

MEMORANDUM

TO: NAIOP
FROM: GrayRobinson
DATE: November 10, 2019
SUBJECT: 2020 Legislative Session – Committee Week 4 (November 4-7)

The fourth of six committee weeks before the 2020 Legislative Session was devoid of any fireworks—although actual fireworks were the topic of discussion before one panel this past week. Lawmakers also considered a state-sanctioned “Guide to a Healthy Marriage,” the progress of planting hemp crops (hopefully in the beginning of next year), and whether to limit future constitutional amendments to a single subject.

Activities and Bills related to NAIOP – Summary List

Key Issues for 2020 As Determined at the NAIOP Summit

- Enacting the FAST Act;
- Phasing out the Business Rent Tax;
- Removing the Witness Requirement for Commercial Leases;
- Maintaining a Commercial Building Representative on Florida Building Commission;
- Improving the State Fire Code; and
- Reining in Excessive Linkage Fees

Mark Your Calendar – NAIOP Legislative Days will take place on Tuesday, January 21 through Wednesday, January 22.

Business Rent Tax – The Senate and House have both filed bills to enforce the internet sales tax (bills summarized below). The Senate bill is already moving. It is early, but both chambers are fully expected to propose a further reduction in the business rent tax.

FAST Act – House sponsor Scott Plakon still has the bill in drafting. We expect it to be released sometime in the next two weeks. Chris Carmody met with House State Affairs

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Committee Chair Blaise Ingoglia this week to discuss options for this bill moving forward. The Chair's focus is on *not* penalizing single family residence builders. We are working on language to provide him comfort.

Lease Signatory Changes – Representative Duggan has filed the bill and it has its committee references. Senator Simmons has agreed to file the bill and it is in drafting.

Florida Building Commission – As of now, the House will follow the Senate's lead and NOT remove the commercial real estate representative on the FBC.

Fire Code – We are following the lead of House Commerce Chair Mike La Rosa to get this finalized in one of his committee bills.

Linkage Fees – Chair La Rosa has also agreed to address linkage fees in a committee bill this session.

Detailed Activities and Bills related to NAIOPFL

The following are bills filed that impact (positively and/or negatively) the commercial real estate industry. **Highlighted text** means the bill was newly filed since the last memo publication.

Promoting Business Friendly CRE Regulations

Florida Building Code – SB 710 (Albritton)

Key Take Away

If passed, would require in the Florida Building Code that the entire envelope of certain buildings being constructed or rebuilt be impact resistant and constructed with high wind-resistant construction materials; require that all parts or systems of a building or structure envelope meet impact test criteria or be protected with an external protection device that meets such criteria; providing exceptions, etc.

House Approval Milestones – No house bill filed yet.

Senate Approval Milestones – Bill filed October 30. No Committee references yet.

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Real Estate Conveyances – HB 469 (Duggan)

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Key Take Away

If passed, would provide that witnesses are not required to validate certain instruments conveying leasehold interests in real property.

House Approval Milestones – Bill filed October 28.

Civil Justice Subcommittee – Awaiting hearing

Business & Professions – N/A

Judiciary – N/A

Senate Approval Milestones – No companion filed yet.

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Home-Based Businesses – HB 537 (Donalds) and SB 778 (Perry)

Key Take Away

If passed, would specify conditions under which a business is considered a home-based business; authorize a home-based business to operate in a residential zone under certain circumstances; preempt to the state the ability to regulate or license home-based businesses; prohibit a local government from certain actions relating to the licensure and regulation of home-based businesses, etc.

House Approval Milestones – Bill filed on November 5. No committee references yet.

Senate Approval Milestones – Bill filed on November 5. No committee references yet.

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Uniform Commercial Real Estate Receivership Act – 2020 – SB 660 (Berman)

Key Take Away

If passed, would create chapter 714, F.S., as the Uniform Commercial Real Estate Receivership Act; specifying that a court has exclusive jurisdiction to direct receivers and determine controversies under certain circumstances; providing requirements and authorizations relating to the appointment of a receiver; providing for defenses and immunities of a receiver; authorizing the court to enter certain orders if the court concludes that receivership property is likely to be insufficient to satisfy certain claims;

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requiring a receiver to file a final report containing certain information upon completion of the receiver's duties, etc..

House Approval Milestones – No bill filed yet.

Senate Approval Milestones – Bill filed on October 24.
Judiciary Committee – Awaiting hearing
Commerce and Tourism – N/A
Rules – N/A

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Nonservice Animals – HB 243 (Antone)

Key Take Away

If passed, would prohibit nonservice animals from entering specified public food service establishments or places of business; require DBPR to create & maintain publicly accessible website for complaints; provides penalties.

House Approval Milestones – Bill filed on September 30.
Business & Professions Subcommittee – Awaiting Hearing
Government Operations & Technology Appropriations – N/A
Commerce – N/A

Senate Approval Milestones – No senate companion yet.

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Deregulation of Professions and Occupations – SB 474 (Albritton)

Key Take Away

If passed, would significantly revise the Florida Building Commission membership, however, it would not remove the commercial real estate representative. Additionally, this 77 page bill would, among other things, delete the requirement that a yacht broker maintain a separate license for each branch office; specify that the failure to repay certain student loans is not considered a failure to perform a statutory or legal obligation for which certain disciplinary action can be taken; revise licensure requirements for

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engineers who hold specified licenses in another state; provide that certain cosmetology services may be performed in a location other than a licensed salon under certain circumstances, etc.

House Approval Milestones – No house bill filed yet.

Senate Approval Milestones – Bill filed October 7.
Innovation, Industry and Technology – Awaiting hearing.
Commerce and Tourism – N/A
Appropriations – N/A

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Stormwater Management Systems – HB 405 (Good) and SB 686 (Gruters)

Key Take Away

If passed, would direct water management districts, with DEP oversight, to adopt rules for standards relating to new development & redevelopment projects specifically focusing on removal of nutrients from stormwater discharges; directs DEP to incorporate such rules for district use; directs DEP & districts to amend such rules into applicant's handbook; provides rebuttable presumption relating to water quality standards for certain systems; revises requirements for construction of certain systems; requires specified staff training; directs DEP & districts to initiate rulemaking..

House Approval Milestones – Bill filed on October 18.
Agriculture & Natural Resources – Awaiting hearing
Ag & Natural Resources Appropriations – N/A
State Affairs – N/A

Senate Approval Milestones – Bill filed October 28.
Environment and Natural Resources – Awaiting hearing
Appropriation Subcommittee on Agriculture, Environment and Gen Gov – N/A
Appropriations – N/A

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Promote Feasible Sustainability Initiatives

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Clean Energy Programs – HB 225 (Zika) and SB 824 (Hooper)

Key Take Away

If passed, would authorize property owner to apply to approved PACE administrator for loan; authorize local governments to enter into agreements with PACE administrators; provides requirements for PACE loan contracts; provides certain prohibitions; provides remedies.

House Approval Milestones – Bill filed on September 25.
Energy & Utilities – Awaiting Hearing
Ways & Means – N/A
State Affairs – N/A

Senate Approval Milestones – Filed on November 7.

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Renewable Energy – SB 446 (Brandes)

Key Take Away

If passed, would authorize owners of commercial or industrial businesses, or third parties contracted by such owners, to install, maintain, and operate a renewable energy source device on or about the structure in which the business operates or on a property the business owns or leases; authorizes owners or contracted third parties to sell electricity generated from the device to certain businesses regardless of whether the device is located in a utility's service territory, etc.

House Approval Milestones – No house bill filed yet.

Senate Approval Milestones – Bill filed October 4.
Innovation, Industry and Technology – Awaiting Hearing.
Commerce and Tourism – N/A
Rules – N/A

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

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Promote Fair Taxation

Internet Sales Tax Enforcement – SB 126 (Gruters) and HB 159 (Clemons)

Key Take Away

If passed, would revise definitions for “retail sale” and “mail order sale” to capture internet sales, and thus enforce the sales tax on internet sales.

House Approval Milestones – Bill filed on September 12.

Ways & Means Committee – Awaiting Hearing

Commerce – N/A

Appropriations – N/A

Senate Approval Milestones – Bill filed on August 14.

Commerce and Tourism – Passed unanimously on Wednesday, October 16.

Finance and Tax – Awaiting Hearing.

Appropriations – N/A

Weekly Roundup: N/A

Current Call to Action: No action needed at moment.

Collaborative Growth Management

Private Property Rights Protection – HB 519 (Grant)

Key Take Away

If passed, would revise notice of claim requirements for property owners; revises procedures for determination of compensation; create presumption that certain settlements of claims apply to all similarly situated residential properties within political subdivision under certain circumstances; authorize property owners to bring claims against governmental entities in certain circumstances; provide that property owners are not required to submit formal development applications or proceed through formal application processes to bring claims in specified circumstances; authorize property owners to bring actions to declare prohibited exactions invalid; requires DOT to afford right of first refusal to previous property owner before disposing of property in certain circumstances.

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House Approval Milestones – Bill filed on November 4. No Committee references yet.

Senate Approval Milestones – No companion filed yet.

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Community Development Districts – HB 493 (Cortes)

Key Take Away

If passed, would authorize certain entities to petition court to dissolve community development district with outstanding financial obligations or operating or maintenance responsibilities; provides procedures to be used by court in appointing receivers; specify court authorities in issuing orders concerning duties of receiver. Effective Date: July 1, 2020.

House Approval Milestones – Bill filed on October 29.

Local, Federal & Veterans Affairs Subcommittee – Awaiting hearing

Civil Justice – N/A

State Affairs – N/A

Senate Approval Milestones – No companion filed yet.

Weekly Roundup: N/A.

Current Call to Action: No action needed at moment.

Affordable Housing Trust Fund – SB 306 (Mayfield) and HB 381 (Silvers)

Key Take Away

If passed, there would no longer be trust fund “sweeps” of the Sadowski Fund.

House Approval Milestones – Filed on October 16.

Transportation & Tourism Appropriations Subcommittee – Awaiting hearing

State Affairs

Appropriations

Senate Approval Milestones – Bill Filed September 17.

Infrastructure and Security – Awaiting Hearing

Appropriations Subcommittee on Transportation, Tourism and Economic Dev: N/A

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Appropriations – N/A

Weekly Roundup: N/A.

Current Call to Action: N/A

Development Order Attorney Fees – SB 250 (Berman) and HB 6019 (Casello) -

Key Take Away

If passed, would delete the entitlement for prevailing party to recover reasonable attorney fees and costs in challenge or defense of development order.

House Approval Milestones – Filed September 10.

Commerce – Awaiting hearing.

Judiciary – Awaiting hearing.

State Affairs – Awaiting hearing.

Senate Approval Milestones – Filed September 10.

Community Affairs Committee: Awaiting Hearing

Judiciary: N/A

Rules: N/A

Weekly Roundup: N/A.

Current Call to Action: N/A. Both bills are filed by Democrats and are an attack on the Republican-led legislation of 2019. It is unexpected this bill will move.

Property Rights Inserted into Growth Management – HB 203 (McClain) and SB 410 (Perry)

Key Take Away

Would make clear that a property owner's rights to develop his/her/its property must be honored by a local government.

House Approval Milestones – Filed on September 19.

Local, Federal & Veterans Affairs – Passed 9-5.

Commerce – N/A

State Affairs – N/A

Senate Approval Milestones – Filed on October 1.

Community Affairs – Awaiting hearing.

Judiciary – N/A

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Rules – N/A

Weekly Roundup: N/A.

Current Call to Action: N/A.

Hurdles: None yet. Although, it is worth noting that this same bill died in the House and Senate during 2019 session.

Promote Economic Prosperity

Job Growth Grant Fund Revisions – SB 130 (Hutson) and HB 71 (Santiago)

Key Take Away

Would authorize the Governor to approve workforce training grants to certain charter schools under the Florida Job Growth Grant Fund.

House Approval Milestones – Filed on August 20.

Transportation & Tourism Appropriations Subcommittee – Awaiting hearing

Education Committee – N/A

Appropriations – N/A

Senate Approval Milestones

Commerce and Tourism Committee: Passed 5-0 on October 15.

Education: On agenda for November 12.

Appropriations Committee: N/A.

Weekly Roundup: N/A.

Current Call to Action: N/A.

Florida Tourism Marketing – SB 362 (Hooper) and HB 213 (Ponder)

Key Take Away

Would revise the scheduled repeal of the Florida Tourism Industry Marketing Corporation direct-support organization (aka Visit Florida) to the year 2028.

House Approval Milestones – Filed on September 23.

Workforce Development & Tourism – Awaiting hearing

Transportation & Tourism Appropriations Subcommittee – N/A

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Commerce Committee – N/A

Senate Approval Milestones – Filed on September 23

Commerce and Tourism Committee: Passed 5-0 on November 5.

Appropriations Subcommittee on Transportation, Tourism and Economic Dev: Awaiting hearing.

Appropriations Committee: N/A.

Weekly Roundup: Senate bill passed first committee.

Current Call to Action: N/A.

Summary of Committee Week Four (November 4-7)

The Florida House of Representatives

A House panel OK'd a bill that would let insurance consumers know their "loss-run" history. Representative Daniel Perez's bill would require companies to provide a five-year history of claims against commercial insurance companies on request. If there is not five years of loss-run history, a complete record of claims and liabilities to insurers would have to be provided instead.

House members also cleared a bill that would make it expressly legal for Floridians to buy fireworks. The bill, filed by Representative Ana Maria Rodriguez, would allow fireworks only on Independence Day, Memorial Day, New Year's Eve, and New Year's Day. Technically, people can legally use fireworks only to scare birds off farms and fisheries—a provision that has been flouted for decades.

Florida Senate

A Senate panel advanced a bill extending the life of the state's tourism marketing arm. The measure, filed by Senator Ed Hooper, would expand the embattled VISIT FLORIDA's mission until October 2028. Without reauthorization, the agency sunsets in July 2020. But the bill faces another uphill climb in the House, which has criticized the agency in the past as an example of "corporate welfare."

Senator David Simmons is once again seeking to raise the minimum smoking age in the state to 21. He filed a new version of his "Tobacco 21 Act," or T21. Simmons attempted to shepherd the bill through the Legislature last Session. The Senate approved Simmons' measure, but the House ultimately killed the bill. And this year? "I think it would be difficult in the House to move the age for smoking," Speaker José Oliva said regarding the bill again sputtering there.

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Bill of the Week

Legislation has been filed once again to change the amount of money that local governments can hold back from contractors until a public construction job is finished. Called “retainage,” it was “first invented in Britain in the 1840s to ensure construction projects were completed fully,” the Levelset website explains.

Withholding money from a contractor “creates a financial incentive for the contractor to finish the project successfully,” proponents of the practice say. On the other hand, many in the building trade, “especially subcontractors and other project participants that are on the lower end of the payment chain,” say they bear the brunt of the practice.

State law now says a public body can hold back ten percent of “progress payments” until half the job is done, then five percent of those payments till full completion. The legislation (SB246/HB101) filed for the 2020 Legislative Session would change that to five percent retainage from start to finish. (Last year’s attempt was a reduction to five percent retainage up to halfway, and two and a half percent after that.)

Senate sponsor Ed Hooper said the change will level the field for both sides: “We’re always talking about how we can’t get enough qualified, skilled craftsmen, especially in the construction and building industries, to meet the need,” he said. “One of the reasons is, we hold up some of their money – sometimes for years – until a project is done,” Hooper added. “So I think it’s just one way to try to keep attracting more skilled workers and probably even more qualified general contractors.”

The Senate bill has cleared two committees unanimously and will next be before the Appropriations Committee. The House bill, carried by Representative Alex Andrade, cleared its first committee of reference unanimously last week.

Federal Spotlight

GrayRobinson's Washington, DC office releases a newsletter each week entitled The Golden Apple, reporting on the "latest discord on Capitol Hill." This week's newsletter discussed GAO's report on Opportunity Zones.

Four senior Democrats from the House and Senate wrote to the Comptroller General this week to ask the GAO to report on the implementation of Opportunity Zones, and evaluate the effectiveness of IRS and Treasury controls and monitoring. House Ways and Means Committee Chairman Richard Neal (D-MA), Oversight Subcommittee Chairman John Lewis (D-GA), Senate Finance Committee ranking member Ron Wyden (D-OR), and Senator Cory Booker (D-NJ) asked the GAO to identify any Opportunity Zones that do not meet the statutory

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requirements for designation, and to report on the key characteristics of Opportunity Zone investments and their outcomes. They also asked GAO to look at whether Opportunity Zone incentives had effects on areas that were not designated as Opportunity Zones. Read The Golden Apple in its entirety here.

Looking Ahead

- The Legislature will be off and state offices will be closed Monday for Veterans Day, meaning a shortened committee week.
- A revenue estimating conference is on tap from state economic forecasters, and lawmakers are set to hear bills on topics including requiring parental consent before an abortion and increasing services for veterans and their families.
- In other business, a panel discussion is planned on the effect of “automation and artificial intelligence” on Florida’s various industries.
- A number of appropriations subcommittees also will meet to prepare for the 2020-21 state budget.
- And Friday marks the deadline for House members to file appropriations project requests.

Current Bill Statistics

Total Bills Filed: 1,237 (821 House; 416Senate)

Appropriations Bills Filed: 499

Preview of 2020 Legislative Session

Key Dates

The 2020 Legislative Session gavels-in on January 14, 2020. Below is the schedule of remaining committee weeks.

- November 12-15 – Interim Committee Week 5
- December 9-13 – Interim Committee Week 6

Other Key Dates

- November 15, 5:00pm
 - House Appropriations Project request form deadline
 - House Member Bill Draft Deadline
- November 22, 5:00pm
 - Senate deadline for submitting bill drafts

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- November 26, 5:00pm
 - House Early Member bill filing deadline – at least 2 of member’s bills must be filed
- January 10, 5:00pm
 - Deadline for approval of final bill drafts
- January 14, 12:00pm
 - Deadline for filing bills for introduction