



Legislative Report: 4.2.21

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On Monday, Governor DeSantis signed into law **SB 72, COVID-19 Liability Protections by Senator Jeff Brandes**. A key priority issue for the Governor, President of the Senate, and the Speaker of the House, this legislation provides Florida businesses with critical protections from frivolous lawsuits relating to COVID -19. Working in partnership with other business groups and participation with the Associated Industries of Florida RESET Taskforce, many of the recommendations for common sense practical measures were included into the law. Specifically, the legislation creates a limited cause of action for COVID-19 related claims including heightened culpability standards (a defendant must prove a business acted with gross negligence or intentional conduct); a heightened evidentiary standard (clear and convincing evidence is required to establish liability rather than a preponderance of evidence); and a shortened statute of limitations of COVID-related claims.

Clearly, we must recognize and thank **Senate President Wilton Simpson** and **House Speaker Chris Sprowls** for their leadership and **Senator Jeff Brandes** and **Representative Lawrence McClure** for their tireless work as bill sponsors. In addition, we wish to thank all the members of the Florida Senate and the House of Representatives who voted for this legislation. Last but certainly not least, a big thank you to **Governor Ron DeSantis** and **CFO Jimmy Patronis**, both of whom were vocally supportive of this legislation from day one!

On Tuesday in the House the Environment, Agriculture and Flooding Sub Committee passed **HB 1601, Farming Operations by Representative Jayer Williamson**. This legislation, which is a priority for the entire agricultural industry, modernizes and strengthens Florida's Right to Farm Act. Unquestionably, this legislation reflects the legislature's intent to protect food, fiber and foliage producers in Florida. Given the continued population growth of the state, it also telegraphs the importance of protecting one of Florida's leading industries. The bill minimizes lawsuits by putting guardrails on who can bring a suit and discourages frivolous lawsuits by allowing the farmer to collect attorney's fees if they prevail in a court case; limits damages by limiting the amount of compensatory damages to the value of the property harmed and allowing only for punitive damages in specific situations; modernizes the Right to Farm Act by extending protections to agritourism activities; and expands the roadside stand provision to include all "Farm Products" as defined in 823.14 FS.

HB 1601 is now awaiting a hearing in the House Judiciary Committee, its final stop before being ready for a full debate on the House floor.

On Tuesday the Senate Community Affairs Committee passed **SB 1876, Relief from Burden on Real Property by Senator Ben Albritton**. As originally filed, SB 1876 contained a number of improvements to the Bert J. Harris, Jr., Private Property Rights Act. These updates include: uniformly applies the timeframe to respond to a Bert Harris claim down from 150 days to 90 days for all types of property; allows the property owner to elect to forego a jury trial for damages and move directly to a bench trial; adds language which reinforces that a settlement between a landowner and government

entity are in the public interest; and provides that if a property owner prevails in a Harris Act Claim then the property owner is entitled to having the government entity pay the attorney's fees. In addition to the underlying bill, an amendment was added during committee further clarifying that real property includes subsurface (oil, gas and mineral) rights. This amendment language essentially picked up the substance of **SB 1380 by Senator Ray Rodrigues**.

On Thursday in the House Local Administration and Veterans Affairs Committee **HB 421, Governmental Actions Affecting Private Property Rights by Representative Kaylee Tuck**, passed committee. HB 421 is the companion measure to SB 1876. Similar to the Senate bill, HB 421 was amended to include the substance of **HB 1101 by Representative Jenna Pearsons-Mulick**, which is the companion bill to Senator Rodrigues' SB 1380.

SB 2516, Water Storage North of the Lake, was approved by the Senate Appropriations Committee on Thursday and will be debated by the full Senate next week. This legislation, which is tied to the budget, requires the South Florida Water Management District to move forward and seek approval for the Lake Okeechobee Watershed project plant and requires the district to expedite development and implementation of Aquifer Storage and Recovery Wells North of Lake Okeechobee.

Also on Thursday, the full Senate passed **SB 920, Liability for Persons Providing Areas for Public Outdoor Recreational Purposes by Senator Jennifer Bradley**. The House version (**HB 287 by Representative Jason Shoaf**) is postured to have a debate by the full House. You may recall from previous reports that this legislation provides liability protection for landowners who enter into contracts with the state allowing for ingress and egress through private property to access public recreational lands.

BUDGET:

With just four weeks left in the 2021 regular session, the Senate and House passed their budget proposals out of their respective Appropriation Committees. On the whole, the Senate budget totals nearly \$95 billion while the House proposal is roughly \$97 billion. Not surprisingly, there are significant differences in the different spending "silos" and the two chambers have a different approach regarding use of federal stimulus dollars. Grab your popcorn because the budget priority areas are different enough that fireworks may ensue as the budget conference process begins.

If there is a silver lining, this week the state's economist indicated actual revenue collections exceeded budget forecast by nearly \$300 million. Given that the two chambers based their current budget numbers on a \$2.75 billion budget deficit, it is reasonable to assume the final budget products will be much different than where we will start the budget conference process.

Procedurally, both chambers will debate and approve their proposed budgets on the floor next week, completing the final steps to formally begin the budget conference process. Given the movement predicted in the budget, it is difficult to start throwing specific program numbers out. However, it is time to let your legislator know programs which are important to you. For example, sharing the simple message to support full funding for the Florida Forest Service, the Rural and Family Lands Program and other funding for conservation easements, and UF/IFAS is important as the legislature moves toward putting a final budget together.