of a municipality may challenge a reduction to the operating budget of a municipal law enforcement agency.
- Waives sovereign immunity for tort claims arising from a riot or unlawful assembly if the governing body of a municipality interferes with law enforcement's ability to provide reasonable police protection.

HB 1 has passed the full House with a vote of 76 – 39.

Sovereign Immunity: HB 1129 by Representative Fernandez-Barquin and the Senate companion, SB 1678 by Senator Diaz would raise the cap for a claim by an individual from \$200,000 to \$500,000 and the per-occurrence limit from \$300,000 to \$1 million. Additionally, the bill includes that Beginning July 1, 2022, annually, the caps must be adjusted to reflect changes in the Consumer Price Index for the Southeast or a successor index as calculated by the U.S. Department of Labor.

This bill has not yet been heard, however we have had ongoing discussions since late summer and the fall of 2020, with House and Senate leadership regarding the negative impact to local governments. We continue to work to oppose these bills. We continue to watch these bills for movement as well as watch for any amendments regarding sovereign immunity caps that could be offered elsewhere, such as the language contained in the bill moving through the process regarding civil liability for damages relating to COVID-19.

Civil Liability for Damages Relating to COVID-19: SB 72 by Senator Brandes (and companion bill by Representative McClure). SB 72 in its signed version, is a combination of SB 72 and SB 74. SB 72 creates civil liability protections for individuals, businesses, governmental entities, and other organizations against COVID-19-related claims, and is combined with SB 74 which provides lesser liability protections to health care providers and provides procedures for civil actions against them.

SB 72 was signed by the Governor, on 3/29.

Building Design: HB 55 by Representative Overdorf and SB 284 by Senator Perry This bill:

- Prohibits local governments from adopting land development regulations that require specific building design elements for single- and two- family dwellings, unless certain conditions are met.
- Provides that local governments may adopt land development regulations requiring certain building design elements to single- and two-family dwellings when:
 - The dwelling is a historic property or located in a historic district;
 - The regulations are adopted in order to implement the National Flood Insurance Program;
 - The regulations are adopted in accordance and compliance with the procedures for adopting local amendments to the Florida Building Code; or
 - The dwelling is located in a community redevelopment area.

The House bill will be heard by the full House on 3/31. The Senate bill has passed 2 of its 3 committees.

Regulation of Smoking in Public Places: SB 334 by Gruters and HB 239 by Altman. The bill would allow counties and municipalities the authority to further restrict smoking within the boundaries of any public beaches and public parks they own. Given the existing definition of “smoking” in ch. 386, F.S., counties and municipalities may restrict the ability for any person to inhale, exhale, burn, carry, or possess any lighted tobacco product, including cigarettes, cigars, pipe tobacco, or any other lighted tobacco product, within parks and beaches owned by the county or municipality. The bill allows municipalities to further restrict smoking within county owned beaches and parks located within the municipality’s jurisdiction if doing so would not conflict with a county ordinance. Although this bill specifically relates to “smoking,” counties and municipalities are already allowed to impose more restrictive regulation on the use of vapor-generating devices under s. 386.209, F.S.

The major difference between these two bills is that the Senate bill also bans smoking in state parks but the House bill does not at this point.

HB 239 has passed its second committee of three, and SB 334 has passed its second committee of three, however neither bill was heard this week.

Community Association Assessment Notices: SB 56 by Senator Ana Maria Rodriguez and its companion bill is HB 615 by Representative Anthony Rodriguez. This bill provides for additional notice requirements for condominium, cooperative, and homeowners' associations relating to the collection of assessments.

SB 56 has passed the full Senate. HB 615 passed its second of three committees.

Vacation Rental preemption and regulation: Again this week, the Senate version, SB 522, was not heard. However, this week the House companion bill, HB 219, was scheduled for a hearing on 3/22, but was temporarily postponed and not heard. The House bill remains as an earlier version of the vacation rental bill and does not have amendments filed that would conform it to the Senate version. We continue to work with the Florida League of Cities, other municipal lobbyists and various members in the House and Senate to oppose this legislation. Working with the League, we worked to defeat this bill in committee. It remains to be seen if this bill will be put on a remaining agenda.

Sales and Use Tax: SB 50 sponsored by Senator Gruters and HB 15 sponsored by Representatives Clemmons and LaMarca. This bill requires marketplace providers located outside of state to remit discretionary sales surtax when delivering tangible personal property to a county imposing a surtax, provides that a marketplace seller, rather than the marketplace provider, is liable for sales tax collection and remittance and requires that a portion will be deposited into the Unemployment Compensation Trust Fund

SB 50 has passed the Senate 30 – 10, its companion HB 15 passed its second committee on 3/29.

Statewide Flooding and Sea-level Rise Resilience: SB 1954 by Rodrigues and companion bill HB 7019, a committee bill through the Agriculture and Natural Resources Appropriations Subcommittee. A leadership priority this Session of both the House and Senate, this comprehensive bill focuses on resiliency, flooding, sea level rise, and features local governments as a key component of a statewide approach. This legislation establishes statewide resiliency programs that will assess and address inland and coastal flooding and sea level rise. The bill creates:

- The “Resilient Florida Grant Program” within the Department of Environmental Protection (DEP) that provides funding, subject to appropriation, to local governments for the costs of resilience planning such as vulnerability assessments and new plans or policies.

- The “Comprehensive Statewide Flood Vulnerability and Sea-Level Rise Data Set and Assessment,” to be updated every three years. DEP must:
 - Develop a statewide data set necessary to determine the risks to inland and coastal communities, including statewide sea level rise projections; and
 - Develop a statewide assessment, based on the statewide data set, that identifies vulnerable areas and infrastructure, including “critical assets” as defined in the bill.
- The “Statewide Flooding and Sea-Level Rise Resilience Plan.” DEP must annually submit a plan proposing up to \$100 million in funding for projects that address risks from flooding and sea level rise. Local governments and regional entities may submit projects, water management districts must evaluate projects and annually submit lists to DEP, and DEP must implement a scoring system for assessing projects for inclusion in the plan.

Additional components of the bill:

- Authorizes local governments to form regional resilience coalitions to assist with community resilience efforts, including utilization of the programs created by the bill. DEP is authorized, subject to appropriation, to provide funding to regional resilience coalitions.
- Requires the University of South Florida to create a hub to coordinate and lead statewide efforts for research and innovation regarding flooding and sea level rise.
- Requires the Office of Economic and Demographic Research to add an analysis of flooding issues to its annual assessment of Florida’s water resources and conservation lands.

This week the House State Affairs Committee adopted additional changes to the bill that would accomplish the following:

- Expand the types of projects that are authorized for funding by the Grant Program and revise the requirements and standards for vulnerability assessments funded by the Grant Program.
- Require all projects submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan to be submitted directly to DEP.
- Authorize DEP to reduce or waive the 50 percent cost-share requirement for projects that assist financially disadvantaged small communities.

SB 1954 is scheduled for a hearing in Senate Appropriations on 3/31. HB 7019 has passed both committees of reference and is ready for the full House.

State Preemption of Transportation Energy Infrastructure Regulation: HB 839 by Representative Fabricio and SB 856 by Senator Hutson. The bill preempts transportation energy infrastructure regulation to the state. The bill prohibits local governments from:

- Adopting or implementing any law, ordinance, regulation, policy, or resolution that has the effect of prohibiting, restricting, or requiring, the construction of new transportation energy infrastructure or the expansion, upgrading, or repair of existing transportation energy infrastructure, or imposing any requirement regulating transportation energy infrastructure that is more stringent than state law or DEP rule, except for certain county ordinances regulating underground petroleum storage tanks enacted before Sept. 1, 1984.
- Amending its comprehensive plan, land use map, zoning districts, or land development regulations in a manner that would conflict with an existing transportation energy infrastructure classification as a permitted and allowable use including, but not limited to, an amendment that causes an existing transportation energy infrastructure to be a nonconforming use, structure, or development.
- Imposing transportation energy infrastructure requirements that are more stringent than state law or DEP rule.

The bill does not limit the authority of a local government to adopt, implement, modify, and enforce applicable federal and state requirements for transportation energy infrastructure, including safety and building standards.

The bill defines the term transportation energy infrastructure as infrastructure supporting the production, import, storage, and distribution of fuels used for transportation including, but not limited to, petroleum, petroleum products, gasoline, diesel fuel, motor fuel, alternative fuel, marine fuel, aviation fuel, renewable fuel, natural gas, hydrogen, and electricity.

HB 839 will be heard in its second committee on 4/01, and SB 856 was not heard this week.

Local Occupational Licensing SB 268 by Perry and HB 735 by Harding. The bills preempt the licensing of occupations to the state and supersedes any local government licensing of occupations, with the exception of local government licensing of occupations imposed by a local government before January 1, 2021. The exception for local government licensing imposed by a local government expires July 1, 2023, after that point, they cannot be increased or modified.

The bill prohibits local governments from requiring a license for a person whose job scope does not correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board, in DBPR. It 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.

SB 268 passed its second committee of three, and HB 735 will be heard by the full House on 3/31.

Home Based Businesses/Local Regulation: SB 266 by Senator Perry and HB 403 by Giallombardo. The bill provides that local governments would not be able to enact or enforce any ordinance, regulation, or policy, or take any action to license or otherwise regulate a home-based business in a manner that is different from other businesses in a local government's jurisdiction. In order to be considered a home-based business, the bill requires that:

- The business operates, in whole or in part, from a residential property
- The employees of the home-based business reside in the residence, except for up to two employees that do not reside at the residence. However, employees of the home-based business that do not primarily work at the residential dwelling are not required to reside in the dwelling
- Parking for the business activities of the home-based business complies with local zoning requirements
- As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property, but incidental and short term business uses and activities are permitted
- The activities of the home-based business are secondary to the property's use as a residential dwelling

The bill provides that home-based businesses will only be subject to applicable business taxes in the county and municipality where the home-based business is located.

The bill allows any adversely affected current or prospective home-based business owner to challenge any local government action regulating home-based businesses. The prevailing party may recover reasonable attorney fees and costs.

SB 266 has passed its second committee. HB 403 will be heard by the full House, on 3/31.

Public Works Projects: SB 1076 by Senator Brodeur and HB 53 by Representative DiCeglie. CS/SB 1076 prohibits a state college, county, municipality, school district, or other political subdivision of the state from using preferences in competitive solicitations for construction services when any state-appropriated funds or locally-appropriated funds are to be used to fund the project. The bill removes the 50 percent or more threshold and applies the prohibition on local preference to all solicitations that will be paid for with state or local funding.

The bill does offer incentives or award point preferences to a contractor in the bidding process for a contract for construction services, so long as acceptance of any such incentive or preference does not impose any fine, penalty, or other sanction on a contractor.

SB 1076 passed its second committee and HB 53 has also passed its second committee.

911 Public Safety Telecommunicators: (HB 1171 by Representative Willhite and SB 1224 by Senator Jones) This bill revises the definition of "first responder" to include 911 public safety telecommunicators as defined in s. 401.465, specifies that there must be 25 creditable years needed to receive full retirement benefit without penalty and requires them to have their retirement benefits calculated in accordance with provisions for Regular Class members. For the calculation language, see lines 203 – 209 of the bill. I have attached the Senate bill, SB 1224, both bills are identical.

Neither bill has been heard to date.

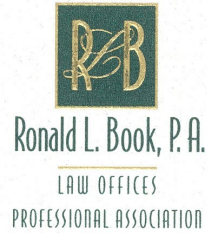
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➤ Session Dates: March 2, 2021 through April 30, 2021.



Session 2021 Week 5 Report

Enclosed is our Session Report for week 5, which includes an update on legislative issues and funding requests. As we move through Session and new 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. We will be happy to provide information to you.

➤ **FUNDING REQUEST UPDATE:**

During week 5, both the House and Senate passed their respective budget proposals through both Appropriations committees. These budgets will be heard by the House and Senate in the upcoming days and then move into the budget conference process. Throughout this process we continue our work on these funding requests.

Emergency Operations Center (EOC) Construction: (LFIR 1637, HB 2885)

Amount Requested: \$1 million Sponsors: Senator Mayfield, Representative Sirois
Senate: \$500,000 (line 2592)
House: \$1 million (line 2592)

Indian River Lagoon, 50 Septic Upgrades to Advanced Treatment Systems: (LFIR 1389, HB 4103)

Amount Requested: \$450,000 Sponsors: Senator Mayfield, Representative Fine
Senate: \$0
House: \$225,000 (line 1607A)

Indian River Lagoon, 65 Quick Connects to Sewer: (LFIR 1388, HB 4101)

Amount Requested: \$585,000 Sponsor: Senator Mayfield, Representative Fine
Senate: \$0
House: \$292,500 (line 1607A)

Indian River Lagoon, FL-518 Bridge Muck Removal project: (LFIR 1391, HB 2623)

Amount Requested: \$2.5 million Sponsors: Senator Mayfield, Representative Altman
Senate: \$250,000 (line 1607A) (correction)
House: \$0

➤ **ISSUES UPDATE:**

Combating Public Disorder/Sovereign Immunity Issues: HB 1 sponsored by Representative Fernandez-Barquin and its Senate companion bill, SB 484 by Senator Burgess, is intended to give law enforcement and prosecutors additional tools to prevent violence and property destruction and to hold any person who

uses a protest as an opportunity to commit crime accountable for their actions. HB 1 has passed the House with a vote of 76 – 39.

Its Senate companion bill, referenced to three committees, has not yet been heard. However, this week, the Senate President made it clear that rather than take up the Senate companion bill, the Senate would take up HB 1 which would have a hearing in the Senate Appropriations committee.

Of note, included in this bill are provisions that directly affects municipalities and local governments. The bill:

- Creates a process by which a citizen of a municipality may challenge a reduction to the operating budget of a municipal law enforcement agency.
- Waives sovereign immunity for tort claims arising from a riot or unlawful assembly if the governing body of a municipality interferes with law enforcement's ability to provide reasonable police protection.

Sovereign Immunity: HB 1129 by Representative Fernandez-Barquin and the Senate companion, SB 1678 by Senator Diaz would raise the cap for a claim by an individual from \$200,000 to \$500,000 and the per-occurrence limit from \$300,000 to \$1 million. Additionally, the bill includes that Beginning July 1, 2022, annually, the caps must be adjusted to reflect changes in the Consumer Price Index for the Southeast or a successor index as calculated by the U.S. Department of Labor. This bill has not been heard and we continue to work to oppose these bills and this issue. We are watching for any amendments regarding sovereign immunity caps.

Civil Liability for Damages Relating to COVID-19: SB 72 by Senator Brandes (and companion bill by Representative McClure). SB 72 in its signed version, is a combination of SB 72 and SB 74. SB 72 creates civil liability protections for individuals, businesses, governmental entities, and other organizations against COVID-19-related claims, and is combined with SB 74 which provides lesser liability protections to health care providers and provides procedures for civil actions against them.

SB 72 was signed by the Governor, on 3/29.

Building Design: HB 55 by Representative Overdorf and SB 284 by Senator Perry This bill:

- Prohibits local governments from adopting land development regulations that require specific building design elements for single- and two- family dwellings, unless certain conditions are met.
- Provides that local governments may adopt land development regulations requiring certain building design elements to single- and two-family dwellings when:
 - The dwelling is a historic property or located in a historic district;
 - The regulations are adopted in order to implement the National Flood Insurance Program;
 - The regulations are adopted in accordance and compliance with the procedures for adopting local amendments to the Florida Building Code; or
 - The dwelling is located in a community redevelopment area.

The House bill was scheduled to be heard by the full House on 3/31 but was temporarily postponed without comment. The Senate bill has passed 2 of its 3 committees but was not heard this week.

Regulation of Smoking in Public Places: SB 334 by Gruters and HB 239 by Altman. The bill would allow counties and municipalities the authority to further restrict smoking within the boundaries of any public beaches and public parks they own. Given the existing definition of “smoking” in ch. 386, F.S., counties and municipalities may restrict the ability for any person to inhale, exhale, burn, carry, or possess any lighted tobacco product, including cigarettes, cigars, pipe tobacco, or any other lighted tobacco product,

within parks and beaches owned by the county or municipality. The bill allows municipalities to further restrict smoking within county owned beaches and parks located within the municipality's jurisdiction if doing so would not conflict with a county ordinance.

Although this bill specifically relates to "smoking," counties and municipalities are already allowed to impose more restrictive regulation on the use of vapor-generating devices under s. 386.209, F.S.

The major difference between these two bills is that the Senate bill also bans smoking in state parks but the House bill does not at this point.

HB 239 has passed its second committee of three, and SB 334 has passed its second committee of three, however neither bill was heard this week.

Community Association Assessment Notices: SB 56 by Senator Ana Maria Rodriguez and its companion bill is HB 615 by Representative Anthony Rodriguez. This bill provides for additional notice requirements for condominium, cooperative, and homeowners' associations relating to the collection of assessments.

SB 56 has passed the full Senate. HB 615 will be heard in its third committee, on 4/6.

Vacation Rental preemption and regulation: Again this week, the Senate version, SB 522, was not heard. However, this week the House companion bill, HB 219, was scheduled for a hearing on 3/22, but was temporarily postponed and not heard. This bill remains an earlier version of the vacation rental bill and does not have amendments filed that would conform it to the Senate version. We continue to work with the Florida League of Cities, other municipal lobbyists and various members in the House and Senate to oppose this legislation. Working with the League, we worked and secured a vote count that would have killed this bill, likely the reason for the postponement. It remains to be seen if this bill will be put on a remaining agenda.

Sales and Use Tax: SB 50 sponsored by Senator Gruters and HB 15 sponsored by Representatives Clemmons and LaMarca. This bill requires marketplace providers located outside of state to remit discretionary sales surtax when delivering tangible personal property to a county imposing a surtax, provides that a marketplace seller, rather than the marketplace provider, is liable for sales tax collection and remittance and requires that a portion will be deposited into the Unemployment Compensation Trust Fund

SB 50 has passed the Senate 30 – 10, its companion HB 15 has passed all committees and will be heard by the full House on 4/7.

Statewide Flooding and Sea-level Rise Resilience: SB 1954 by Rodrigues and companion bill HB 7019, a committee bill through the Agriculture and Natural Resources Appropriations Subcommittee.

A leadership priority this Session of both the House and Senate, this comprehensive bill focuses on resiliency, flooding, sea level rise, and features local governments as a key component of a statewide approach. This legislation establishes statewide resiliency programs that will assess and address inland and coastal flooding and sea level rise. After amending the bill this week, it now accomplishes the following:

- Revises the definition of "critical asset" to broaden the specified critical infrastructure.
- Authorizes funding from the Resilient Florida Grant Program to be spent on: projects that adapt critical assets to the effects of flooding and sea level rise, and data collection necessary for resilience planning.
- Authorizes vulnerability assessments to include areas smaller than a local government, if approved by DEP, and to include locally collected elevation data.

- Requires vulnerability assessments to include all assets owned or maintained by the grant applicant.
- Revises the specific technical requirements for coastal vulnerability assessments conducted using funding from the Resilient Florida Grant Program.
- Requires DEP, as appropriate, to compile, analyze, and incorporate information from local vulnerability assessments into the statewide data set, and to incorporate local mitigation plans and post-disaster redevelopment plans into the statewide assessment.
- Clarifies that the statewide sea level rise projections do not supersede regional projections.
- Requires the inventory of critical assets in the statewide assessment to take into consideration critical assets identified in local vulnerability assessments.
- Requires the statewide data set and assessment to be updated at least every 5 years instead of at least every 3 years.
- Requires the statewide resilience plan to include the project sponsor for each project.
- Authorizes local governments and regional entities to submit to DEP proposed projects for inclusion in the statewide resilience plan that address risks of flooding or sea level rise identified in vulnerability assessments meeting the requirements of the grant program.
- Authorizes water management districts and flood control districts to submit to DEP proposed projects for inclusion in the statewide resilience plan that address impacts to water supplies or water resources, along with project evaluations. This is instead of requiring water management districts to receive projects from local and regional government entities and submit them in lists to DEP with evaluations.
- Requires that, to be eligible for inclusion in the statewide resilience plan, a project must have been submitted by a local government, regional resilience entity, water management district, or flood control district; or have been identified in the statewide assessment.
- Lists types of expenses that are not eligible for inclusion in the statewide resilience plan, instead of types of projects. Expenses to prevent saltwater intrusion may be eligible unless such expenses are used to mitigate water quality impacts caused by the project.
- Does not require a 50 percent match for projects in the statewide resilience plan that assist or are within a financially disadvantaged small community, as defined in the bill for both counties and municipalities.
- Revises the scoring system DEP must use for including eligible projects in the statewide resilience plan.
- Revises the resilience plan scoring system criteria, including emphasizing assessment of upland damage costs, erosion, and environmental benefits or nature-based solutions.
- Requires DEP to initiate rulemaking implementing s. 380.093, F.S., by August 1, 2021.
- Changes “Regional Resilience Coalitions” to “Regional Resilience Entities,” and slightly broadens the description of the entities and the purposes for which DEP may provide funding.
- Clarifies that the University of South Florida College of Marine Science, or its successor entity, will serve in the role described in the bill.

SB 1954 passed the Appropriations committee and will be heard by the full Senate on 4/7. HB 7019 will be heard by the full House on 4/7 as well.

Coastal Construction and Preservation: SB 1504 by Senator Wright and HB 1133 by Representative Leek. This bill creates new definitions for the terms “upland structure,” “vulnerable,” and “wave runoff”. The bill also requires, (rather than authorizes), the Department of Environmental Protection to issue permits for present installations of coastal armoring structures, including walls installed through a local emergency armoring provision.

Neither bill has been heard to date.

State Preemption of Transportation Energy Infrastructure Regulation: HB 839 by Representative Fabricio and SB 856 by Senator Hutson.

Amended in its last committee, the House bill as drafted:

- Preempts a municipality, county, special district, or political subdivision from prohibiting the siting, development, or redevelopment of a fuel retailer or the necessary related transportation infrastructure within that specific local government’s entire jurisdiction.
- Does not preempt a municipality, county, special district, or political subdivision from adopting and implementing ordinances, regulations, policies, or resolutions on the siting, development, or redevelopment of fuel retailers or necessary related transportation infrastructure that are consistent with other allowable uses and general law.
- Preempts any action by a municipality, county, special district, or political subdivision resulting in a de facto jurisdiction-wide prohibition against a fuel retailer or related and necessary transportation infrastructure.
- Preempts mandating any required infrastructure on a fuel retailer, including electric vehicle charging stations.
- Defines the term “fuel retailer” as a fuel station or retail site selling fuel to power vehicles. "Related transportation energy infrastructure" is defined as “storage tanks, pipelines, or any related equipment that is necessary to deliver fuel to a fuel retailer or dispense fuel at a fuel retailer.”

HB 839 passed its second committee on 4/1, the Senate bill, SB 856 was not heard this week.

Local Occupational Licensing SB 268 by Perry and HB 735 by Harding. The bills preempt the licensing of occupations to the state and supersedes any local government licensing of occupations, with the exception of local government licensing of occupations imposed by a local government before January 1, 2021. The exception for local government licensing imposed by a local government expires July 1, 2023, after that point, they cannot be increased or modified.

The bill prohibits local governments from requiring a license for a person whose job scope does not correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board, in DBPR. It 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.

SB 268 passed its second committee and will be heard in its third on 4/6, and HB 735 passed the full House with a vote of 82 - 32.

Home Based Businesses/Local Regulation: SB 266 by Senator Perry and HB 403 by Giallombardo. The bill provides that local governments would not be able to enact or enforce any ordinance, regulation, or policy, or take any action to license or otherwise regulate a home-based business in a manner that is different from other businesses in a local government’s jurisdiction. In order to be considered a home-based business, the bill requires that:

- The business operates, in whole or in part, from a residential property

- The employees of the home-based business reside in the residence, except for up to two employees that do not reside at the residence. However, employees of the home-based business that do not primarily work at the residential dwelling are not required to reside in the dwelling
- Parking for the business activities of the home-based business complies with local zoning requirements
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The bill provides that home-based businesses will only be subject to applicable business taxes in the county and municipality where the home-based business is located.

The bill allows any adversely affected current or prospective home-based business owner to challenge any local government action regulating home-based businesses. The prevailing party may recover reasonable attorney fees and costs.

SB 266 has passed its second committee but was not heard this week. HB 403 was to be heard by the full House, on 3/31 but was temporarily postponed on the floor.

Public Works Projects: SB 1076 by Senator Brodeur and HB 53 by Representative DiCeglie. The original bill prohibited local governments from providing preferences in competitive solicitations for local based businesses. As amended now, both have changed this provision to prohibit a local government from imposing penalties during the bidding process based local preference. A significant difference.

Both also now include that provisions of the bill do not apply to projects valued at \$300,000 or less, or those projects wholly funded with locally-appropriated funds, only state funded projects.

The bills continue to prohibit local governments from requiring a contractor, subcontractor, or material supplier or carrier engaged in a public works project to train employees in designated programs with a restricted curriculum or from a single source.

At this point, the one difference is included in the Senate bill only, which provides that these restrictions do not apply to projects funded by the Charter County and Regional Transportation System Surtax.

SB 1076 passed its second committee and HB 53 has also passed its second committee, neither were heard this week and both have one reference each remaining.

911 Public Safety Telecommunicators: (HB 1171 by Representative Willhite and SB 1224 by Senator Jones) This bill revises the definition of "first responder" to include 911 public safety telecommunicators as defined in s. 401.465, specifies that there must be 25 creditable years needed to receive full retirement benefit without penalty and requires them to have their retirement benefits calculated in accordance with provisions for Regular Class members. For the calculation language, see lines 203 – 209 of the bill. I have attached the Senate bill, SB 1224, both bills are identical.

Neither bill has been heard to date.

Red Light Cameras/Traffic Infraction Detectors: HB 6009 by Representative Sabatini would repeal the ability of local governments to use red light cameras. Provisions of this bill are also included in HB 1531 sponsored by Representative Hardy. We continue to monitor these bills.

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