


BAL HARBOUR

- V I L L A G E -

OFFICE OF THE VILLAGE MANAGER

LETTER TO COUNCIL

NO. 070-2019

To: Mayor Gabriel Groisman and Members of the Village Council
From: Jorge M. Gonzalez, Village Manager 
Date: April 26, 2019
Subject: **Legislative Session Week 7 Report - April 15, 2019 - April 19, 2019**

The purpose of this Letter to Council (LTC) is to transmit the attached Legislative Session Week 7 Report provided by Ron L. Book.

If you have any questions or need any additional information, please feel free to contact me.

JMG/MH



Ronald L. Book, P.A.
LAW OFFICES
PROFESSIONAL ASSOCIATION

**Bal Harbour Village
2019 Session – Week 7**

As detailed in our last report, the budget conference is expected to begin late Monday and early Tuesday, April 22, 23. Currently, we continue our budget discussions and meetings with the House Speaker and Senate President, Senate Appropriations Chair Bradley, and House Appropriations Chair Cummings, and the various subcommittee Chairmen and Chairwomen and staff. Below is the status of the funding requests, which remains the same until the budget conference process begins.

Funding Requests: The following project was partially funded and is in a posture for budget conference.

- **Storm Water System Improvement** Sponsors: Senator Pizzo, Representative Geller
Local Match: 50% Amount Requested: \$600,000
 - This project is funded in the Senate budget for \$50,000 at this time.

Legislative Issues:

Anti-Semitism: HB 741 by Representatives Fine and Caruso, cosponsored by Representatives Donalds, Fischer, Killebrew, LaMarca, and Roach and SB 1272 by Senator Gruters

This bill accomplishes the following:

- Prohibits discrimination against a public education system student or employee based on religion.
- Defines anti-Semitism as it relates to public educational institutions
- Required a public educational institution to treat discrimination based on anti-Semitism in an identical manner to discrimination based on race
- Prohibited discrimination based on religion in public educational institution programs, activities, and opportunities

SB 1272, the Senate companion bill by Senator Gruters passed the Senate Judiciary committee 5 – 1 and must next be heard in the Education and Rules committees.

HB 741 has passed the full House by a vote of 114 – 0.

Vacation Rental Regulation/Preemption: HB 987 by Grant, J.

There was no action during week 7 regarding the vacation rental issue. As reported in week 6, the Senate version of the vacation rental bill, SB 824, did not get a hearing once again in its first committee. We are monitoring for any amendments that may be filed addressing local government regulation of vacation rentals. Throughout this Session, we have worked closely with the FLC to oppose this bill with members of both the House and Senate. During week 6, HB 987 was heard in the Commerce Committee and as part of the push with the team of lobbyists

that work with local governments and with the League of Cities, several amendments were offered in an effort to weigh down the bill and highlight several problems with state regulation and local government preemption. These amendments are briefly summarized below. After lengthy debate, testimony from cities and the public, and two 15 minute extensions of the committee's end time, this bill passed 13 – 11. However, as noted below, the Senate chose not to hear the bill later this same day in committee and therefore the bill as drafted is dead for this Session. Again, we continue to monitor for any amendment that would restrict or preempt local government's ability to regulate vacation rentals. Below is a recap from week 6 of the amendments offered to the vacation rental bill in the final House committee hearing.

Amendments included the following issues:

- Required that an operator of a vacation rental maintain liability insurance coverage, to be in force at all times to cover vacation rental guests. (passed)
- Reinstated the grandfather clause. (failed)
- Required a registry and notification process for sexual offenders choosing to stay in a vacation rental. (passed)
- Required vacation rental inspections by DBPR and to do these inspections, the division has the right of entry and access to vacation rental establishments at any reasonable time. (in two amendments - failed)
- Attempted to clarify that Condominium and Homeowner Associations rules and bylaws remain in effect as it pertains to limiting an owner's use of property as a vacation rental. (passed)
- Addressed local government regulation of vacation rentals except a property also used as a homestead, as described in s. 6(a), Art. VII of the State Constitution. (failed)

HB 987 passed the Commerce committee as amended, with a vote of 13 – 11 during week 6, but was not heard in week 7.

SB 824, Vacation Rentals/Private Property Rights of Homeowners by Senator Diaz was on the Senate committee agenda in the Senate Innovation, Industry and Technology committee but as reported in the week 6 report, was not heard once again. This committee would have been its first committee hearing of three required, and this committee is not meeting again.

Important to note: The Senate bill in this form is now "dead" for this Session, however we will continue to watch for amendments affecting local government's regulation of vacation rentals throughout the remainder of Session.

Preemption of Local Regulations HB 3

The bill accomplishes the following:

- Preempts the licensing of occupations to the state and supersedes any local government licensing of occupations. However, any licensing adopted prior to July 1, 2019, will continue to be effective until July 1, 2021, at which time it will expire.
- Any licensing of occupations authorized by general law is exempt from the preemption.
- Prohibits local governments from requiring a license for a person whose job scope does not substantially correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board, within DBPR,
- Precludes local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, and decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.
- Authorizes counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is the current practice by counties and municipalities. (Meaning, local journeyman licensing is exempt from this preemption).

HB 3 passed the House with a vote of 88 – 24 and is now in messages to the Senate.

Governmental Powers/Preemptions HB 1299

HB 1299 would enact a number of restrictions on local governments, including the following:

- Except as provided for in s. 171.205, F.S., a municipality may not purchase land within another municipality's boundaries without their consent;
- The governmental entity may not attempt to annex an area within another governmental entity's jurisdiction without the other governmental entity's consent.
- Prohibits municipalities from levying taxes on cigarettes, cigars, nicotine products, and dispensing devices.
- Preempts to the state, the establishment of the minimum age for the sale or delivery of tobacco products, nicotine products, and nicotine dispensing devices.
- Preempts to the state the regulation of single use straws and allows for businesses to distribute plastic straws upon request or through a dispenser. (this preemption would not apply to a hospital or nursing, rehabilitation, or other health care facility).
- Amends the Florida Drug and Cosmetic Act to preempt the regulation of over-the-counter proprietary drugs and cosmetics to the state.
- Amends s. 526 F.S., the sale of liquid fuels; brake fluid section, to include a preemption to the state and to DEM, the establishment of the requirements for alternate generated power sources, including transfer switches.
- A municipality, county, or other local government entity may not adopt, enforce, or implement any ordinance, rule, or law that would impose additional requirements for maximum fuel supply or safe temperature and cooling requirements related to the comprehensive emergency management plan.
- Clarifies that local governments cannot regulate a food service establishment regulation of single-use plastic straws, which is preempted to the state. Stating that a municipality, county, or other local governmental entity may not adopt, enforce, or implement any ordinance, rule, or law that would restrict a food service establishment from distributing single-use plastic straws to customers.

HB 1299 passed the Commerce committee as amended, with a vote of 15 – 7.

Texting and Driving: (SB 76 by Simpson and HB 107 by Toledo and Slosberg) As reported in week 6, the Senate bill passed the Judiciary committee with amendments by Chairman Simmons that narrowed the bill to apply to only using a cell phone to text while driving as a primary offense. The bill as drafted contains a warning period, which would essentially be a type of phase-in, from October 1, 2019 through December 31, 2019, and the bill only allows law enforcement to issue citations to drivers who are texting while driving as a primary offense after December 31, 2019.

This week, SB 76 was heard in the Rules committee on 4/17 and passed with a vote of 15 – 0. In this meeting, Senator Simpson amended the bill to make it more of a “hands free” bill, which would only allow for the use of a cell phone if it is being used in a hands free mode.

The Simpson amendment, more specifically:

- Includes a warning time period for the phase-in from October 1, 2019, through December 31, 2019, during which officers are only able to issue warnings and educate the driver on the new law.
- Provides that as of January 1, 2020, a law enforcement officer may stop motor vehicles and issue citations to persons who are driving while using a wireless communications device.
- Requires an officer to record the race and ethnicity of the violator and maintain and report the information to FDLE.
- Requires that notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations of this section must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health

- Provides that any person who gets ticketed for this violation commits a noncriminal traffic infraction, punishable as a moving violation, as provided in chapter 318, and shall have 3 points assessed against his or her driver license as set forth in s. 106322.27(3)(d)7.
- This would not apply to drivers using a cellular telephone in a hands-free or hands-free in voice-operated mode, including but not limited to a factory installed or aftermarket Bluetooth device.
- For a first offense under this section, in lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates this section may elect to participate in a wireless communications device driving safety program approved by DHSMV. Upon completion of the program, the penalty specified in s. 318.18 and associated costs may be waived by the clerk of the court and the assessment of points must be waived. This option would also apply to the first time offender if he or she shows the clerk proof of purchase of equipment that enables his or her personal wireless communications device to be used in a hands-free manner.

HB 107: Its House companion, HB 107 still takes a different approach in that it allows for texting and driving as a primary offense, states that officers must record race and ethnicity of the driver and report this data to FDLB, and makes clear that the officer is required to let the driver know his or her rights to refuse to turn over the phone, cannot access it without a warrant, nor can the officer confiscate the phone without a warrant. The House bill has passed all its committees and is ready to be heard by the full House.

- SB 76 passed the Rules committee, 15 – 0 as amended and will be heard by the full Senate on 4/23.
- HB 107 has passed all its committees will be heard by the full House on 4/23.

Permit Fees HB 127, SB 142

- The bills require governing bodies of counties and municipalities to post permit and inspection fee schedules and building permit and inspection utilization reports on their websites by December 31, 2020.
- After December 31, 2020, the governing body of a local government that provides a schedule of fees must update its building permit and inspection utilization report before adjusting the fee schedule.

HB 127/SB 142 has passed both the House and Senate.

Traffic Infraction Detectors (Red Light Cameras) HB 6003, SB 622

- Repeals provisions relating to Mark Wandall Traffic Safety Program and the authorization to use traffic infraction detectors.
- Repeals provisions relating to distribution of penalties, transitional implementation, and placement and installation.

HB 6003 passed its first committee in the House in January and has not been heard again.

However, SB 622 the Senate companion sponsored by Brandes and co-sponsored by Senators Diaz and Mayfield was heard in the Infrastructure and Security committee and temporarily postponed, with the bill sponsor noting that he did not have the votes to pass the bill in this committee on 4/2. Again, this bill was heard in committee on 4/9 and again temporarily postponed.

-
- Session Dates: March 5, 2019 through May 3, 2019