

HB- 53 Public Works Projects—Effective July 1, 2021 [Approved 6/30/21]

Amends §255.0991, F.S., relating to contracts for construction services paid for with any state-appropriated funds to prohibit ordinances preventing a certified, licensed, or registered contractor, subcontractor, or material supplier or carrier, from participating in the bidding process based on certain preferences to include maintaining a local office, hiring employees/subs from within the local jurisdiction, or requiring prior payment of local taxes, assessments or duties.

Amends §255.0992, F.S., relating to “*public works projects*” to revise the definition to include an activity that exceeds \$1,000,000 in value and that is paid for with any state-appropriated funds. The bill preempts existing local ordinances related to the procurement process for public works projects when any state funds are used.

Currently, state law preempts local preference ordinances if 50% or more of the cost will be paid from state-appropriated funds. As amended, the prohibition on local preferences applies to all solicitations that will be paid for with funding that is state-appropriated.

SB 88- Farming Operations—Effective July 1, 2021 [Chapter #2021-7]

Amends §823.14, F.S., relating to the *Right to Farm Act*, to include agritourism in the definition of farm operations and particle emissions. As amended, the statute also provides strong liability protections for farming operations from public and private nuisance lawsuits and limits.

HB 337- Impact Fees-- Effective upon becoming a law [Chapter #2021-63]

Amends §163.31801, F.S., relating to the *Florida Impact Fee Act*. The bill revises the limitations and requirements to impose impact fees by local governments. There are six provisions regarding impact fee increases within the bill:

1. An impact fee may be increased only pursuant to a plan for the imposition, collection and use of the increased impact fee that complies with this section;
2. Any increase to a current impact fee rate of not more than 25% of the current rate must be implemented in two equal annual installments;
3. An increase to a current impact fee that exceeds 25% but not more than 50% of the current rate must be implemented in four equal installments;
4. No impact fee increase may exceed 50% of the current impact fee rate;
5. An impact fee may not be increased more than once every 4 years; and
6. An impact fee may not be increased retroactively for a previous or current fiscal or calendar year. However, a local government, school district, or special district may increase an impact fee rate beyond the cap amounts.

In order to increase an impact fee beyond the cap amount, three requirements must be met:

1. A demonstrated need study justifying the increase that has been completed within 12 months prior to the adoption of the impact fee that expressly demonstrates the extraordinary circumstances necessitating the need to exceed the phase-in limitations;
2. Two publicly noticed workshops dedicated to the extraordinary circumstances creating the need to exceed the phase-in limitations; and
3. Impact fee increase must be approved by no less than a two-thirds vote of the governing body.

The cap language operates retroactively to January 1, 2021.

The bill also revises the provision that passed into law last year providing that impact fee credits are assignable and transferable at any time to another development that is within the same or an adjoining impact fee zone or district. The above requirement applies to all impact fee credits without regard to whether the credits were established before or after the effective date of this act. Furthermore, the bill revises the credit requirements on certain contributions against the collection of an impact fee: contributions related to improvement of public facilities or infrastructure must be credited, credits must be applied on impact fees collected for the general category or class of public facilities or infrastructure for which the contribution was made; and credits cannot be applied

if a local government does not charge and collect an impact fee for the general category or class of public facilities.

HB- 401 Florida Building Code—Effective July 1, 2021 [Approved 6/29/21]

Amends §163.3202, F.S., to prohibit land development regulations relating to “building design elements” from being applied to single or two-family dwellings with the following seven exceptions:

1. Dwellings on the National Register of Historic Places or located in a historic district.
2. Regulations are adopted to implement the National Flood Insurance Program.
3. Regulations are adopted to comply with Chapter 553.
4. Dwellings are located in the community redevelopment area.
5. Regulations are required to ensure protection of coastal wildlife in compliance with current law.
6. The dwelling is located within a planned unit development or master planned community created by ordinance, resolution or other final action of the local governing body.
7. The dwelling is located within the jurisdiction of a local government that has a design review board or architectural review board.

This provision does not affect the validity or enforceability of private covenants or other contractual agreements relating to building design elements.

Amends §553.73, F.S., to prohibit local governments from adopting more stringent technical provisions of the FBC with local application more frequently than once every six months and provides a procedure for substantially affected persons to request a non-binding advisory opinion from the FBC stating whether the Commission interprets such a provision as a technical amendment to the Code. Notwithstanding the foregoing provision, counties may adopt more stringent technical amendments to the FBC relating to flood resistance in order to implement the NFIP but may not use preliminary maps issued by FEMA for any law, ordinance, rule, or other measure that has the effect of imposing land use changes or permits.

Amends §553.79, F.S., to prohibit local governments from requiring a contract between a builder and an owner as a condition to apply for, or to obtain, a building permit. Amends §553.791, FS, to require a local enforcement agency to reduce its permit fee by the amount of costs savings realized for not having to perform plans review or building inspection services when an owner or contractor retains a private provider to perform such services.

HB-403 Home-Based Businesses—Effective July 1, 2021 [Approved 6/29/21]

Creates §559.995, F.S., relating to home-based businesses. Prohibits local governments from enacting or enforcing any ordinance, regulation, or policy or take any action to license a home-based business except as provided in the statute. HBBs that operate on residential property may operate in an area zoned for residential use and may not be regulated in a manner that is different from other businesses in the jurisdiction.

A HBB must meet the following requirements:

1. The employees of the business must reside in the dwelling, except for up to two employees or independent contractors.
2. The parking generated by the business must comply with local zoning requirements and may not be greater than would normally be expected at a residence with no business operations. *Any local regulations regarding use of vehicles or trailer operated or parked at the business may not be more stringent than those that apply to a residence where no business is conducted.
3. As viewed from the street, the use of the property must be consistent with the uses of the surrounding residential areas and any external modifications must confirm to the residential character and aesthetics of the neighborhood.
4. Activities of the business must be secondary to the use as a residential dwelling.
5. Business activities must comply with relevant local/state regulations regarding signage and equipment or processes that may create a nuisance. *Any local regulations may not be more stringent than those that apply to a residence where no business is conducted.

6. Business activities must comply with relevant local/state/federal regulations regarding use/storage/disposal of corrosive, combustible, or other hazardous materials.

SB- 430 Retail Petroleum Fuel Measuring Devices—Effective July 1, 2021 [Chapter #2021-97]
Amends §525.07, F.S., expressly preempting the regulation of fuel measuring devices.

HB- 663 Cottage Food Operations—Effective upon same date as HB 403 [Approved 6/29/21]
Amends §500.03, F.S., to revise the definition of “cottage food operation” to include a person or entity that produces or packages food products at the residence of the person or the residence of a person with an ownership interest in the entity. Amends §500.80, F.S., to increase the allowable annual gross sales of cottage food products from \$50,000 to \$250,000 and authorize the sale and delivery of cottage food products by mail.

Amends §500.80(6), F.S., to expressly preempt the regulation of cottage food products to the state and prohibit any local law, ordinance, or regulation from regulating the preparation, processing, storage, and sale of these products; however, the cottage food operation must comply with the conditions applicable to home-based businesses under §559.995, F.S.

HB- 735 Local Occupational Licensing—Effective July 1, 2021[Approved 6/29/21]
Creates §163.211, F.S., to expressly preempt the licensing of occupations to the state and supersede any local government occupational licensing, except as authorized by general law.

Amends §489.117, F.S., to prohibit a local government from requiring a person to obtain a license whose job scope does not substantially correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board. More specifically, the bill 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.

Amends §489.1455 and §489.5335, F.S., to authorize counties to issue journeyman licenses in the plumbing, pipe fitting, mechanical, and HVAC trades, as well as the electrical and alarm system trades. Local journeyman licensing is excepted from the state preemption of local licensing.

HB- 839 Fuel Retailers—Effective July 1, 2021 [Chapter #2021-111]
Creates §377.707, F.S., expressly preempting local governments from adopting a law, ordinance, regulation, policy, or resolution that prohibits the siting, development, redevelopment of a fuel retailer or the related transportation infrastructure that is necessary to provide fuel to a fuel retailer within a local government’s entire jurisdiction. The law further preempts requiring a fuel retailer to install or invest in any particular kind of fueling infrastructure, including electric vehicle charging stations.

SB- 896 Renewable Energy/Solar Facility—Effective July 1, 2021 [Approved 6/29/21]
Creating §163.3205, F.S., to establish a “Solar Facility” approval process. The statute requires solar facilities to be a permitted use in all agricultural land use categories in a local government’s comprehensive plan and all agricultural zoning districts within an unincorporated area. A county may only adopt an ordinance specifying buffer and landscaping requirements for solar facilities. Counties will be preempted from disallowing a solar project on agricultural land solely because it’s located in an agricultural land designation.

HB- 919 Utility Services—Effective July 1, 2021 [Chapter #2021-150]
Creating §366.032, F.S., preempting utility service restrictions. Counties are prohibited from enacting or enforcing a resolution, ordinance, rule, code, or policy restricting or prohibiting the types or fuel sources of energy that can be used, delivered, converted, or supplied by a public utility. However, the statute does not prohibit a governmental entity from adopting rules, regulations, and policies governing an electric or natural gas utility that it owns or operates and directly controls.

SB- 1194 Referendums of Florida Seaports (Transportation Bill) —Effective July 1, 2021 [Approved 6/29/21]

Creating §311.25, F.S., to prohibit a local ballot initiative or referendum from restricting maritime commerce in all of Florida's seaports, including, but not limited to, regulations related to:

- a. Vessel type, size, number, or capacity;
- b. Number, origin, nationality, embarkation, or disembarkation of passenger or crew or their entry into this state or any local jurisdiction;
- c. Source, type, loading, or unloading of cargo; or
- d. Environmental or health records of a particular vessel or vessel line.

Any local ballot initiative or referendum that was adopted before, on, or after July 1, 2021, and any local law, charter amendment, ordinance, resolution, regulation, or policy adopted in such an initiative or referendum, is prohibited, void, and expressly preempted to the state.

SB- 1884 Firearms and Ammunition Regulation—Effective July 1, 2021 [Chapter #2021-15]

Pursuant to §790.33, F.S., the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof is preempted to the state. As amended, the statute provides the right to maintain a legal action against a preempted local regulation, regulating firearms and ammunition that applies even if the local regulation is unwritten. The statute also provides a mechanism for a prevailing plaintiff to recover damages and attorney's fees. If, after filing a complaint, a government entity voluntarily changes the regulation, with or without court action, the plaintiff challenging the regulation is considered the prevailing party.

SB 2006- Emergency Management—Effective July 1, 2021 [Chapter #2021-8]

Expands the *State Emergency Management Act* to address the threat posed by a pandemic or other public health emergency.

Amends §252.38, F.S., relating to the Emergency Management powers of political subdivisions. An emergency order issued by a political subdivision must be "narrowly tailored" to serve a "compelling public health or safety purpose." Any such order must be limited in duration, applicability, and scope to reduce infringement on individual rights or liberties to the greatest extent possible. Emergency Orders issued by a political subdivision in response to an emergency authorized under Chapter 252 or Chapter 381 (excluding orders issued in response to hurricanes or other weather-related emergencies) shall automatically expire 7 days after issuance but may be extended by a majority vote of the governing body in 7-day increments **for a total duration of not more than 42 days**. Upon expiration, a political subdivision may not issue a substantially similar order. The Governor may, at any time, invalidate an emergency order if the Governor determines the order unnecessarily restricts individual rights or liberties.

Amends §252.46, F.S., relating to emergency ordinances/orders issued by political subdivisions to require filing of any orders or rules with the Clerk within 3 days or the order is void. In addition, emergency orders must be available on a dedicated webpage accessible through a link on the county's homepage and the webpage must identify the orders currently in effect. The county must provide the DEM with a link to the dedicated webpage for inclusion on the division's webpage. Any order that imposes a curfew must allow persons to travel to their places of employment to report for work and return home after work.

Creates §381.00316, F.S., prohibiting governmental entities from requiring persons to provide any documentation certifying COVID-19 vaccination or post-infection recovery to gain access to, entry upon, or service from the governmental entity's operations in the state. The Department of Health is authorized to issue fines to businesses and institutions who violate the terms, however, the fines may not exceed \$5,000 per violation.