

FHBA

IMPROVING FLORIDA'S
**BUILDING
INDUSTRY**



**2020
ADVOCACY
BRIEFING**

fhba
FLORIDA HOME
BUILDERS ASSOCIATION

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FHBA PRESIDENT



Michael Bourre
President

I am proud to present the 2020 Advocacy Report! The FHBA's mission is to create an environment in which the construction industry can prosper and the cornerstone of these efforts is ADCOVACY. I want to thank the work of the Governmental Affairs Committee and Chair Curtus Hart, our Second Vice President Natasha Spencer, PAC Chair Bruce Malasky, and each of you that traveled to Tallahassee for the 2020 Spring Conference. We are especially grateful for local executive officers and volunteer leaders who work tirelessly to create and maintain relationships with your local delegations. Your hard work and dedication is critical to our success.

I also want to thank the Volume Builders Council and Chair, Kevin Bond, for their expert advice on legal and development concerns. Thank you for the partnership.

This year's Advocacy Briefing contains a section summarizing our major legislative issues including Rights of Nature, Environmental Resource Management, Impact Fees, Affordable Housing and Deregulation of Professions and Occupations.

Enjoy the read.

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2020 SESSION IN REVIEW

When the 2020 Legislative Session officially adjourned on Thursday, March 19 a mere 207 of the 3,578 bills filed were officially passed by both the Florida House and Senate. While 2019 marked a record low of just 197 bills passed, this number remains incredibly lower than historical standards. In spite of this hurdle, and because of our prominence in Florida's economy, The Florida Home Builders Association (FHBA) posted another strong session effectively advocating for our industry.

As you review the information below, please keep in mind that every bill the Legislature passed must still be approved by Governor DeSantis prior to becoming law. FHBA will continue to work with the Governor's Office in order to ensure they understand the importance and impact of our legislative priorities.

Rights of Nature Preemption

FHBA made it a priority to pre-empt the rights of nature movement popping up in several Florida communities. This movement is a misguided attempt to convince local communities to grant natural systems, such as rivers and forests, individual and protected rights. Many of the proposals go as far as allowing citizens in a county the ability to sue and even shift the burden of proof to the defendant (many of whom will be contractors and developers). The economic consequences to Florida's communities would be devastating.

You must be asking yourself, "is this movement for real?" Yes it is. In fact, the Orange County Charter Review Commission just placed a Rights of Nature Provision on the ballot. Fortunately, the Florida Legislature saw the insanity of such a proposal and, with bi-partisan support, passed Rights of Nature Pre-emption Language as part of SB 712, Environmental Resource Management by Senator Debbie

Mayfield and her House counterpart Representative Bobby Payne. The issue was spearheaded by Senator Ben Albritton and Representative, and FHBA member, Blaise Ingoglia, who strategically amended it to the Environmental Resource Management bill, also known as the Governor's priority water bill.

Environmental Resource Management

Legislators from both sides of the aisle unanimously agreed that passing a significant "water bill" was imperative this session. No one wanted to be on the ballot without addressing the water issues that plague our state (i.e. Indian River Lagoon, the Caloosahatchee River, Lake Okeechobee, etc.). FHBA worked arduously to help craft a water bill that balanced water quality with economic reality and the result was SB 712 by Senator Debbie Mayfield and HB 1343 by Rep. Bobby Payne.

A priority issue for FHBA in this bill is the type two transfer of the State's On-site Sewage Program from the Department of Health (DOH) to the Department of Environmental Protection (DEP). Because bringing new technologies and septic alternatives to Florida has not been a major emphasis of DOH, FHBA believes that moving statewide regulation of the on-site sewage treatment and disposal systems (OSTDS) to DEP will encourage additional advanced nitrogen reducing technologies in Florida and will result in competitive pricing.

The transfer will not occur until 2021, allowing time for DEP to work with other state and local agencies to develop a plan to ensure that the network of local County Health Departments maintain their current integrity and continue to permit new septic systems. Note: A "type two transfer" retains all of the programs records, personnel, property, and unexpended balances of appropriations, allocations, or other funds.

The transfer of this program became all the more important as another section of the bill requires that additional areas around key waterways develop Basin Management Action Plans (similar to those done for watershed areas) and requires DEP to adopt rules relating to the location of OSTDS' and setback distances by July 1, 2022. The rules are intended to result in more areas requiring the use of advanced nitrogen-reducing systems.

Note: The rules must consider the recommendations of the OSTDS technical advisory committee and further allow a person to apply for and receive a variance upon demonstration that the requirement would cause an undue hardship.



Impact Fees

Passed quite literally in the final hour, SB 1066 was the genesis of policy changes that began as an attempt to reign in rogue local governments whose actions often directly or indirectly increase the costs of housing.

The key policy proposals in SB 1066 by Senator Joe Gruters and its companion, HB 637 by Rep. Nick DiCeglie, will ensure impact fee increases do not apply to pending permit applications submitted before the effective date of an increase, and provide more flexibility for redeeming impact fee credits.

There are examples throughout the state, most recently in Volusia County, where following the submission of an application for a building permit, the county government implemented an increase to their impact fee calculations. The increased fees were then knowingly applied to the pending permit applications, which of course were budgeted for and submitted under the prior impact fee. These unwarranted increases directly and unexpectedly increase the costs to consumers and/or builders. This law will prohibit such actions from occurring and protects the previously planned for budget of a new home.

Additionally, SB 1066 allows developers to move credits from one development or parcel to any other within the same impact fee zone or in an adjoining impact fee zone that still receives benefits from the improvement or contribution. Credits must still be used for the same type of infrastructure.

Background: Frequently, developers provide infrastructure that surpasses the impacts generated by a development. In return, some local governments provide impact fee credits for that additional capacity. The “credit” given to developers for providing excess capacity is meant to reduce impact fees on future projects yet, counties and cities use zones that limit where credits can be applied. This prevented developers from utilizing impact fee credits that they have earned once a zone has been built-out.

Sadowski Trust Fund

Following budget conferences between the House and Senate Appropriations Committees, an agreement was reached that all housing trust funds in 2020 will be used to create affordable housing in the State of Florida.

Senate President Bill Galvano, Senate Appropriations Chair Rob Bradley and the entire Senate have been unwavering in their support of utilizing all the housing trust fund monies. While in recent years full-funding has not been supported by the Florida House of Representatives, this year, House Speaker Jose Oliva and House Appropriations Chair Travis Cummings made enormous strides in agreeing to the Senate's position.

By "fully funding Sadowski" the Legislature has made it clear that the best way to address affordable housing is by funding Florida's battle-tested State Housing Initiatives Partnership (SHIP) and State Apartment Incentive Loan (SAIL) programs. While we hope this move ushers in the end of housing trust fund sweeps, and restores the Sadowski Trust funds to normal operations, we know that with the outbreak of COVID-19 a Special Session to address lost State revenues will most likely be in Florida's future.

In the interim, if the full appropriation is maintained, the monies will result in more than 30,000 jobs with more than \$4.4 billion in positive economic impact; a critical selling point.

Affordable Housing

HB 1339 "Community Affairs" by Representative Clay Yarborough passed the House 101-10. The bill was similar to Senate companion SB 998 "Affordable Housing" by Senator Travis Hutson.

The legislation requires local governments that have the audacity to adopt "linkage fees" on residential or mixed-use housing to fully offset all costs to the developer. For example, that offset could be by allowing density or intensity bonus incentives, reducing or waiving impact fees, reducing or waiving water and sewer charges, etc. We are beginning to see counties throughout the State, most recently Pinellas County, consider these newly created fees that were once solely designated for commercial development. FHBA worked hand and hand with Senator Jeff Brandes' office to ensure if and when a county or municipality took such measures, all costs would be offset.

As you may know by now, one of the key measures in HB 1339 was the authorization to local governments to approve affordable housing on any parcel zoned for residential, commercial, or industrial use. This language stood the test of time during the 60-day Legislative Session, as it is rare for



filed bill language to remain unchanged throughout the entire committee process.

Additionally, the bill limits local building code enforcement agencies from auditing private building inspector providers to four times a month. At one time, the language sought to allow building code enforcement agencies the ability to audit private inspectors up to four times per structure. FHBA worked tirelessly with the bill sponsor to ensure unnecessary audits did not take place, such as local governments that sought to audit 100% of all private inspections.

Finally, the bill requires local government to provide impact fee reporting in their annual financial audit to the Department of Financial Services. The report includes the specific purpose of the impact fee, specific infrastructure, description of the local government's impact fee policy and calculation methods, amount addressed for each type of dwelling, and the total amount of impact fees charged by type of dwelling. This reporting requirement will be instrumental for fact finding as we gear up for next year in our relentless pursuit of defining infrastructure (as it pertains to impact fees) in State Statutes.

Deregulation of Professions and Occupations

HB 1193 "Deregulation of Professions and Occupations" by Representative Blaise Ingoglia (SB 474 by Senator Ben Albritton) included big changes to the arrangement of the Florida Building Commission. This resulted in eliminating eight seats from the board and effectively decreasing the commission to 19 members. Over the last 60 days we have inserted ourselves into the ongoing conversations. The Legislature was extremely receptive of our feedback, however, it is important to note that this piece of legislation is one of the Governor's legislative priorities.

Further, the bill reduced licensure requirements and testing for in-state and out-of-state contractors. Following multiple meetings, we were able to secure a mandatory two-hour FBC course with an emphasis on wind mitigation for out-of-state contractors. As well as discretion to the Construction Industry Licensing Board for considering an applicant's technical competence to ensure the applicant is able to meet the requirements of Florida's codes and standards for wind mitigation and water intrusion. The board may also consider whether an out of state applicant has had their license revoked or suspended in another state.

Additionally, the handy man exemption (from Chapter 489) was increased to \$2,500 from \$1,000. Note: The handy man exemption is only for casual, minor, or inconsequential in nature in which the aggregate contract price for labor, materials, and all other items is less than \$2,500. Current law states that the exemption does not apply to construction, repair, remodeling, or improvements that are a part of a larger or major operation, regardless if they are undertaken by the same or different contractor; and does not include any person who represents or advertises themselves as a contractor.

The new composition of the Florida Building Commission includes the following 19 seats:

1. One architect licensed pursuant to Ch. 481, F.S., with a minimum of five years of experience in the design and construction of buildings designated for Group E or Group I occupancies by the Florida Building code.
2. One registered structural engineers;
3. One certified air conditioning contractor, mechanic contractor, or mechanical engineer;
4. One certified electrical contractor or electrical engineer;
5. One certified general contractor or building contractor;
6. One plumbing contractor;
7. One certified roofing or sheet metal contractor;
8. One certified residential contractor;
9. One of three municipal, county, or district code enforcement officials;
10. One of three municipal, county, or district code enforcement officials;
11. One of three municipal, county, or district code enforcement officials;
12. One member from a Florida-based organization of persons with disabilities, which complies with or is certified to be compliant with the requirements of the Americans with Disabilities Act of 1990;
13. One member from the manufactured buildings industry;
14. One member from the buildings products manufacturing industry;
15. One member from the building owners and managers industry;
16. One representative from the insurance industry;
17. One swimming pool contractor;
18. One member who is the Chief Resilience Officer or their designee; and
19. One representative from a natural gas distribution system.

Key takeaways on the Commission: There are currently five building code officials on the Commission, the bill effectively decreases those seats to three. The bill eliminates the fire protection technologist, a local government representative, and a green building industry representative.

Lastly, the bill eliminates representatives from the Department of Agriculture and Consumer Services, Department of Financial Services, and the Department of Education. Moving forward the Chair will no longer be appointed by the Governor as it will now be elected among the board members.



E-Verify

Verify Employment Eligibility, also known as E-Verify passed the Florida Legislature on the second to last day of the 2020 Legislative Session. As passed, SB 664 requires businesses to either use E-Verify, a federal program that checks the immigration status of workers, or keep a three-year record of documents used by applicants when filling out a form "I-9," a federal check on a person's legal eligibility to work in the United States.

FHBA, Associated Industries of Florida, Florida Chamber of Commerce, and others lobbied to allow employers the ability to use the current I-9 system, as the original language called for every employer in the State to use the E-Verify federal web-based system. Moving forward, E-Verify will be mandatory for all public construction contracts with the State of Florida. The final product is a "watered-down" version that originally authorized the state, via the Department of Economic Opportunity, to randomly audit businesses that opt out of using the federal E-verify system. This provision was stripped to please the House of Representatives.

Statewide Office of Resiliency

SB 7016 attempted to establish a Statewide Office of Resiliency that would fall under the Executive Office of the Governor, headed by a Chief Resilience Officer that would be appointed by and serve at the pleasure of the Governor. The substantial part of SB 7016 is that it created a nine member Statewide Sea-Level Rise Task Force that was tasked with recommending to the Office the projections of the anticipated sea-level rise and flooding impacts along Florida's coastline.

If adopted, the task force's projections would have served as the State's official estimate of sea-level rise and flooding impacts for the purpose of developing future state projects and plans. SB 7016 passed unanimously out of the Senate before dying in the House. This is an effort we will certainly see again.

Building Design

FHBA Member, Representative Toby Overdorf passed HB 459 “Building Design” through all three Committee references in the Florida House this Legislative Session. The bill received favorable support in the House throughout the entire duration, however, it was unable to receive a hearing in the Senate.

The bill sought to prohibit local governments from adopting design and aesthetic ordinances for single and two family dwellings, as well as prohibit local governments from circumventing the local building code amendment process by adopting building codes in land development regulations. Representative Overdorf is an extremely knowledgeable and strong advocate for FHBA and we look forward to working with him in the future!

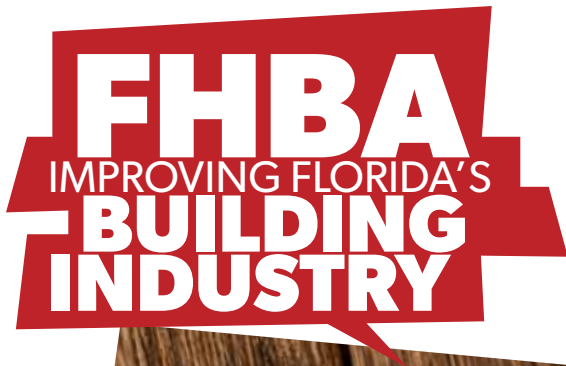
Defense

The FHBA team defeated amendments that sought to use excess permit fees for affordable housing and impact fees for affordable housing. Further FHBA defeated measures that attempted to move funding that focuses on apprenticeships to colleges and four year universities, a proposed special jury verdict form requirement in construction defect litigation, and language that sought to require the entire envelope of certain buildings being constructed or rebuilt be impact resistant and constructed with high wind-resistant construction materials, i.e. cement.

Final Thoughts

FHBA is proud to be your voice at the Capitol and thankful for the continued support of ensuring our industry is represented in every district. The highlights in this summary are just some of the issues we all worked together to address this session. It is amazing what can be accomplished when no one is preoccupied with who will get the credit.

As far as “what has FHBA done for me lately” business, we can assure you that we are already preparing our platform and legislative priorities for 2021. Please continue to stay involved locally and statewide in order to ensure we stay ahead of all the new issues on the horizon.



The FHBA works in partnership with 23 local and regional Builder/Industry associations to achieve legislative success

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