

FHBA LEGISLATIVE UPDATE WEEK 1-6

WEEK 1

2022 Regular Legislative Session Kicks Off

The 2022 Regular Legislative Session commenced on January 11th with the usual pomp and circumstance. Senate President Simpson outlined [his priorities](#) and Speaker Sprowls shared [opening remarks](#), each in their respective chambers and the Governor gave his [State-of-the-State](#) address. Redistricting, that is drawing maps for the House, Senate and Congressional district lines based on population, will be a major focus of lawmakers this Session as they grapple with a myriad of other key issues facing our State, including education reform, cybersecurity threats, affordable housing, generational poverty, environmental protection, resiliency, economic growth and security. **Your FHBA government affairs team is working hard to protect your industry. Bills of interest are outlined below and you may view the bills by clicking on the bill numbers.**

- **Private Provider Septic Tank Inspections--[HB 309](#)** by Rep. Fetterhoff and **[SB 856](#)** by Sen. Brodeur

This FHBA priority legislation authorizes the owner of a septic tank or the contractor upon the owner's written authorization and contract to hire a private provider to inspect the septic tank. The bills provide qualifications the provider must hold to perform such inspections, prohibit DEP from charging any fees associated with a private provider inspection, and authorize DEP to audit the performance of such inspections. Notice must be given to DEP that the private inspection will be done and the owner is required to execute a form acknowledging that the owner must hold the department harmless from any claims arising from the use of the private provider inspection. HB 309 also prohibits a septic tank from being inspected by the person or company that installed the septic tank and an amendment will be offered to SB 856 to match. The bills authorize the department to audit "up to 25 percent of private providers each year."

ACTION: HB 309 passed H. Environment, Agriculture & Flooding by 14-1. SB 856 passed unanimously out of Environment & Natural Resources and Agriculture, Environment & General Government Subcommittee and is now in the Senate Appropriations Committee, final stop before the Senate floor.

- **Construction Defects—HB 583** by Rep. Yarborough and **SB 736** by Sen. Hutson

A top priority for FHBA, this legislation attempts to fix the “Notice & Right to Repair” law in Chapter 558, F.S., and reign in the fraudulent construction defect claims while still maintaining a remedy for homeowners with legitimate issues. SB 736 has passed two committees and key provisions of the Senate bill include reducing the Statute of Repose (SOR), mandating claimant to provide reason for rejecting offer of settlement or repair, and changing the “clock” timeline from “the later of” to “the earlier of.” The Florida Justice Association is floating an amendment to require mediation as an alternative to Chapter 558 and the House proposal, HB 583, will be amended this week to repeal Chapter 558, F.S. in its entirety.

ACTION: HB 583 will be heard in H. Civil Justice & Property Rights Subcommittee on Jan. 19 and amendment has been filed to repeal Chapter 558, F.S. SB 736 was amended in S. Community Affairs on Jan. 12, was approved 6-2 and travels to S. Rules next.

- **Municipal Contraction (Deannexation) Procedures ---HB 1401** by Rep. Persons-Mulicka and **SB 1876** by Sen. Perry

An FHBA initiative, these bills outline requirements that must be followed prior to holding a referendum proposing to contract an area of a municipality. Per SB 1876, if more than 70 percent of the land in an area proposed to be contracted is owned by persons or legal entities that are not registered electors of the area, then the area may only be contracted if the owners of more than 50 percent of the total land area to be contracted consent to the contraction. If the area to be contracted does not have any registered electors then the proponents of contraction must obtain the consent of the owners of more than 50 percent of the total land area before final adoption of the ordinance of contraction. The House Bill will be amended to match the Senate companion.

ACTION: SB 1876 has been referred to three committees and is expected to be taken up S. Community Affairs soon. HB 1401 goes to Local Administration & Veteran Affairs first.

- **School Concurrency—HB 851** by Rep. McClain and **SB 706** by Sen. Perry

The initial version of this legislation would require, rather than encourage, local governments that adopt school concurrency to apply concurrency to development on a districtwide basis. The bills also provide that proportionate-share mitigation may be set aside and not spent if improvements have not been identified, a sort of “pay-as-you-go” provision.

ACTION: A proposed committee substitute (PCS) to HB 851 will be heard in Local Administration & Veteran Affairs Subcommittee on Jan. 19. The PCS removes the districtwide concurrency and specifies that school concurrency is satisfied if a developer tenders a written, legally binding commitment to provide mitigation proportionate to the demand for public school facilities generated by the development and specifies that the local government must issue a final decision on the legally tendered binding commitment within 60 days of receipt, and if the local government fails to issue a final decision within 60 days, the legally-binding commitment is deemed approved. SB 706 travels first to S. Community Affairs.

- **Notice of Commencement Requirements--HB 263** by Rep. Bell and **SB 352** by Sen. Hooper

HB 263 increases the threshold for application of the Notice of Commencement (NOC) requirements for direct contracts to repair or replace an existing HVAC system from \$7,500 to \$12,500. The bill also requires the NOC issuing authority to verify the address of the contractor listed on the Notice, in addition to the contractor's name, which is required by current law. The Senate bill increases the threshold from \$7,500 to \$15,000. It does not include the contractor address verification requirement.

ACTION: SB 352 passed unanimously out of its second committee of reference, Regulated Industries. The bill now heads to the Rules Committee before the Senate floor. HB 263 also passed unanimously out of the Regulatory Reform Subcommittee after being amended to lower the threshold from \$15,000 to \$12,500 and now goes to House Judiciary, its final committee reference.

- **Florida Building Code & Florida Fire Prevention Code Timing—HB 659** by Rep. Harding and **SB 626** by Sen. Wright

In order to ensure time for training and understanding these bills provide for a delay in implementation for the Florida Building Code and Florida Fire Prevention Code as well as ensuring the Energy Code compliance software is available prior to effective date of a new code. FHBA has been working with the State Fire Marshal's Office to ensure a 3-month delay and is negotiating with the Dept. of Business & Professional Regulation for a similar solution for the energy compliance software.

ACTION: HB 659 will start in H. Regulatory Reform and SB 626 travels to S. Community Affairs.

- **Constitutional Prohibition Against Lobbying by a Public Officer/CDDs --HB 7001** by the Rep. Koster & H. Public Integrity & Elections Committee

Another key bill for FHBA, HB 7001 implements the public officer lobbying prohibitions required by a 2018 amendment to the Florida Constitution passed by Florida voters which is slated to take effect on December 31, 2022. The bill defines terms and provides enforcement mechanisms and penalties. HB 7001 defines a “public subdivision” to include a “special district with ad valorem taxing authority,” which could include Community Development Districts. With regard to political subdivisions, the bill defines the term “lobby” to mean “influencing legislative actions or other discretionary decisions, but does not include administrative actions.” The bill also specifies that the term “lobby for compensation” does not include an officer of a governmental entity or other public employee “acting in the normal course of his or her duties.” Violations may be punished by one or more of the following: public censure and reprimand; a civil penalty not to exceed \$10,000; and forfeiture of any pecuniary benefits received for any violation.

ACTION: The bill passed unanimously and now goes to its final committee of reference, the Rules Committee. No Senate companion has yet been filed.

➤ **Heat Illness Prevention in Outdoor Work Environments---HB 887** by Rep. Chambliss and **SB 732** by A. Rodriguez

HB 887 and its companion require employers of employees who work primarily outdoors (agriculture, construction, landscaping) to provide drinking water, access to shade, implement an outdoor heat exposure safety program and provide annual training to employees and supervisors on heat illness prevention and treatment. These requirements are supplemental to all related industry-specific standards.

ACTION: HB 887 goes to H. Regulatory Reform first; SB 732 will be heard in S. Agriculture on Jan. 19.

➤ **Sales Tax Refund for Building Mitigation Improvements---HB 863** by Rep. DiCeglie and **SB 1250** by Sen. Gruters

This legislation would provide a sales tax refund on building materials utilized for building mitigation retrofit improvements. Building mitigation improvements installation of a roofing underlayment; roof covering replacement; strengthening of roof-to-wall connections, soffits and attic ventilations; and the installation of impact-resistant windows and entry doors. The bills specify the procedures for validating improvements and submittal for refund of sales tax paid on materials.

ACTION: HB 863 will be heard first in H. Regulatory Reform and SB 1250 goes to S. Community Affairs.

WEEK 2

Thus far, FHBA priority bills have continued to make forward progress through their committee stops.

On January 24, more than 100 FHBA members gathered in Tallahassee for the 2022 Spring Legislative Conference. In addition to the regularly scheduled committee meetings and FHBA Board of Directors meeting, the highlight of this conference each year is bringing FHBA members to the State Capitol to see the legislative process at work.

Delegations of members from across the state had the opportunity to meet with their local legislators to discuss FHBA legislative priorities as many of the priority bills make their way through committees in both the Florida House and Senate.

FHBA members and leaders have convened in Tallahassee today to kick off the 2022 FHBA Spring Legislative Conference.

In addition to official FHBA business, members will walk the halls of the Florida Capitol, meeting with legislators from across the state to drive home the importance of our priority bills.

While here members can see their work in action as FHBA priority SB 706, School Concurrency, will be heard by the Senate Community Affairs Committee Tuesday, Jan. 25 at 3:30 p.m.

As always, even if you are not in Tallahassee, you can watch these committee meetings live by accessing them from the home page calendar on the Florida Senate website, www.flsenate.gov.

Stay tuned for a full recap of the week's happenings at the Capitol, and FHBA Spring Conference, in the Jan. 31 edition of the ENews.

WEEK 3

As January comes to a close, so has the third week of the 2022 Regular Legislative Session. Now is the point of session that lawmakers and lobbyists alike begin the search for alternative vehicles for policy issues that aren't hitting the committee agendas fast enough. The House approved their re-districting map with some lawmakers checking out prime real estate to move into their newly-drawn district. The Senate passed SB 620 on a 22-14 party-line vote, allowing a business to sue local government for business damages if local ordinances cause a loss of profits and similarly approved SB 280 (28-8 vote) that requires local governments to consider the fiscal impact of all ordinances and provides a mechanism for the courts to "stay" an ordinance that may have a detrimental effect on local businesses. FHBA testified before the House Civil Justice & Property Rights Committee on the liens and bonds bill, HB 345. The Senate Community Affairs Committee also unanimously passed SB 1702 relating to mandatory building inspections last week.

The School Concurrency bills, HB 851 and SB 706, continue to work through the process to bring both versions of the bill in line with one another. Last week, SB 706 was updated to match the House version that does NOT include provisions requiring district wide concurrency and was passed out of the Senate Community Affairs Committee. SB 706 now moves on to the Senate Education Committee on **Tuesday, February 1 at 1 p.m.** At this time the Senate version of the bill does not require the local government to issue a final decision on the developer's mitigation offer within 60 days, as the current House Bill does. HB 851 did not see any action last week, and remains in the Education and Employment Committee. You can watch the Senate Education Committee by visiting www.flsenate.gov and accessing the live feed of the meeting from the calendar on the home page.

On Wednesday, Jan. 26, the Senate Subcommittee on Agriculture, Environmental and General Government passed SB 832 unanimously. This bill, if passed, will implement the recommendations of the Blue-Green Algae Task Force. Although the Senate Bill now moves to its final committee stop, its companion in the House, HB 561, has yet to be heard in committee.

In other important news from week three, the appointment of FHBA Past President Michael Bourre to the Florida Building Commission passed through the committee stop meaning Bourre is now available to be confirmed to serve as Vice Chair of the Commission.

WEEK 4

The Florida legislature has officially passed the halfway point of the 2022 legislative session. Now the funnel narrows and it becomes more apparent that many bills filed for consideration will not become law this year.

FHBA is pleased to share that at this time, our priority legislation continues to make its way forward in the process.

SB 736 by Sen. Hutson - Construction Defects/Statute of Repose Bill passed in the House Regulatory Reform Committee on Tuesday by a partisan vote of 11-5. The House retreated from its position of repeal by adopting an amendment that reduces the statute of repose to 7 years, unless there is an allegation of fraud, then the repose is moved up to 15 years.

FHBA member Harley Bryan from Jacksonville, came to Tallahassee and testified how his company has been part of 250 defect claims, none of which were initiated by the homeowner and none of which he was allowed to inspect. The company's general liability rates have skyrocketed resulting in higher costs to homeowners. The bill now resides in the House Judiciary Committee. To view committee discussion on the bill click [here](#).

Later in the week, the Senate brought up SB736 by Sen. Hutson on the floor on second reading. The bill was amended to provide a 7-year repose, unless fraud is alleged then it maintains the current 10-year repose for single family residents. The bill provides no time limit for alleged fraud associated with commercial buildings or condominiums. It maintains the requirement for a pre-inspection prior to filing the 558 claim and requires the claimant to use any settlement funds to repair the alleged defect. The bill rolled to third reading and will be available for a floor vote by the full senate when they next meet on the Floor.

To review a copy of the enrolled version of SB 736, click [here](#).

If you want to see the questions peppered yesterday to Sen. Hutson and his responses, click [here](#).

SB 706 by Sen. Perry – Concurrency

In response to a de facto moratorium created by Hillsborough County's refusal to agree to a school citing plan, legislation was filed to address the issue. The Senate Rules committee approved SB706.

The bill provides that school concurrency is deemed satisfied when the developer tenders a written legally binding commitment, rather than executes such commitment, to provide mitigation proportionate to the demand created by the development. A district school board must notify the local government that capacity is available for the development within 30 days after receipt of the developer's commitment. It has been placed on the Special-order calendar for Thursday.

Meanwhile, its House Companion HB 851 by Rep. McClain, was approved by the House Education Committee. It now resides in the State Affairs Committee.

HB 309 by Rep. Fetterhoff- Private Provider Septic Tank Inspections

After two weeks of working with Committee staff, HB 309 by Rep. Fetterhoff is scheduled to be considered during Monday's Agriculture and Natural Resources Appropriations Subcommittee meeting. The pending amendment removes all references to fees. It's senate companion, SB 856 by Sen. Brodeur is available to be considered by its last committee of reference, the Appropriations Committee.

Both the House and Senate released their respective budgets this past week. Those are being analyzed for FHBA priorities including Affordable Housing and 404 permitting personnel.

Stay tuned for a more in-depth review on FHBA budget issues.

WEEK 5

The 2022 Legislative Eclipses the Half-way Point with Priorities intact

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Understanding Legislative Jargon

Often when discussing happenings during the legislative session, jargon and terms may be used that you are not familiar with. Below are some frequently used terms that may help you decode our weekly updates.

As always if you have any questions reach out to FHBA chief lobbyist/CEO Rusty Payton at rpayton@fhba.com.

- A committee substitute or CS means the bill has changed from its original filed version to include all the amendments adopted during its last committee hearing. It is possible to have multiple CS's such as CS/CS583, which is the current posture of the House Defects/Repose Bill.
- Special Order Calendar is the list of bills available to be considered by the full chamber. Not all bills on special order automatically get heard on the Floor.
- Second Reading means the bill is on the chamber calendar. At Second Readings, amendments are considered, and questions are asked of the sponsor. The bill is not voted on during a second reading.
- Third reading means the bill is available to be debated and then voted upon for final passage by the chamber. Though it is possible to amend a bill on third reading, it takes a 2/3 vote of the chamber and leaders usually limit such amendments to technical issues.
- Engrossed refers to the bill as it was amended and passed off the chamber's floor.
- Enrolled means the final version of the bill as adopted by both chambers.

WEEK 6

As the sixth week of the Legislative Session came to a close, many committees have stopped meeting and the Florida Senate and House have turned some focus toward considering the chambers' propose budgets for the 2021-2022 fiscal year.

The headlines FHBA members will want to read:

Senate Passes FHBA Priority: Construction Defects Bill

Last week, the Florida Senate passed SB 736, by Sen. Hutson, with a vote of 26-13. Democrats Audrey Gibson from Jacksonville and Linda Stewart from Orlando voted in favor. To see how your State Senator voted, [click here](#).

It's House Companion, HB 583, by Sen. Yarborough, is to be considered next by the House Judiciary Committee.

Private Provider Septic Tank Inspections Clears Another Committee Hurdle

HB 309 was approved unanimously on Feb. 14 in the Appropriations Subcommittee on Agriculture Environment & Flooding. The bill now moves to the House State Affairs Committee. A special thanks to Kenny Siggs of Christopher Allen Homes for their continued work on this bill.

Companion, SB 856 by Sen. Brodeur, is awaiting action in the Senate Appropriations Committee, its final stop before the Senate floor.

Tax Cut Package by H. Ways & Means & Rep. Payne

HB 7071 by Rep. Payne, is an omnibus tax relief package which includes provisions for property tax relief and assessments for owners affected by the Surfside collapse; revises some corporate provisions and includes the following key provisions important to the Home Building Industry:

- A 7-day tax holiday in September for tools & equipment needed in skilled trades
- A two-year tax exemption for impact-resistant window, doors, and garage doors for residential buildings
- A 6-month exemption for ENERGY STAR appliances

House Building Safety Bill Impacts Condo Developers

HB 7069, the House's building safety bill, is like its Senate counterpart SB 7042. Except it includes building recertification requirements every 30 years for buildings 3 stories or higher after initial occupancy, 25 years after initial occupancy for buildings within 3 miles of the coast and requires recertification every 10 years after initial recertification.

The bill also requires studies every 10 years and prohibits a waiver of funding of certain reserves. It also requires developers to conduct structural integrity reserves studies prior to turning over an association to the unit owners. It repeals the ability of developers to waive the collection of all types of reserve funds. The structural integrity reserves studies, Phase 2 inspections and recertification's must be conducted by a licensed engineer or architect.

The FHBA legislative team continues to monitor these developments as they evolve and will keep you informed of any updates as they come.