



FROM THE HALLS OF THE CAPITOL A REPORT FROM TALLAHASSEE



AGC Alabama Northwest Florida Section

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Week One Legislative Report

Another Scandal Rocks Senate

Opening day of the Legislative Session is typically a pageant in which Florida's political leaders set the tone for the upcoming session and layout their agendas.

But before the gavel could even drop to signal the start of the 2018 Legislative Session, yet another sex scandal involving two married senators -- one of them the chamber's highest-ranking Democrat and the other a powerful Republican -- rocked the upper chamber. On the heels of a sexual harassment allegation which forced **Senator Jack Latvala (R – Clearwater)** out of office, **Senate Minority Leader Oscar Braynon (D - Miami Gardens)** and **Senate President Pro Tempore Anitere Flores (R – Miami)** admitted they have been having an extramarital affair. The news quickly spread through the Capitol, overshadowing the largely ceremonial opening day goings-on.

Senate President Joe Negron did not address the affair in his opening remarks; however, he did reiterate the Senate will have “zero tolerance” for sexual harassment or misconduct against employees and visitors.

Saying they did not want “gossip and rumors to distract from the important business of the people,” **Senators Braynon** and **Flores** acknowledged “that our longtime friendship evolved to a level that we deeply regret.”

Final Dash for Cash

Monday, January 8 was the last chance for any current lawmaker to scoop up campaign

contributions for the 2018 election as well as some special elections that will take place before November. It also marked the traditional Associated Industries of Florida (AIF) annual pre-session welcome back reception for legislators, lobbyists and a host of other politicians. The AIF event is one that anyone who is anybody will be seen at including **Governor Rick Scott** and “wanna be” governor **Commissioner of Agriculture Adam Putnam**.

Lawmaker Wants to Move Capitol

It’s been fifty-one years since any legislator proposed the Capitol be moved from Tallahassee. That effort ended then with a new 22-story Capitol building being built. A plaque was placed inside the first floor of the new Capitol to the late Senator Lee Weissenborn who in 1967 pushed for a commission to study moving the state capital to Orlando. **Representative Bill Hager**, pointing to travel costs for Floridians, wants the state to consider moving the Capitol from Tallahassee. His bill would establish a task force to look at options for relocating the Capitol building, executive-branch offices and the Legislature. Don’t look for this proposal to be seriously considered . . . maybe **Representative Hager** is just wanting a plaque placed in the Capitol with his name on it.

Looking Ahead to Week Two

The House Select Committee on Hurricane Response and Preparedness will consider more than 12 pages of recommendations on how to better prepare for hurricanes and their aftermath. Among the recommendations are extending a toll road in the Tampa Bay area to the Georgia border, creating gas reserves and requiring all health care and assisted living facilities to have an emergency source of power.

A Senate committee will consider a bill (**SB 8**) aimed at fighting the opioid crisis. Nearly 6,000 people died in Florida from opioid overdoses in 2016. A major overhaul of Florida’s higher education system is scheduled to be heard by the House Post-Secondary Education Subcommittee on Wednesday. The legislation (**HB 423**) calls for boosting the amount of financial aid paid by the state to top-performing Florida residents who attend a state college or university. A similar bill passed the Florida Senate last week. The Senate Regulated Industries Committee on Wednesday will consider a gambling bill (**SB 840**) that would make it clear fantasy sports are legal in Florida. The legislation also would allow dog tracks to keep poker rooms even if they end live racing. On Thursday, the Senate Judiciary Committee is scheduled to take up two gun bills. One of the measures (**SB 1048**) would allow someone to carry a gun onto a private school campus if the school is run and operated by a church or religious institution.

The House Oversight, Transparency and Administration Subcommittee on Wednesday will consider a bill (**HB 707**) that would ban the governor and other statewide elected officials from asking for campaign donations while the Florida Legislature is in session. Currently only legislators are banned from raising money during session.

Select Committee on Hurricane Response & Preparedness Holds Final Meeting

The Select Committee will hold its final meeting on Tuesday, January 16, 2018 at 9:00 a.m. The purpose of the meeting is to adopt the Committee’s final recommendations. **THE GOOD**

NEWS is that nothing relating to construction liens is contained in the draft recommendations. The initial directive from the Speaker to the Select Committee included considering changes to construction licensing and construction lien law. **House Speaker Richard Corcoran** has long advocated for protecting homeowners from paying twice for services and materials. The final draft does not include any of the aforementioned changes, but there is always a chance that a committee member could make a recommendation between now and Tuesday morning that something be included. I will be in attendance at the meeting in case anything unexpected should occur. The DRAFT RECOMMENDATIONS are available on the House website at the following link:

<http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2978&Session=2018&DocumentType=General%20Publications&FileName=Draft%20Recommendations%20of%20the%20Select%20Committee%20on%20Hurricane%20Response%20and%20Preparedness.pdf>.

2017-2018 Constitution Revision Commission Update

Homestead Exemption/Fraud Proposal Voted Down

On Thursday, January 11, CRC proposal #17 by former Senate President Don Gaetz was voted down by the Finance & Tax Committee of the Commission. This proposal would have disallowed the fraudulent use of homestead property to hide assets from creditors. Unfortunately, despite the wielded by Senator Gaetz, the proposal ran up against the opposition of the “what ifs” and unintended consequences of making a change.

Construction Bonds

(HB 723 by McClain/SB 908 by Steube)

This legislation has been the subject of conference calls during the month of December with interested members of the Construction Coalition. As filed, some construction stakeholder groups have serious concerns and are opposed to this legislation. Most objectionable, the bill would require a notice of nonpayment to be verified under oath and have **ALL** documents substantiating the claim as attachments. The bill also has provisions that would gut the current protections when a payment bond is conditional. Stakeholders will be working hard to either resolve their concerns or kill this legislation.

STATUS: **HB 723** has been referred to the House Careers & Competition Subcommittee; Civil Justice & Claims Subcommittee; and Commerce Committee. **SB 908** has been referred to the Senate Judiciary Committee; Community Affairs Committee; and Rules Committee. No movement on either of the bills during the first week of Session.

Direct Purchases of Tangible Personal Property by Contractors

(HB 715 by Leek/ SB 1108 by Young)

These ABC supported bills would streamline the direct purchase process by allowing governmental entities to authorize contractors and subcontractors to use their certificate of entitlement to purchase materials tax exempt. It would also allow them to negotiate who assumes responsibility for the delivered materials.

STATUS: HB 715 has been referred to the House Oversight, Transparency & Administration Subcommittee; Ways & Means Committee; and Government Accountability Committee. **SB 1108** has been referred to the Senate Community Affairs Committee; Appropriations Subcommittee on Finance and Tax; and Appropriations Committee. No movement on either of the bills during the first week of Session.

Use of Wireless Communications Devices While Driving/Texting While Driving

(HB 33 by Toledo/CS/SB 90 by Perry)

For the first time, there is a reasonable chance the legislature will create a primary offense for texting while driving. **Speaker Corcoran** has publicly announced his support for **HB 33** by **Representative Jackie Toledo**.

The bill would make a violation of the statute a primary offense, and would also require the officer to inform the vehicle operator they have the right to decline a search of their cell phone. The phone could not be searched or seized without a warrant. **CS/SB 90** by Senator Keith Perry is comparable but not identical. It requires fines collected to be deposited into the Emergency Medical Services Trust Fund.

STATUS: HB 33 has been referred to the House Transportation and Infrastructure Subcommittee; Judiciary Committee; and Government Accountability Committee. The bill passed the House Transportation and Infrastructure Subcommittee on Tuesday, January 9 on a vote of 14-0. The bill now goes to the House Judiciary Committee, its last committee reference. **CS/SB 90** has been referred to the by Senate Communications, Energy, and Public Utilities Committee; Transportation Committee; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Appropriations Committee. The bill unanimously passed the Senate Transportation Committee on Wednesday, January 10 on a vote of 5-0. The bill now goes to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

Actions Against Contractors without Required Insurance Coverage

(HB 89 by Spano/SB 604 by Steube)

These identical bills are the result of an actual case Representative Spano had where a contractor's insurance coverage specifically excluded condominium work. The bills would pierce the corporate veil and make a contractor personally liable if they knowingly failed to carry the public liability insurance and property damage insurance required by s. 489.115 or knowingly performed work that was specifically excluded from such policies. The House bill passed out of its first committee during committee weeks but not without opposition from contracting groups and lots of questions from committee members.

STATUS: HB 89 has been referred to the House Civil Justice and Claims Subcommittee; Careers and Competition Subcommittee; and Judiciary Committee. The bill remains in the House Careers and Competition Subcommittee. **SB 604** has been referred to the Senate Regulated

Industries Committee; Judiciary Committee; and Rules Committee. No movement on either of the bills during the first week of Session.

Electrical Contractors

(HB 295 by Mercado/SB 446 by Gibson)

These bills amend state law to require a journeyman electrician to supervise installation of 77 volts or more on all commercial or industrial projects. Currently, there is a 50,000-square foot threshold before this requirement kicks in. Historically, contractor groups have opposed this union initiative.

STATUS: **HB 295** has been referred to the House Careers and Competition Subcommittee; Local, Federal and Veterans Affairs Subcommittee; and Commerce Committee. **SB 446** has been referred to the Senate Regulated Industries Committee; Community Affairs Committee; and Rules Committee. No movement on either of the bills during the first week of Session.

Florida Building Commission

(HB 299 by McClain)

This bill would reduce the membership of the Florida Building Commission from its current 27 members to 11, removing many industry representative seats on the Commission. The bill was agendaed to be heard in October but was temporarily postponed. This is very controversial, and a Senate companion has not yet surfaced.

STATUS: **HB 299** has been referred to the House Careers and Competition Subcommittee; and Commerce Committee. The bill remains in the House Commerce Committee, its last committee reference. No movement on the bill during the first week of Session.

Impact Fees

(CS/HB 697 by Young/CS/SB 324 by Young)

These Florida Home Builders Association supported bills are an attempt to rein in the assessment and collection of impact fees. The Senate bill originally delayed the collection of impact fees to issuance of the certificate of occupancy; however, the amended Senate bill changes that date to issuance of the permit and puts a myriad of requirements on the collection of impact fees including a requirement that they be used for the benefit of the residents of the project and not to pay existing debt.

STATUS: **CS/HB 697** has been referred to the House Local, Federal and Veterans Affairs Subcommittee; Ways and Means Committee; Government Accountability Committee. The bill unanimously passed the House Local, Federal and Veterans Affairs Subcommittee on Wednesday, January 10 on a vote of 14-0. The bill is scheduled to be heard by the House Ways and Means Committee on Wednesday, January 17 at 4:00 p.m. **CS/SB 324** has been referred to the Senate Community Affairs Committee; Appropriations Subcommittee on Finance and Tax; and Appropriations Committee. The bill remains in the Senate Appropriations Subcommittee on Finance and Tax. No movement on the Senate Bill during the first week of Session.

Statute of Limitations for Actions Relating to Real Property Improvement

(HB 875 by Leek; SB 536 by Passidomo)

Bills passed in recent years on this issue remain controversial, and these ABC-supported bills are an attempt to resolve those issues and clarify the statute. In addition to technical tweaks, the bills establish a time for filing cross-claims and counterclaims and clarify that work performed after issuance of a certificate of completion or certificate of occupancy does not extend the time for filing an action.

STATUS: **HB 875** has been referred to the House Civil Justice & Claims Subcommittee; Agriculture & Property Rights Subcommittee; and Judiciary Committee. The bill is scheduled to be heard by the House Civil Justice & Claims Subcommittee on Wednesday, January 17 at 9:00 a.m. **SB 536** has been referred to the Senate Judiciary Committee; Community Affairs Committee; and Rules Committee. No movement on either of the bills during the first week of Session.

Construction Defect Claims

(HB 759 by Trumbull/SB 680 by Passidomo)

This legislation is an attempt to rein in construction defects claims. It requires claimants to personally sign claims, settlement documents, etc. and to be present at inspections. It requires a rejection of settlement to be accompanied by a demand for mediation and to explain why the settlement offer was not considered adequate and sets various time periods and deadlines.

STATUS: **HB 759** has been referred to the House Civil Justice & Claims Subcommittee; and Judiciary Committee. The bill unanimously passed the House Civil Justice & Claims Subcommittee on Wednesday, January 10 on a vote of 15-0. The bill now goes to the House Judiciary Committee, its last committee reference. **SB 680** has been referred to the Senate Judiciary Committee; Commerce and Tourism Committee; and Rules Committee. No movement on the Senate Bill during the first week of Session.

Opened and Expired Building Permits

(HB 1077 by /SB 1322 by Powell)

These bills would add failing to properly close any permit or satisfy any applicable permit requirement to the list of violations for which the Construction Industry Licensing Board can discipline a contractor. These bills are 15 pages full of new requirements defining expired permits, setting forth procedures for completion of open permit projects that have not been inspected or closed, addressing changing contractors and requiring a notice to all permit applicants about permit and inspection requirements. The bill allows local governments to enforce other local restrictions that are not inconsistent and/or add additional permit closure requirements.

STATUS: **HB 1077** has been referred to the House Careers & Competition Subcommittee; Local, Federal & Veterans Affairs Subcommittee; and Commerce Committee. **SB 1322** has been referred to the Senate Regulated Industries Committee; Community Affairs Committee; and Rules Committee. No movement on either of the bills during the first week of Session.

Regulatory Reform-Licensing

(HB 1041 by Plakon; SB 1114 by Brandes)

These bills specify licenses that can be obtained after certain specified time periods have lapsed since the conviction or determination of guilt. The professions included are cosmetology and barbers, construction contractor in the subtrades and specialty contractors and nursing assistants. The bills allow a person to apply to the respective board for a declaratory statement as to whether they are eligible for licensure and create procedures and time periods.

STATUS: **HB 1041** has been referred to the House Careers and Competition Subcommittee; Local, Federal and Veterans Affairs Subcommittee; and Commerce Committee. **SB 1114** has been referred to the Senate Regulated Industries Committee; Commerce and Tourism Committee; and Rules Committee. No movement on either of the bills during the first week of Session.

Regulatory Reform-Red Tape Reduction Act

(HB 791 by M. Diaz/SB 1268 by Perry)

These bills would create the Red Tape Reduction Advisory Council under the Executive Office of the Governor, consisting of members appointed by the Governor, House Speaker and Senate President. A baseline for the number of administrative rules in existence on January 1, 2019 would be established and an agency could not adopt an additional rule without repealing an existing rule. The council shall: (a) Annually review the Florida Administrative Code to determine whether any rules are duplicative or obsolete, are especially burdensome to businesses within the state, disproportionately affect businesses with fewer than 100 employees or disproportionately affect businesses with annual revenue below \$5 million. If the council determines that a rule meets at least one of these criteria and can be repealed or amended with minimal impact on public health, safety and welfare, the council shall recommend repealing or amending the rule.

STATUS: **HB 791** has been referred to the House Oversight, Transparency & Administration Subcommittee; Appropriations Committee; and Government Accountability Committee. **SB 1268** has been referred to the Senate Governmental Oversight and Accountability Committee; Appropriations Subcommittee on General Government; and Appropriations Committee. No movement on either of the bills during the first week of Session.

Annual Business Organization Reports and Fees

(HB 373 by M. Grant/SB 1228 by Hukill)

These bills would change the annual corporate reporting to bi-annual reporting.

STATUS: **HB 373** has been referred to the House Oversight, Transparency & Administration Subcommittee; Ways & Means Committee; and Government Accountability Committee. **SB 1228** has been referred to the Senate Commerce and Tourism Committee; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations Committee. The bill is scheduled to be heard by the Senate Commerce and Tourism Committee in Tuesday, January 16 at 1:30 p.m. No movement on either of the bills during the first week of Session.

Business Filings

(CS/HB 661 by M. Miller/CS/SB 610 by Young)

These bills would require the Department of State to create a notification program by December 31, 2018 to combat the fraudulent filing of business and corporate documents. Each time a document is filed, an email notice to the business would be required.

Status: **CS/HB 661** has been referred to the House Oversight, Transparency and Administration Subcommittee; Transportation and Tourism Appropriations Subcommittee; and Government Accountability Committee. The bill unanimously passed the House Oversight, Transparency and Administration Subcommittee on Wednesday, January 10 on a vote of 13-0. The bill now goes to the House Transportation and Tourism Appropriations Subcommittee. **CS/SB 610** has been referred to the Senate Commerce and Tourism Committee; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; and Appropriations Committee. The bill is scheduled to be heard by the Senate Appropriations Committee, its last committee reference, on Thursday, January 18 at 4:00 p.m. No movement on the Senate Bill during the first week of Session.

Notaries Public

(HB 771 by J. Grant/SB 1042 by Brandes)

These bills would create new sections of statute with respect to electronic notarization. They allow an individual and witnesses to appear “in person” via computer audio-video communication technology and specify detail as to validations, forms and other requirements.

STATUS: **HB 771** has been referred to the House Civil Justice & Claims Subcommittee; Transportation & Tourism Appropriations Subcommittee; and Judiciary Committee. The bill is scheduled to be heard by the House Civil Justice & Claims Subcommittee on Wednesday, January 17 at 9:00 a.m. **SB 1042** has been referred to the Senate Judiciary Committee; Governmental Oversight and Accountability Committee; and Rules Committee. No movement on either of the bills during the first week of Session.

Theft

(HB 713 by Donalds and Alexander/CS/SB 928 by Bracy)

These bills would raise the current threshold for what is considered grand theft and a third-degree felony from the current \$300 threshold to \$1,500. Theft of less than \$1,500 would be considered petit theft. They remove some specific items from the statute including theft of materials from a designated and posted construction site. The bills would also change provisions relating to repeat offenders to add the requirement that the increased penalties only apply to adult offenders.

STATUS: **HB 713** has been referred to the House Criminal Justice Subcommittee; Justice Appropriations Subcommittee; and Judiciary Committee. The bill passed the House Criminal Justice Subcommittee on Wednesday, January 10 on a vote of 10-2. The bill now goes to the House Justice Appropriations Subcommittee. **CS/SB 928** has been referred to the Senate Criminal Justice Committee; Judiciary Committee; and Rules Committee. The bill passed the

Senate Criminal Justice Committee on Tuesday, January 9 on a vote of 4-2. The bill now goes to the Senate Judiciary Committee.

Workers' Compensation

(HB 7009 by Commerce Committee and Burgess)

The business community and workers' compensation coalition do not believe the bill goes far enough to make a substantial difference in the anticipated rate hikes. The bill repeals caps put in place in 2003, requires the existing medical reimbursement panel to move to annual adoption of maximum reimbursement allowances, extends timeframes in which employees may receive certain workers' compensation benefits and in which a carrier must notify a treating doctor of certain requirements and revises provisions relating to retainer agreements and awarding attorney fees. It also allows the Judge of compensation claims to deny a claim if the claimant or claimant's attorney did not make a good faith effort to settle the claim out of court.

STATUS: **HB 7009** passed the House on Friday, January 12 on a vote of 74-0. The bill will be sent to the Senate in messages.

Property Insurance (Assignment of Benefits (AOB))

(HB 7015 by Trumbull/SB 62 by Hukill/SB 256 by Farmer/SB 258 by Farmer/SB 1168 by Steube)

HB 7015 encompasses the only proposal coming from the House on this issue. The various Senate bills are unlike the House bill and are different attempts to address AOB. Several, including Senator **Farmer**'s and **Steube**'s bills, prohibit attorney fees and costs paid by a property insurer under an AOB from being included in the property insurer's rate base or used to justify a rate increase or rate change. Each of the bills contains a mix of different provisions but consistent is allowing AOB under certain conditions, giving the assignor/property owner the option to rescind the assignment within seven days but be responsible for payment of work performed prior to the rescission, notifying the property insurer within a specified period of time that benefits have been assigned and itemizing the services to be performed.

STATUS: **HB 7015** passed the House on Friday, January 12 on a vote of 82-20. The bill will be sent to the Senate in messages. **SB 62** has been referred to the Senate Banking and Insurance Committee; Appropriations Committee; and Rules Committee. **SB 256** has been referred to the Senate Banking and Insurance Committee; Appropriations Committee; and Rules Committee. **SB 258** has been referred to the Senate Banking and Insurance Committee; Appropriations Committee; and Rules Committee. **SB 1168** has been referred to the Senate Banking and Insurance Committee; Judiciary Committee; and Rules Committee. The bill is scheduled to be heard by the Senate Banking and Insurance Committee on Tuesday, January 16 at 4:00 p.m. No movement on any of the bills except **HB 7015** during the first week of Session.

Small Business Participation in State Contracting

(SB 114 by Campbell)

This is the same legislation filed for several years by Senator Campbell. It would require state agencies to break contracts into smaller pieces to allow for smaller contractors to bid. It would require 35% of the agencies contracts to be awarded to small contractors, and it would prohibit

requiring bonds for contracts under \$500,000. This is legislation we have opposed and will continue to do so. At present, there is no House companion bill.

STATUS: **SB 114** has been referred to the Senate Governmental Oversight and Accountability Committee; Appropriations Subcommittee on General Government; and Appropriations Committee. No movement on the bill during the first week of Session.

Permit Fees

(CS/HB 725 by Williamson/SB 1144 by Perry)

The bills require governing body of local governments to post their permit and inspection fee schedules and link to annual building permit and inspection utilization report on its website. It also provides reporting requirements.

STATUS: **CS/HB 725** has been referred to the House Local, Federal and Veterans Affairs Subcommittee; Careers and Competition Subcommittee; and Government Accountability Committee. The bill passed the House Local, Federal and Veterans Affairs Subcommittee on Wednesday, January 10 on a vote of 13-1. The bill now goes to the House Careers and Competition Subcommittee. **SB 1144** has been referred to the Senate Community Affairs Committee; Appropriations Subcommittee on Finance and Tax; and Appropriations Committee. The bill is scheduled to be heard by the Senate Community Affairs Committee on Tuesday, January 16 at 4:00 p.m. No movement on the Senate Bill during the first week of Session.

To view and print the above bills from this week's Legislative Report, please go to either www.floridahouse.gov or www.flsenate.gov. Other legislative information can be found by going to www.leg.state.fl.us. If you have any questions or need additional information, please contact me at rbkershner@att.net.