



**LEGISLATIVE COMMITTEE  
MEETING AGENDA**

**January 12, 2022 – 11:00 a.m.**

12520 Ulmerton Road  
Magnolia Room at Florida Botanical Gardens  
Largo, FL 33774

**THE PLANNING COUNCIL AND METROPOLITAN PLANNING ORGANIZATION FOR PINELLAS COUNTY**

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- 1. CALL TO ORDER**
- 2. APPROVAL OF MINUTES FROM NOVEMBER 10, 2021**
- 3. FEDERAL LEGISLATION AND FUNDING UPDATE**
  - A. Infrastructure Investment and Jobs Act**
- 4. BILLS OF CONCERN**
  - A. Transportation Projects (HB 157/SB 398)**
  - B. Mixed-Use Residential Development (SB 962/HB 981)**
  - C. Local Governance (SB 280/HB 403 and SB 620/HB 569)**
  - D. State Housing Assistance (SB 1170)**
- 5. TRANSPORTATION BILLS OF INTEREST**
- 6. OTHER BILLS OF INTEREST**
- 7. TRAVEL TO TALLAHASSEE**
- 8. ADJOURNMENT**

*Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability, or family status. Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact the Office of Human Rights, 400 South Fort Harrison Avenue, Suite 300, Clearwater, Florida 33756; [(727) 464-4062 (V/TDD)] at least seven days prior to the meeting.*

*Appeals: Certain public meetings result in actions taken by the public board, commission or agency that may be appealed; in such case persons are advised that, if they decide to appeal any decision made at a public meeting/hearing, they will need a record of the proceedings, and, for such purposes, they may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.*

**Legislative Committee – January 12, 2022**

**2. Approval of Minutes from November 10, 2021**



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**SUMMARY**

The minutes from the previous Legislative Committee meeting are attached for the committee's review and approval.

**ATTACHMENT(S):** Minutes of the November 10, 2021 Forward Pinellas Legislative Committee Meeting

**ACTION:** Committee to review and approve the meeting minutes.

**FORWARD PINELLAS  
LEGISLATIVE COMMITTEE MEETING SUMMARY  
NOVEMBER 10, 2021**

Committee Members in Attendance:

Mayor Cookie Kennedy, City of Indian Rocks Beach, Forward Pinellas Vice Chair  
(*Representing the Beach Communities*) (late arrival)  
Councilmember David Allbritton, City of Clearwater, Forward Pinellas Treasurer  
Commissioner Dave Eggers, Pinellas County  
Councilmember Bonnie Noble, Town of Kenneth City  
(*Representing the Inland Communities*)  
Commissioner Michael Smith, City of Largo

Not in Attendance:

Councilmember Brandi Gabbard, City of St. Petersburg, Committee Chair  
Commissioner Janet Long, Pinellas County, Forward Pinellas Secretary  
(*Representing PSTA*)  
Vice Mayor Patti Reed, City of Pinellas Park

Also Present:

Whit Blanton, Executive Director  
Linda Fisher, Principal Planner  
Tina Jablon, Executive Administrative Secretary  
Maria Kelly, Secretary  
Brian Lowack, Pinellas County  
Chris Hawks, City of Largo  
Nicole Delfino, City of Dunedin

The Forward Pinellas Legislative Committee met in the Magnolia Room at the Florida Botanical Gardens; 12520 Ulmerton Road, Largo.

1. CALL TO ORDER

Mayor Kennedy called the meeting to order at 11:01 a.m.

2. APPROVAL OF MINUTES FROM OCTOBER 13, 2021

A motion was made by Councilmember Allbritton and seconded by Commissioner Smith, and carried unanimously, to approve the minutes from the October meeting. (vote: 5-0)

3. FEDERAL LEGISLATION UPDATE

A. Infrastructure Investment and Jobs Act

Whit Blanton updated the committee on the status of the bill advising that significant funding would be expended for failing infrastructure. He offered his perspectives on the bill over three main points, which included:

1. Funding will be allocated in one of two ways. Either by a pre-established formula or through discretionary grants. This should benefit metropolitan planning organizations and local governments in a variety of ways, but will come with additional responsibilities and new regulations and requirements.
2. In order to be successful winning competitive grants, equating to approximately \$550B in additional funding, Forward Pinellas and local partners will need to be

strategic in the approach to applications. He advised the group that Robin Hutcheson, USDOT Deputy Assistant Secretary for Safety Policy, feels Pinellas County is well poised to receive funding. This is because of projects and programs such as Advantage Pinellas, the Gateway Area Master Plan, Safe Streets Pinellas, and the Countywide Housing Compact already being in place or underway. However, he stressed the importance of strong partnerships, locally and regionally, being paramount to success.

3. Being proactive and responsive will be imperative. It is important to identify priority projects and identify local funding matches in advance. This will allow Forward Pinellas and partners to respond quickly to the Notices of Funding Availability.

Agreeing with Mr. Blanton, Councilmember Allbritton highlighted a recent meeting he participated in with USDOT for a RAISE (Rebuilding American Infrastructure with Sustainability and Equity) grant. He outlined some of the key questions that were asked and things that needed to be demonstrated in order to be successful.

Commissioner Smith suggested moving quickly on coordination of efforts because local governments are currently working on their Capital Improvement Programs. In response, Mr. Blanton advised that the Forward Pinellas Strategic Planning Team would be making this a priority of the next few weeks.

Mr. Blanton also clarified that safety projects should be identified in terms of the top five safety needs over the next five years (such as overpasses, speed management, etc.)

Mayor Kennedy requested a checklist be created to guide local governments on best practices in order to win competitive grant funding.

Commissioner Eggers also requested that some charts be created to show how the process would flow and what things are needed to aid in decision making processes.

#### B. Build Back Better Act

Whit Blanton explained that there still seems to be much confusion surrounding this piece of legislation. He stressed that the Build Back Better Act is still about “infrastructure,” but has a broader definition of “infrastructure” that includes some social programs and related policies. He advised the bill is still struggling to gain bi-partisan support.

Commissioner Eggers pointed out that it will be important to pursue funding provided by the bill once it becomes law regardless of how individuals feel about the language contained in the bill.

#### 4. TRANSPORTATION SAFETY

##### A. Rectangular Rapid Flashing Beacon (RRFB) Legislation

Whit Blanton advised the committee that to date no bills have been filed on this topic. He highlighted a productive meeting he and Mayor Kennedy had with Representative DeCeglie. The representative is interested in speed management

legislation and safety education funding. Mr. Blanton will be working to provide a list of ways in which the representative can get involved in tandem with Forward Pinellas. Mayor Kennedy expressed optimism that the representative will work with Forward Pinellas this year and highlighted a recent “2<sup>nd</sup>” meeting she and he had.

B. “Move Over” Legislation

Whit Blanton provided historical context concerning the bill from the prior year’s session and the resulting legislation. He highlighted a recent fatality that may have been prevented if the legislation had been passed with its original language requiring motorists to yield a full lane to bicyclists. He elaborated on some best practices with regard to bicycles riding with traffic or in bike lanes.

There was some extraneous conversation concerning speed differential, occurrences of bicycle crashes and the importance of education. Subsequently, Mr. Blanton reminded the group that bills are filed each year concerning increased penalties for leaving the scene of a crash involving vulnerable road users. However, none seem to gain any traction nor result in actual legislation.

5. BILLS OF POTENTIAL INTEREST

Linda Fisher reminded the group of the ongoing list of bills of interest and highlighted those added since the last meeting. Specifically, she mentioned a bill by Senator Brandes to abolish the Tampa Bay Area Regional Transit Authority (TBARTA), SB 620 which would allow businesses to sue local governments if they are negatively impacted by more than 15% of revenue/profit resulting from locally imposed ordinances, and SB 280, another similar bill. There was also discussion about HB 1339 and its resulting impacts, along with a newly filed bill, HB 6057, which would repeal a provision requiring local governments to provide incentives to fully offset costs of required affordable housing contributions or linkage fees. There was a request by Commissioner Eggers for additional information regarding the amount of industrial acreage within each city. He also asked for more specifics about the framework the City of St. Petersburg was adopting in response to HB 1339. In particular, parcel size and noise restrictions.

Mr. Blanton reminded the group that the Governor has called for a special session which will have the Pinellas Legislative Delegates preoccupied for a time.

6. LEGISLATIVE DAYS

Brian Lowack, Pinellas County Intergovernmental Liaison, let the committee know that Pinellas County does not have plans to hold a formal “Pinellas Day” in Tallahassee this year on a particular date. However, he advised that he was working with Forward Pinellas staff and others to ensure a coordinated effort. He stressed the importance of a singular message being delivered.

Whit Blanton advised that he, Mayor Kennedy and Councilmember Gabbard may make a trip to Tallahassee. He stated he wanted to coordinate with other members who may wish to attend as well, in particular, to focus on countywide transportation. He alerted the group to dates when other partners would be making the trip and suggested piggy backing on those efforts where possible. Forward Pinellas staff will follow up regarding member interest and possible dates.

Brian Lowack suggested trying to find a date that is agreeable for multiple delegates to meet all at once as opposed to multiple meetings with individuals.

#### ADDITIONAL DISCUSSION

The December meeting of the committee is cancelled and the next meeting will be held in January 2022.

#### 7. ADJOURNMENT

There being no additional items for discussion, the meeting adjourned at 11:55 a.m.

**3A. Infrastructure Investment and Jobs Act**

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**SUMMARY**

The Infrastructure Investment and Jobs Act ([H.R. 3684](#)), also known as the Bipartisan Infrastructure Law, was signed into law by President Biden on November 15, 2021. The new law is a sweeping \$1.2 trillion investment plan for the nation’s transportation, energy, water and communications infrastructure.

The Federal Highway Administration has released a policy memo that provides a framework for implementation of the transportation portion of the plan. The stated intent of the guidance is to encourage state and local partners to invest in upgrading and modernizing the transportation network to accommodate new and emerging technologies and provide people with better choices across all modes, while ensuring that it is safe and accessible for all users, more sustainable and resilient to a changing climate, and more equitable. However, the memo has prompted concerns that the FHWA’s interpretation differs from the intent of the original Act.

**ATTACHMENT(S):**

- “Policy on using bipartisan infrastructure law resources to build a better America.” Memo from the Federal Highway Administration, December 16, 2021.
- “FHWA Versus the Bipartisan Infrastructure Law.” Reason Foundation, Surface Transportation Newsletter, January 6, 2022.

**ACTION:** None required; informational item only.



U.S. Department  
of Transportation

**Federal Highway  
Administration**

# Memorandum

Subject: **INFORMATION: Policy on Using  
Bipartisan Infrastructure Law  
Resources to Build a Better America**

Date: December 16, 2021

From: Stephanie Pollack   
Deputy Administrator

In Reply Refer To:  
HPL-1 and HCC-1

To: Associate Administrators  
Chief Counsel  
Chief Financial Officer  
Directors of Field Services  
Division Administrators

The recently enacted Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (IIJA), Pub. L. 117-58 (Nov. 15, 2021), will deliver generational investments in our roads and bridges, promote safety for all road users, help combat the climate crisis, and advance equitable access to transportation. The BIL also presents the Federal Highway Administration (FHWA) with a unique opportunity: to exercise our stewardship and oversight responsibilities and evolve the century-old relationship with State departments of transportation and other stakeholders in a way that takes advantage of the tools Congress has provided and prioritizes investments that align with the underlying policies evident throughout the BIL to help our states and communities Build a Better America.

This guidance is intended to serve as an overarching framework to prioritize the use of BIL resources on projects that will Build a Better America. The intent of the guidance also is to ensure that the funding and eligibilities provided by the BIL will be interpreted and implemented, to the extent allowable under statute, to encourage States and other funding recipients to invest in projects that upgrade the condition of streets, highways and bridges and make them safe for all users, while at the same time modernizing them so that the transportation network is accessible for all users, provides people with better choices across all modes, accommodates new and emerging technologies, is more sustainable and resilient to a changing climate, and is more equitable.

The BIL creates two kinds of new resources that FHWA's State, regional, Tribal and local stakeholders can use to Build a Better America:



- (1) changes to the eligibilities and policy requirements in FHWA’s “legacy” apportioned programs such as National Highway Performance Program and the Surface Transportation Block Grant Program and its Transportation Alternatives set-aside; and
- (2) new programs (some formula, some discretionary grants and some a combination of the two) such as the Bridge Investment Program, National EV Charging Program, Carbon Reduction Program and PROTECT program.

FHWA will issue guidance and regulations, as appropriate, to fully implement these legislative changes and new programs and is actively soliciting stakeholder input on these matters through a just-opened [Federal Register docket](#).

Investments and projects that align with the BIL and will help Build a Better America include those that:

- improve the condition, resilience and safety of road and bridge assets consistent with asset management plans (including investing in preservation of those assets);
- promote and improve safety for all road users, particularly vulnerable users;
- make streets and other transportation facilities accessible to all users and compliant with the Americans with Disabilities Act;
- address environmental impacts ranging from stormwater runoff to greenhouse gas emissions;
- prioritize infrastructure that is less vulnerable and more resilient to a changing climate;
- future-proof our transportation infrastructure by accommodating new and emerging technologies like electric vehicle charging stations, renewable energy generation, and broadband deployment in transportation rights-of-way;
- reconnect communities and reflect the inclusion of disadvantaged and under-represented groups in the planning, project selection and design process; and
- direct Federal funds to their most efficient and effective use, consistent with these objectives.

### **Encouraging and Prioritizing Projects That Build a Better America**

Under this Policy, FHWA will work with recipients of any Federal funds made available under title 23, United States Code to encourage and prioritize the repair, rehabilitation, reconstruction, replacement, and maintenance of existing transportation infrastructure, especially the incorporation of safety, accessibility, multimodal, and resilience features.<sup>1</sup> Projects to be prioritized include those that maximize the existing

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<sup>1</sup> For purposes of this memorandum, FHWA recipients include Federal Land Management Agencies (FLMAs). In addition, Federal funds include both Federal-aid highway and Federal lands highway funds, as well as Transportation Infrastructure Finance and Innovation programs funds that are administered by the FHWA.

right-of-way for accommodation of non-motorized modes and transit options that increase safety, accessibility, and/or connectivity.

For FLMAs under the Federal lands program, FHWA will work with our Federal stakeholders to incorporate these policies into their programming policies and decisions, including asset management systems established under 23 U.S.C. 201(c)(5).

The maintenance of existing roads and highways in a state of good repair is an important tool to ensure the effective use of Federal funding while also improving transportation safety, reducing surface transportation-related greenhouse gas emissions, delivering equitable transportation options and access, and accommodating new and emerging technologies by upgrading the nation's existing infrastructure. Proper maintenance is also an affirmative responsibility of the States as required by 23 U.S.C 116. This Building a Better America Policy will help achieve these important goals. Additionally, this Policy is consistent with the Bipartisan Infrastructure Law and recently issued Presidential Executive Orders (EOs), including, EO 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619); EO 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009); and EO 14030 Climate Related Financial Risk (86 FR 27967).

### **Prioritizing Investment in All Federal-Aid and Federal Lands Eligible Transportation Assets**

FHWA staff shall emphasize to our planning and project selection and project delivery stakeholders that the resources made available under the BIL can and should be applied to modernize all eligible streets, highways, and bridges – not just those owned and operated by State departments of transportation.

Many projects funded with Federal-aid highway funds are either on the Interstate System (which constitutes just under 50,000 system miles and accounts for 25% of VMT) or the broader National Highway System (which constitutes approximately 222,000 system miles and accounts for 55% of VMT). However, there are over 1 million miles of streets and highways, which account for 85% of Vehicle Miles Travelled, that are Federal-aid highways and may benefit from BIL investments. Nationally, arterials and collectors are in poorer condition compared to the interstate highway system. BIL also expands the universe of eligible roadways for certain types of investments. For example, up to 15% of National Highway Performance Program funds may be spent on projects on Federal-aid highways (and bridges) off the National Highway System for projects that add protective features related to mitigating risk of recurring damage or the cost of future repairs from extreme weather events, flooding, or other natural disasters.

For bridges, there are over 620,000 bridges on the National Bridge Inventory (NBI), which includes all of the nation's bridges located on public roads, including Interstate highways, U.S. highways, State and county roads, as well as publicly-accessible bridges on Federal and tribal lands. All of these bridges are eligible for investments under the restored bridge formula program.

FHWA staff should encourage metropolitan planning organizations, State transportation departments, FMLAs, and other decisionmakers to direct new and expanded investments based on asset condition and need for modernization, as well as the potential for an investment or project to achieve Building a Better America objectives – rather than focusing exclusively or primarily on assets owned by States. Asset owners of all Federal-aid highways, Federal Lands highways and streets and all NBI bridges should be involved in decisions about which projects are selected for investment.

### **NEPA Review**

FHWA staff shall emphasize to our planning and project selection and project delivery stakeholders that one advantage of focusing investment on Building a Better America projects is that they can be delivered faster because, in many cases, such projects may require only a Categorical Exclusion under FHWA’s NEPA environmental review regulations, 23 CFR Part 771. For example, construction of bicycle and pedestrian lanes, paths, and facilities normally meet the FHWA and CEQ criteria for categorical exclusions and, absent unusual circumstances, do not require any further NEPA approvals by the FHWA. 23 CFR 771.117(c)(3). Similarly, street and highway modernization projects involving resurfacing, restoration, rehabilitation, or reconstruction; highway safety or traffic operations improvement projects; bridge rehabilitation and reconstruction projects; and construction of grade separation to replace existing at-grade railroad crossings will generally qualify for Categorical Exclusions. 23 CFR 771.117(c)(3)

By contrast, other types of projects necessarily require more scrutiny under NEPA. For example, highway capacity expansion projects that involve “acquisition of more than a minor amount of right-of-way or that would result in any residential or non-residential displacements” may *not* be processed as categorical exclusions. Categorical exclusions are also not available if the proposed project would:

- induce significant impacts to planned growth or land use for the area;
- have a significant impact on any natural, cultural, recreational, historic or other resource; or
- have significant impacts to travel patterns.

23 CFR 771.117(a).

FHWA staff shall encourage metropolitan planning organizations, State transportation departments, FLMAAs and other decisionmakers to consider the timeline for delivering projects and eligibility for Categorical Exclusions under NEPA as they are programming funding made available under the Bipartisan Infrastructure Law.

### **General Purpose Capacity Expansion Projects**

This Policy prioritizes projects that move more people and freight by modernizing and increasing the operational efficiency of existing roads and highways over projects that expand the general purpose capacity of roads and highways. Consistent with this

Policy, FHWA will implement policies and undertake actions to encourage—and where permitted by law, require—recipients of Federal highway funding to select projects that improve the condition and safety of existing transportation infrastructure within the right-of-way before advancing projects that add new general purpose travel lanes serving single occupancy vehicles.

Application of this Policy does not prohibit the construction of new general purpose capacity on highways or bridges, but in most cases Federal-aid highway and Federal Lands funding resources made available through the BIL should be used to repair and maintain existing transportation infrastructure before making new investments in highway expansions for additional general purpose capacity. State transportation departments should also be mindful of their ability to transfer resources to support transit projects that may be more consistent with these priorities.

Specifically, FHWA staff shall encourage metropolitan planning organizations, State transportation departments, FLMAs and other decisionmakers and recipients of Federal-aid highway and Federal Lands funding to consider the following factors before advancing projects that result in new capacity for single occupancy vehicles:

- progress in achieving a state of good repair consistent with the State’s asset management plan under 23 U.S.C 119(e).
- how the project will support the achievement of the State’s performance targets under 23 U.S.C 150 (including any new performance targets established by FHWA); and
- whether the project is more cost-effective than both operational improvements to the facility or corridor and transit projects eligible under chapter 53 of title 49.

#### **Additional Planned Actions**

In pursuit of these important policy objectives, FHWA will adopt guidance and implement new requirements, to the extent permitted by statute, to advance this Policy on *Using Bipartisan Infrastructure Law Resources to Build a Better America*. These actions will include:

- incorporating the principles advanced in this Policy into all guidance documents issued for “legacy” apportioned programs for which the BIL includes changes in eligibility or other requirements;
- incorporating the principles advanced in this Policy into all guidance and regulatory documents issued for new programs created by the BIL and administered by FHWA;
- incorporating the principles advanced in this Policy into all notice of funding opportunities (NOFOs) for its allocated discretionary grant programs;
- working with the Federal Transit Administration to review and, if appropriate, propose changes to guidance or regulations governing the federally required transportation planning processes in metropolitan areas, as set forth in 49 U.S.C.

5303 and 23 U.S.C. 134, and in rural areas and on a statewide basis set forth in 49 U.S.C. 5304 and 23 U.S.C. 135;

- reviewing and, if appropriate, proposing changes to guidance or regulations governing Transportation Asset Management Plans;
- reviewing and, if appropriate, proposing changes to guidance or regulations governing relevant aspects of the NEPA process for FHWA projects;
- reviewing and, if appropriate, proposing changes to guidance or regulations governing relevant aspects of Title VI as it applies to FHWA projects; and
- improving and promoting the use of travel demand modeling to provide for more accurate forecasting of how proposed projects (including, but not limited, to projects proposing the addition of general-purpose capacity) affect travel demand and air emissions including emissions of greenhouse gases.

### **Conclusions**

Although States and other Federal-aid recipients ultimately select projects consistent with 23 U.S.C. 145, and FLMAs consistent with 23 U.S.C. 201, this Policy will inform that decision-making. Once implemented, this Policy will help improve safety and accessibility for all road users, reduce the environmental impact of highway and bridge projects, including curtailing transportation greenhouse gas emissions that contribute to climate change, better accommodate new and emerging transportation technologies, reduce relocations and otherwise ensure that transportation agencies do not expand roadways in inequitable ways that disproportionately impact disadvantaged communities, and support the efficient and effective use of Federal funds.

Working together, we can make investments and deliver projects that upgrade the condition of streets, highways, and bridges and make them safe for all users, while at the same time modernizing them so that the transportation network is accessible for all users, provides people with better choices across all modes, is more sustainable and resilient to a changing climate, and is more equitable. FHWA is committed to increasing our level of coordination with metropolitan planning organizations, State departments of transportation and other stakeholders and decisionmakers including local and tribal governments that have not traditionally had access to needed Federal funds to ensure these goals are fully realized.



## Surface Transportation Innovations

By Robert W. Poole, Jr.

Searle Freedom Trust Transportation Fellow and Director of Transportation Policy

January 2022

### **FHWA Versus the Bipartisan Infrastructure Law**

Anti-highway and “smart growth” organizations lobbied hard for any new federal transportation infrastructure law to focus on “fixing it first” when it comes to highways, for expanding transit and passenger rail funding more than highway funding, and for interpreting highway safety mostly as protecting bicyclists and pedestrians using the roads. These groups would have cheered if the House version of the surface transportation reauthorization bill had passed, but it got dropped because it had no chance of passing in the Senate. Instead, the House eventually agreed to the Senate-generated Infrastructure Investment and Jobs Act (IIJA), which became commonly referred to as the bipartisan infrastructure law (BIL).

The BIL includes a relatively traditional five-year reauthorization of the federal highway and transit program (albeit with larger-than-usual increases for transit and Amtrak). The anti-highway folks consoled themselves with the law’s large increase in the number and funding of discretionary programs, which enable U.S. Department of Transportation (US DOT) to define the criteria for projects it likes—which turn out to be anti-highway, fix it first, more transit, and an emphasis on bicycling and walking. That caused shockwaves at state transportation departments and at AASHTO, their association. As David Harrison [reported](#) in *The Wall Street Journal* (Nov. 7), AASHTO Executive Director Jim Tymon said, “We’ve never seen anything on this scale before . . . the number and scale of discretionary programs. . . [They] are going to allow the administration to pick the projects that really fit their policy lens.”

But then the other shoe dropped. On Dec. 16, Federal Highway Administration (FHWA) Acting Administrator Stephanie Pollack released a six-page guidance memo on how state DOTs should interpret the enlarged formula-funded programs. In effect the memo said, we advise you to interpret the formula programs as if they were based on “fix it first” principles, and that state DOTs should make sure to allocate some of their funds to local and tribal governments to fix their streets and roads, too. They should “prioritize projects that move people and freight by increasing the efficiency of existing roads and highways over projects that expand

the general purpose capacity of roads and highways”—something that is nowhere in the bipartisan infrastructure law. The memo also reminds state DOTs that projects that add capacity for walking and biking generally get a free ride from National Environmental Policy Act (NEPA) regulations, unlike projects that add highway capacity (hint, hint).

A state DOT director sent me a memo prepared by the AASHTO board (and sent to all state DOTs before Christmas) raising a number of questions about this unprecedented FHWA “guidance.” The memo reminds recipients that the actual bipartisan infrastructure law “provides state DOTs with full flexibility in how investment decisions are made. The FHWA memo can be read to suggest that FHWA has the authority to require states to invest Federal funds in certain types of projects and the authority to restrict them from investing in other types of projects.” That is decidedly not so. AASHTO will be developing a formal reply to FHWA and is seeking inputs from its member DOTs.

Not mentioned anywhere in the AASHTO documents I’ve seen—and this is solely my own view—is that the combination of this “guidance” memo and the huge expansion of discretionary programs hands FHWA a powerful tool for intimidation. It can basically convey to state DOTs the following: ‘If you guys want to have any chance of capturing some of the vast new sums of discretionary grant money, maybe you’d better allocate your formula funds in accordance with our guidance.’

This is clearly not what Congress intended. The actual law that was passed by both houses is bipartisan and represents a carefully worked-out consensus in the Senate, which the House eventually agreed to. The Senators who forged this bipartisan law should rein in what appears to be FHWA running amuck, as if something like the discarded House bill had been enacted. FHWA should comply with the law as written and rescind this intrusive “guidance.”

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**SUMMARY**

[House Bill \(HB\) 157](#), filed by Representative Andrade, and [Senate Bill \(SB\) 398](#), filed by Senator Hooper, propose changes to statutes governing funding of transportation projects. Section 206.46, Florida Statutes (F.S.), currently requires that each fiscal year, the Florida Department of Transportation (FDOT) shall commit a minimum of 15% of the state revenues deposited into the State Transportation Trust Fund to public transportation projects, including transit, airports, seaports, and regional transportation authorities. Both the House and Senate versions of the bill propose to add a maximum commitment of 25% of revenues annually, excluding state revenues used for matching federal grants.

A similar bill failed in last year's session, but did not include the exclusion for matching grants. Given the infusion of federal funding that is anticipated from the Infrastructure Investment and Jobs Act, the new provision could have a significant impact.

The Senate bill also proposes to amend Section 337.025, F.S., governing innovative transportation projects, to allow the Florida Department of Transportation to offer "progressive design-build contracts for complex, high-risk projects with a minimum contract value of \$250 million." No definitions for the terms are provided.

HB 157 has been referred to the Tourism, Infrastructure & Energy Subcommittee, the Infrastructure & Tourism Appropriations Subcommittee, and the Commerce Committee. SB 398 has passed the Transportation Committee, and been referred to the Appropriations Subcommittee on Transportation, Tourism, and Economic Development and the Appropriations Committee. The effective date for both bills is July 1, 2022.

**ATTACHMENT(S):** None

**ACTION:** As determined appropriate by the committee.



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## **SUMMARY**

[Senate Bill \(SB\) 962](#), filed by Senator Bradley, and [House Bill \(HB\) 981](#), filed by Representative Payne, propose to build upon and significantly expand a recent preemption on regulation of industrial land. HB 1339, signed into law on June 9, 2020, allows a local government to approve an affordable housing development on any parcel designated for residential, commercial, or industrial use, notwithstanding any other law, local ordinance, or regulation to the contrary. The new law departed from a longstanding countywide policy to reserve industrial land to attract and retain high-wage jobs. However, some local governments in Pinellas County have begun exploring using the new provisions, and St. Petersburg was the first to adopt implementing regulations in October 2021.

This year's bills would significantly expand HB 1339 by adding mixed-use residential development projects as allowable uses, requiring only an unspecified portion of the residential units to be affordable. As proposed, this legislation would allow essentially market-rate developments to locate on industrial land, increasing competition for this scarce supply of land and significantly driving up land costs, to the detriment of both employment and the affordable housing that HB 1339 was intended to incentivize.

Local governments would not be required to approve mixed-use residential developments on industrial land, but based on observed trends, the loss of industrial land to market-rate development would likely be approved by some communities, and would create a significant negative impact to the countywide economy over time. Forward Pinellas staff recommends opposing these bills.

SB 962 has been referred to the Community Affairs, Transportation, and Rules Committees. HB 981 is awaiting committee referral. The effective date of both bills is July 1, 2022.

## **ATTACHMENT(S):**

- 2021 Industrial Land Acreage by Jurisdiction in Pinellas County
- St. Petersburg HB 1339 Implementation

**ACTION:** As determined appropriate by the committee.

## 2021 Industrial Land Acreage by Jurisdiction

Local Government	Land Use Category		
	Industrial Limited/ Employment	Industrial General	All Industrial Land
Clearwater	269.6	30.2	299.8
Dunedin	10.4	30.7	41.1
Kenneth City	2.4	-	2.4
Largo	807.1	121.3	928.4
Oldsmar	716.7	-	716.7
Pinellas Park	2,202.4	466.4	2,668.8
Safety Harbor	77.3	-	77.3
Seminole	45.8	-	45.8
St Petersburg	1,105.1	429.2	1,534.3
Tarpon Springs	182.6	38.6	221.3
Unincorporated	2,432.4	275.7	2,708.1
<b>Total</b>	<b>7,851.8</b>	<b>1,392.1</b>	<b>9,243.9</b>



## ST. PETERSBURG CITY COUNCIL

Meeting of October 14, 2021

**TO:** The Honorable Ed Montanari, Chair, and Members of City Council

**SUBJECT:** Proposed text amendments to the City Code of Ordinances Chapter 16 (Land Development Regulations) and Chapter 17.5 (Housing Assistance) in support of providing a process for City Council to review and potentially approve affordable housing developments in the Neighborhood Suburban, Neighborhood Traditional, Industrial Suburban and Industrial Traditional zoning districts. **(City File LDR-2021-03 and Chapter 17.5 Amendment)**

ORDINANCE 486-H, An ordinance of the City of St. Petersburg, Florida amending Chapter 16, of the City Code; amending Section 16.01.040 to preclude application of the Land Development Regulations to certain affordable housing projects approved pursuant to Section 166.04151(6), Florida Statutes; and providing an effective date.

ORDINANCE 485-H, An ordinance of the City of St. Petersburg, Florida amending Chapter 17.5 of the City Code related to Housing Assistance, creating a process pursuant to Section 166.04151(6), Florida Statutes, wherein the St. Petersburg City Council may approve the development of housing that is affordable in designated zoning categories subject to procedural and site compatibility requirements; providing for severability; and providing for an effective date.

### **BACKGROUND:**

In 2020, the Florida State Legislature passed House Bill 1339, which included a provision allowing the governing body of a municipality to approve an affordable development on any parcel zoned for residential, commercial or industrial use. The language included in F.S. 166.04151.6 states: *Notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.004, on any parcel zoned for residential, commercial or industrial use.*

The purpose of these ordinances, and the associated ordinance amending the Comprehensive Plan (LGCP 21-03), is to create a process pursuant to F.S. 166.04141.6 for an applicant to apply to City Council for consideration of an affordable housing development that would otherwise not be permitted in the zoning districts of Neighborhood Suburban, Neighborhood Traditional, Industrial Suburban and Industrial Traditional. The ordinances provide reference within Chapter 16 and the

Comprehensive Plan of this alternative process outside of the Land Development Regulations and provide a new objective in the Housing Element of the Comprehensive Plan to encourage the creation of this alternative process. The staff reports to the Community Planning & Preservation Commission and the Development Review Commission outlining the proposed changes to Chapter 16 and the Comprehensive Plan are attached.

The new process for Affordable Housing Site Plan Approval by City Council in the Neighborhood Suburban, Neighborhood Traditional, Industrial Suburban and Industrial Traditional zoning districts is established by the recommended changes to Chapter 17.5. Proposed affordable housing developments in these zoning districts may be approved by City Council pursuant to this new process. The process would consist of an application by the developer to City staff for review. Staff would prepare a report for City Council with a recommendation and potential conditions of approval and public notice would be provided of the public hearing before City Council. Any approval by City Council would only be valid for the specific site plan approved, including the required conditions of approval.

The main elements of the ordinance which would create this new Affordable Housing Site Plan Approval process are:

- Qualifying criteria with no variances permitted, to include: zoning district location, property size, minimum number of units, mandatory affordability for all units at or below 120% AMI, minimum affordability period, and proximity to services requirements;
- Requirements for public notice of a hearing;
- Extensions and durations of approval;
- Application process and requirements;
- Procedures for City Council review and decision; and
- Standards of review of the application, which include a review of the proposal for compatibility and impacts to surrounding uses.

Between the first reading of the ordinances and the public hearing, the proximity to a public or vocational school requirement in the Industrial Suburban and Industrial Traditional zoning categories was modified from half (1/2) a mile to two (2) miles.

## **RECOMMENDATION:**

Administration: City staff recommends APPROVAL.

Development Review Commission (DRC): On August 3, 2021, the DRC held a public hearing regarding the proposed text amendment to the Land Development Regulations and made a finding of consistency with the City's Comprehensive Plan and voted 6 to 1 to recommend APPROVAL.

Community Planning & Preservation Commission (CPPC): On August 10, 2021, the CPPC held a public hearing regarding the proposed Comprehensive Plan text amendment and made a finding of internal consistency with the City's Comprehensive Plan and voted 5 to 0 to recommend APPROVAL.

Previous City Council Action: On September 9, 2021, City Council conducted the first reading and first public hearing for the proposed ordinance. There was discussion regarding reducing the 5-acre minimum in the industrial areas. A motion to amend the ordinance to change the proximity to a public or vocational school requirement in the Industrial Suburban and Industrial Traditional zoning categories from one half (1/2) a mile to two (2) miles was approved unanimously. The amended language is reflected in the attached amended Ordinance.

Forward Pinellas: On August 10, 2021, Forward Pinellas notified the City the organization reviewed these proposed amendments and found them consistent with the Countywide Rules.

Public Outreach and Input: On May 19, 2021, staff reviewed the subject proposal with the Chamber of Commerce Housing Committee and the Council of Neighborhood Associations (CONA). In addition, staff met with the Council of Neighborhood Associations Executive Directors on August 13, 2021 to discuss the proposal and answer questions. Prior to the first public hearing on September 9<sup>th</sup>, the Chamber of Commerce submitted the attached letter in support and CONA provided a letter directly to City Council outlining concerns with the proposal related to neighborhood compatibility. Planning & Development Services staff attended the September 15, 2021 CONA meeting and answered additional questions from the members.

City Council Committees: This subject matter was discussed at a Committee of the Whole on December 10, 2020; and at the Housing, Land Use and Transportation Committee on August 13, 2020, September 10, 2020 and May 13, 2021.

Affordable Housing Advisory Committee: On June 15, 2021, the Affordable Housing Advisory Committee voted 6 to 1 in support of the proposed amendments with a recommendation that the minimum lot area in the Industrial Traditional and Industrial Suburban zoning districts be reduced to one (1) acre with a minimum of 20 units and the proximity to a school requirement in these same zoning districts be changed to within two (2) miles.

Recommended City Council Action:

1) CONDUCT the second reading and public hearing for the proposed ordinances and Approve the ordinances.

Attachments: Ordinances, DRC Staff Report and Draft Minutes, Chamber of Commerce Letter, CONA Letter

ORDINANCE 486-H

AN ORDINANCE OF THE CITY OF ST. PETERSBURG, FLORIDA AMENDING CHAPTER 16 OF THE CITY CODE; AMENDING SECTION 16.01.040. TO PRECLUDE APPLICATION OF THE LAND DEVELOPMENT REGULATIONS TO CERTAIN AFFORDABLE HOUSING PROJECTS APPROVED PURSUANT TO SECTION 166.04151(6), FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.

The City of St. Petersburg does ordain:

**Section 1.** Section 16.01.040. of the St. Petersburg City Code is hereby amended to read as follows:

**Sec. 16.01.040. - Applicability.**

This chapter applies to all development in the City, except for Affordable Housing projects approved pursuant to F.S. 166.04151(6), which states, in pertinent part, that notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential or industrial use. No development shall be undertaken except as authorized by this chapter. No structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any structure or land be used or occupied which does not comply with all the regulations established by this chapter for the district in which the building or land is located. When a violation of this chapter exists on any property, no development permits shall be issued for such property, except permits which are necessary to correct the violation or for necessary maintenance, until the violation is corrected.

**Section 2.** Coding. As used in this ordinance, language appearing in struck-through type is language to be deleted from the City Code, and underlined language is language to be added to the City Code, in the section, subsection, or other location where indicated. Language in the City Code not appearing in this ordinance continues in full force and effect unless the context clearly indicates otherwise.

**Section 3.** Effective Date. In the event this Ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective upon the expiration of the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto this Ordinance, in which case

this Ordinance shall become effective immediately upon filing such written notice with the City Clerk. In the event this Ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

/s/ Michael J. Dema  
City Attorney (Designee)  
00579875

ORDINANCE 485-H

AN ORDINANCE OF THE CITY OF ST. PETERSBURG, FLORIDA AMENDING CHAPTER 17.5 OF THE CITY CODE RELATED TO HOUSING ASSISTANCE; CREATING A PROCESS PURSUANT TO SECTION 166.04151(6), FLORIDA STATUTES, WHEREIN THE ST. PETERSBURG CITY COUNCIL MAY APPROVE THE DEVELOPMENT OF HOUSING THAT IS AFFORDABLE IN DESIGNATED ZONING CATEGORIES SUBJECT TO PROCEDURAL AND SITE COMPATIBILITY REQUIREMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The City of St. Petersburg does ordain:

**Section 1.** Section 17.5-19. of the St. Petersburg City Code is hereby amended to read as follows:

**Sec. 17.5-19. - Intent and purpose.**

- (a) The intent of the local housing assistance program (the program) is:
  - (1) To increase the availability of affordable housing units by combining local resources and cost-saving measures into a local housing partnership and using public funds to leverage private funds, thereby reducing the cost of housing;
  - (2) To assist in achieving the growth management goals contained in the adopted local comprehensive plan, by allowing more efficient use of land so as to provide housing units that are affordable to persons who have special housing needs, very-low income, low-income, or moderate-income;
  - (3) To promote innovative design of eligible housing that provides cost savings; flexible design options for housing and development such as the combination of architectural styles, building forms, and development requirements; and positive design features such as orientation towards the street and pedestrian access, without compromising the quality of the eligible housing;
  - (4) To promote mixed-income housing in urban and suburban areas so as to provide increased housing and economic opportunities for persons who have special housing needs, or have very low-income, low-income, or moderate-income; and
  - (5) To build the organizational and technical capacity of community-based organizations so as to optimize the role of community-based organizations in the production of affordable housing.



(6) To provide for a process pursuant to F.S. 166.04151(6) for City Council review of Affordable Housing Projects that are not otherwise allowed under Chapter 16 of City Code.

- (b) The purpose of this article is to aid in achieving the intent of the program while providing for:
- (1) Protection of natural resources;
  - (2) Enhancement of the viability of public transit, pedestrian circulation, and non-motorized modes of transportation;
  - (3) Community development and economic growth; and
  - (4) A strong sense of community through increased social and economic integration

**Section 2.** The St. Petersburg City Code is hereby amended by adding a new Article VI to Chapter 17.5, to read as follows:

## **ARTICLE VI. - AFFORDABLE HOUSING SITE PLAN APPROVAL**

### **Sec. 17.5-110. – Intent and purpose.**

The City recognizes that housing affordability continues to be an important issue to the citizens of St. Petersburg. The City further recognizes that its Land Development Regulations (LDRs) may sometimes be an impediment to the establishment of affordable housing on certain sites that may otherwise be appropriate for such development. The intent and purpose of this Article is to create an alternative process to that which is outlined in the City’s LDRs for the provision of affordable housing in certain residential and industrial areas of the City, pursuant to Section 166.04151(6), Florida Statutes. Approvals sought pursuant to this Article shall meet the procedural requirements set forth herein, in addition to the standards for review related to the compatibility of the development with its neighborhood.

### **Sec. 17.5-111. – Qualifying property.**

To qualify for application for the Affordable Housing Site Plan Approval process, property shall meet the following minimum criteria:

- (a) The property shall have a current zoning designation of Neighborhood Traditional, Neighborhood Suburban, Industrial Traditional or Industrial Suburban.
- (b) Property located in a Neighborhood Traditional or Neighborhood Suburban zoning district shall have a minimum lot size of one (1) acre.
- (c) Property located in an Industrial Traditional or Industrial Suburban zoning district shall have a minimum lot size of five (5) acres.
- (d) The development proposal in a Neighborhood Traditional or Neighborhood Suburban zoning district shall consist of 20 or more dwelling units.
- (e) The development proposal in an Industrial Traditional or Industrial Suburban zoning district shall consist of 60 or more dwelling units.

- (f) Property located in an Industrial Traditional or Industrial Suburban zoning district shall meet the following additional location criteria:
  - (1) Shall be located within 2 miles of a public school including a vocational school;
  - (2) Shall be located within a ¼ mile of a PSTA bus line;
  - (3) Shall be located within 1 mile of a grocery store; and
  - (4) Shall be located within 1 mile of the Pinellas Trail or City park.
- (g) All of the proposed dwelling units shall have a restrictive covenant that requires the dwelling units to be affordable to qualified buyers or renters at 120% of Area Median Income or below for a minimum period of 30 years.
- (h) For mixed use projects on a property, other permitted uses besides affordable housing sought pursuant to this section are subject to Chapter 16 of the City Code.
- (i) There shall be no variances granted to these criteria.

**Sec. 17.5-112. – Pre-application conference.**

An applicant for development shall meet with the City professional staff prior to filing an application for the purpose of discussing the proposed development, identify required pre-application notice requirements, and to identify the views and concerns of the applicant and the City's professional staff.

**Sec. 17.5-113. – Determination of completeness.**

All applications shall include the information required and any additional information (including studies) reasonably required by the POD to review the request. If an application does not include the information required, the POD shall reject the application with an explanation of the deficiencies. The application shall not be processed until all the required information is provided and the pre-application notice provided. The POD may waive an application submittal requirement if:

- (1) The required information is readily available from existing sources; or
- (2) The information is not required due to unique circumstances.

**Sec. 17.5-114. – Definitions.**

As used in this section:

*Applicant* means the person who requested the decision.

*Application* means an application or request for approval of an affordable housing development pursuant to F.S. 166.04151(6).

*Decision* means a decision of the POD or a decision of City Council.

*Render* means, with respect to decisions of the POD, that the decision has been reduced to writing, signed by the POD, and mailed or delivered to the applicant. With respect to decisions by City Council, the term means a vote has been taken and the results have been announced by the City Clerk.

**Sec. 17.5-115. – Supplemental notice.**

(a) *Notice requirements.* The supplemental notice set forth in this section for public hearing shall be provided for all public hearings before the City Council.

(b) *Notification.* The City Council recognizes the importance for community involvement in many proceedings for which notice is not required by Florida Statutes. In an attempt to facilitate such involvement, and to provide notification of such proceedings to property owners and residents in nearby neighborhoods and to other interested parties, it is the intent of the City Council to provide the following supplemental notice.

(1) *Written notice.* Notice shall be mailed by the applicant to all neighborhood associations and business association representatives within 300-feet of the subject application, the Council of Neighborhood Associations (CONA), and the Federation on Inner-City Community Organizations (FICO) and the owners of property listed by the county property appraiser's office, any portion of which is within 300 feet of any portion of the subject property measured by a straight line, property line to property line.

a. Any request to receive notice by any person not an owner of property as described above must be in writing, must specifically identify the notices the person wishes to receive, must be delivered to the POD, and must contain a mailing address.

Such requests, when not related to a specific application, shall only be valid for the specifically identified notices for not more than one year after receipt by the POD and may be renewed on an annual basis.

b. The applicant shall obtain from the POD a copy of the notice and the procedures for notification of property owners who must receive notice. The applicant shall not include any information in the notice other than that which is required by the POD.

c. Not less than 15 days prior to the date of the scheduled public hearing, the applicant shall deliver or mail a copy of said notice to all persons listed on the notification list and the owners of property within the distance described in this section. Notice shall be mailed by the U.S. Mail with a postal service certificate of mailing returned to the City.

- d. The applicant shall file proof that the notices were mailed or delivered with the POD not less than seven days prior to the date of the scheduled public hearing.
  - e. For property in condominium or cooperative ownership which falls within 300 feet, the owner of each unit shall be notified.
- (2) *Posted notice.* Notice of the public hearing shall be posted on the subject property by the applicant at least 15 days prior to the public hearing. The applicant shall provide proof of posted notice on the subject property to the POD at least seven days prior to the public hearing.
- (3) *Identify the property.* The written and posted notices shall identify the property upon which the request for action is made, the date and location of the public hearing, the phone number and address where information regarding the proposal can be obtained, and the type of action requested.
- (4) *Neighborhood and business association notice.* One complete copy of each application shall be provided by the POD to CONA, FICO and neighborhood and business association representatives within 300 feet of the subject property.
- (5) *Governmental notice.* Mailed notice shall be provided to a neighboring government for comment, where the subject property is located within one-fourth of a mile of a neighboring government. Mailed notice shall also be provided to the Pinellas County School Board for comment, where the subject property is located within one-fourth mile of a public educational facility.
- (6) Failure to provide supplemental notice.
- (7) If the POD is notified of or discovers a failure to provide supplemental notice of at least 36 hours before the scheduled start of the public hearing, the POD may cancel the public hearing, reschedule the public hearing and require new notice to be given. The POD should only take this action if:
- a. It appears from the information provided that the holding of the hearing would be a substantial hardship on the person who did not receive notice;
  - b. Such substantial hardship is different from the hardship the person would have suffered had he received the notice;
  - c. Such hardship cannot be corrected or mitigated prior to the scheduled public hearing; and

- d. Rescheduling would not be a substantial hardship on other persons who received notice or the applicant.
- (8) If the POD is not notified of or does not discover a failure to provide supplemental notice until after the time set forth above than the POD shall not cancel the public hearing. City Council, at the public hearing, may weigh the effects of the failure to provide supplemental notice and may choose to continue the public hearing if the circumstances so warrant.
- (9) If the POD is not notified of or does not discover a failure to provide supplemental notice until after the public hearing has been held and a decision rendered, then none of these actions shall be taken. Failure to provide any supplemental notice shall not invalidate any action by the City Council.

**Sec. 17.5-116. – Rehearing.**

An applicant following a decision by City Council may request a rehearing.

- (a) The City Council shall not rehear an application unless:
  - (1) There has been faulty notification to the applicant;
  - (2) New evidence is discovered by the applicant after the hearing which would likely change the result if a new hearing is granted and which could not have been discovered before the hearing by due diligence; or
  - (3) There is a substantial change of circumstance.
- (b) If either of these conditions is alleged to exist, then a request for rehearing may be made by the original applicant or the City staff within ten days of the original decision by filing a written request for rehearing with the POD.
  - (1) If a request for rehearing is based on newly discovered evidence, documents supporting that evidence shall be served with the application.
  - (2) A request for rehearing shall be heard at the next regularly scheduled meeting following the receipt of any request and, based upon the information before it, City Council shall issue an order denying or granting a rehearing.
  - (3) If a request for rehearing is granted, the application shall be scheduled for a public hearing after the required fee, if any, has been paid and notification has been made as required for the first hearing by the person requesting the rehearing.

- (4) If a request for rehearing is timely filed, such filing tolls the time in which to seek judicial review of the decision until an order is rendered denying the request for rehearing. If a request for a rehearing is granted, the time in which to seek judicial review shall begin when an order is entered at the rehearing of the application.

**Sec. 17.5-117. – Withdrawal of application; abandonment of approval.**

- (a) An applicant may withdraw his application at any time prior to a final decision. The process shall end upon receipt of written notice thereof or an oral request made at a public hearing.
- (b) An owner of property with an approved development order or permit may request that the approved development order or permit be deemed abandoned. Once an approved development order or permit is abandoned, the approval shall become null and void and the property shall be treated as if the approval had never occurred. Thereafter, the owner shall not be allowed to perform any work pursuant to the approval. The owner shall apply for any required development order or permit before performing any work on the property. The owner (not the owner's agent) shall provide the POD with a sworn statement expressing the owner's intention to abandon the approved development order or permit and acknowledging that after approval by the POD, the owner shall not be allowed to perform any work pursuant to the approval and shall be required to apply for a development order or permit before performing any work. The POD shall approve the request and may place reasonable conditions on the approval of such request. The abandonment of an approval shall not be approved if development of the property has commenced under the development order or permit, whether the development is complete or not, unless the POD determines the condition of the property would not violate the Land Development Regulations in the absence of the approval.

**Sec. 17.5-118. – Successive applications.**

- (a) If an application is submitted to City Council for a decision, and if the City Council denies the application, the same or a substantially similar application shall not be accepted by the POD within 18 months following the action by the City Council on the earlier application unless the applicant demonstrates that there has been a substantial change of conditions or character of the surrounding land area or the land in question.
- (b) A decision by the POD not to accept an application may be appealed by the applicant to the City Council.
- (c) A decision by the POD to accept an application is not appealable.

**Sec. 17.5-119. – Extensions and duration of approvals.**

- (a) *Duration of approvals.* Any application approved pursuant to this section shall remain valid for three years from the date of approval except approvals of applications for which a specific expiration date is established by the approval.
- (b) Applicants may request up to two two-year extensions from the POD. The application shall be revised to comply with any code amendments that were adopted after the original approval, unless a variance is granted.
- (c) After the original approval and any approved extension have expired without substantial construction commencing, the approval shall be void, and a new application shall be required.
- (d) Phased projects, including rehabilitation of an existing building, shall be approved in such a manner that each phase can reasonably be started within two years from the date the certificate of occupancy is issued for the previous phase, unless a shorter compliance period is required by City Council.
- (e) Approved applications for which substantial construction has commenced shall remain valid subject to compliance with all approved development permits.
- (f) New applications for sites with a previously approved application which are submitted in advance of the expiration date of the approval or extension shall have maintained non-interrupted approval for vesting purposes for any other ordinance or code of the City or for any other government approval provided that the new application is approved by City Council within 120 days after the expiration date of the original approval or extension.
- (g) *Extensions of approvals.* Requests for extension approval shall be in writing and received by the POD prior to the expiration date of the approval or previously approved extension. A failure to request an extension prior to the expiration of the approval or a previously approved extension or failure to meet all conditions of an approval of an extension shall invalidate the original application approval. Requests for extensions shall address the following matters and may be denied if impacts cannot be adequately mitigated:
  - (1) The extent of actions taken by the applicant to implement the approved development plan including real estate transactions, preparation of construction plans, site preparation and pre-construction sales.
  - (2) The effect of unforeseen circumstances such as changes in economic condition, cost of materials, and site specific conditions on the approval.
  - (3) The length of additional time estimated by the applicant to be needed to implement the approved development plan.

- (4) Changes in the City code that would apply to the property.
- (5) Changes or new construction on property in the vicinity of the applicant's property which may increase impacts to other properties.
- (6) Other facts considered relevant to a consideration of an extension.

**Sec. 17.5-120. – Tenant notice of intent to develop.**

Development applications under this section which involve the demolition of four or more existing occupied multi-family dwelling units at time of application shall provide a written notice of intent to develop to all tenants residing on the subject property at least 90 days prior to issuance of a building permit. Evidence of notice shall be provided to the POD. No permits shall be issued for the subject property until such time as the 90 day period has expired. For purposes of this section, multi-family shall include tenancies in which both a mobile home and a mobile home lot are rented or leased by the mobile home resident, but not those mobile homes otherwise regulated by F.S. ch. 723.

A notice of intent to develop shall comply with the requirements set forth herein. A written notice shall be on paper and indicate the intent to develop with a planned date for demolition of structures and commencement of construction and shall be delivered via certified mail to all tenants residing on the subject property. Notice shall be mailed by U.S. mail with a U.S. postal service certificate of mailing returned to the City. Evidence of notice shall be a copy of the notice letter, the list of tenants residing on the subject property at time of mailing, and a copy of the U.S. postal service certificate of mailing.

**Sec. 17.5-121. – Affordable housing site plan review.**

- (a) *Application.* An application shall include the following information in addition to additional information that the POD may reasonably require.
  - (1) A site plan of the subject property. The number of copies required shall be established by the POD:
    - a. All site plans shall include information required by the POD.
      - 1. Elevations depicting architectural details and materials for all sides of each structure shall be provided.
      - 2. The POD may require a surveyor's certificate to determine location of the proposed structures relative to the lot lines involved.
    - b. The site plan shall include the parking layout and the number of parking spaces being provided.



- c. The site plan shall include a landscaping plan.
- d. The application shall include a site data sheet to be provided to the applicant by the POD.
- e. The application shall include a financial document depicting the financial sources for the proposed development and the financial uses. The financial documents shall also include information on financial reserves to maintain the dwelling units.
- f. If the property is located in an industrial zoning district, an environmental report of the subject property and an analysis of the surrounding industrial uses.
- g. If the redevelopment will displace an existing business or businesses, a plan for relocation of the business or businesses and/or re-employment of existing employees.

(b) *Procedures.*

(1) City Council review and decision:

- a. Public hearing. If the POD determines that an application meets the applicability standards and all required application and public notice information has been provided, the POD shall schedule a public hearing before City Council.
- b. Upon receipt of a recommendation from the POD, the City Council shall conduct a public hearing on the application and shall approve, approve with conditions or deny the application. After considering the application, the City Council may defer action for no more than 60 days to obtain additional information.

(c) *Standards for review.*

- (1) Ingress and egress to the property and the proposed structures with particular emphasis on automotive and pedestrian safety, separation of automotive and bicycle traffic and control, provision of services and servicing of utilities, and refuse collection, and access in case of fire, catastrophe and emergency. Access management standards on state and county roads shall be based on the latest access management standards of FOT or the county, respectively.
- (2) Location and relationship of off-street parking, bicycle parking, and off-street loading facilities to driveways and internal traffic patterns within the proposed development

with particular reference to automotive, bicycle, and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.

- (3) Traffic impact report describing how this project will impact the adjacent streets and intersections. A detailed traffic report may be required to determine the project impact on the level of service of adjacent streets and intersections. Transportation system management techniques may be required where necessary to offset the traffic impacts.
- (4) Drainage of the property with particular reference to the effect of provisions for drainage on adjacent and nearby properties and the use of on-site retention systems. City Council may grant approval of a drainage plan as required by City ordinance, county ordinance or SWFWMD.
- (5) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety and compatibility and harmony with adjacent properties.
- (6) Orientation, height and location of buildings, recreational facilities and open space in relation to the physical characteristics of the site, the character of the neighborhood and the appearance and harmony of the building with adjacent development and surrounding landscape.
- (7) Compatibility of the use with the existing natural environment of the site, historic, and archaeological sites, and with properties in the neighborhood.
- (8) Substantial detrimental effects of the use, including evaluating the impacts of the use and a concentration of similar or the same uses and structures on the neighborhood.
- (9) Sufficiency of setbacks, screens, buffers and general amenities to preserve the internal and external harmony and compatibility with the uses inside and outside the proposed development and to control adverse effects of noise, light, dust, fumes and other nuisances.
- (10) Land area is sufficient, appropriate and adequate for the use and reasonably anticipated operations.
- (11) Landscaping and preservation of natural manmade features of the site including trees, wetlands and other vegetation.
- (12) Sensitivity of the development to on-site and adjacent historic or archaeological resources related to scale, mass, building materials and other impacts.
- (13) Unit type, such as rental or ownership, and the income levels served by the development are needed in the marketplace.

(14) If the subject property is zoned industrial, then the following criteria shall be considered in determining the suitability of the subject property for development pursuant to this section:

- a. One or more of the following characteristics exist over an extended period of time: 1) vacant or underutilized land; 2) vacant or underutilized buildings; 3) poor quality job creation in terms of pay, employee density and spin-off or multiplier effects; 4) chronic competitive disadvantages in terms of location, transportation infrastructure/accessibility and other market considerations.
- b. Conversion to a residential use will not cause negative impacts on surrounding industrial operations.
- c. Location and surrounding land uses will not cause any adverse impacts to the health of future residents.

**Sec. 17.5-122. – Fees.**

In order to incentivize and assist in the development of additional affordable and workforce housing, there will be no fee for this application process.

**Section 3.** Coding. As used in this ordinance, language appearing in struck-through type is language to be deleted from the City Code, and underlined language is language to be added to the City Code, in the section, subsection, or other location where indicated. Language in the City Code not appearing in this ordinance continues in full force and effect unless the context clearly indicates otherwise.

**Section 4.** Severability. The provisions of this ordinance shall be deemed severable. If any provision of this ordinance is determined to be unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provisions of this ordinance.

**Section 5.** Effective Date. In the event this Ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective upon the expiration of the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto this Ordinance, in which case this Ordinance shall become effective immediately upon filing such written notice with the City Clerk. In the event this Ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

/s/ Michael J. Dema  
City Attorney (Designee)  
00583762

## **SUMMARY**

Two pieces of proposed legislation would present significant challenges to local governments' ability to pass and implement ordinances. Rather than preempt local regulation on a specific topic, the bills intercede in the process of local governance itself.

[Senate Bill \(SB\) 280](#), filed by Senator Hutson, and [House Bill \(HB\) 403](#), filed by Representative Morales, propose to require each local government to prepare a business impact statement before the adoption of a proposed ordinance. The statement must justify the public purpose of the ordinance, and estimate its economic impact, the number of businesses that may be affected, the extent to which new businesses are likely to be deterred from forming in the jurisdiction, and the extent to which existing businesses will be made less competitive. If applicable, the scientific basis for the proposed ordinance must be included. The local government must suspend enforcement of the ordinance if a challenge is filed.

SB 280 has been referred to the Community Affairs, Judiciary, and Rules Committees. HB 403 has passed the Local Administration & Veterans Affairs Subcommittee, and been referred to the Civil Justice & Property Rights Subcommittee and the State Affairs Committee. The effective date for both bills is October 1, 2022.

[SB 620](#), filed by Senator Hutson, and [HB 569](#), filed by Representative McClure, propose to allow businesses to claim damages from a local government enacting a law that will cause a reduction of at least 15 percent of the business' revenue or profit. The claimant must have engaged in a lawful business in Florida for at least three years, must provide copies of business records that substantiate the claim, and attempt to reach a settlement with the local government before taking legal action.

HB 569 has been referred to the Civil Justice & Property Rights Subcommittee, Local Administration & Veterans Affairs Subcommittee, and Judiciary Committee. SB 620 has passed the Judiciary Committee, and been referred to the Rules and Appropriations Committees. The effective date for both bills is July 1, 2022.

**ATTACHMENT(S):** "Florida Senate president targets local governments." *Tampa Bay Times*, January 6, 2021.

**ACTION:** As determined appropriate by the committee.

# Florida Senate president targets local governments

*News Service of Florida*

TALLAHASSEE — Senate President Wilton Simpson is backing a controversial proposal that could open local governments to more lawsuits, while also suggesting lawmakers might revisit a vetoed effort to end the state's no-fault auto insurance system.

Appearing last week at the Florida Chamber of Commerce Insurance Summit in Tampa, Simpson signaled support for bills aimed at local governments, including a bill (SB 620) by Sen. Travis Hutson, R-St. Augustine, that would allow certain businesses to sue if local ordinances cause at least 15 percent losses of revenue or profits.

“What we need to make sure of is that our local governments don't destroy our business,” said Simpson, a Trilby Republican who is running for state agriculture commissioner in 2022.

Referring to local governments, Simpson pointed to Hutson's efforts and “several others that are controversial ...to them.”

“They want to take people's rights and businesses away from them. We're not going to let them,” he said Thursday.

Lawmakers in recent years have considered — and often passed — proposals to limit the authority of county and city governments. That has included blocking local governments from prohibiting items such as single-use plastic straws, sunscreen, plastic bags and Styrofoam containers. It has also included passing statewide laws about ride-hailing companies, guns, gas stations and the location of wireless technology.

Hutson's proposal would require businesses to have been open for three years before they could file lawsuits against local governments based on lost revenue or profits. The Senate Judiciary Committee voted 7-4 to back Hutson's bill last week.

The bill drew support from groups such as the Florida Chamber, Associated Industries of Florida, the Florida Retail Federation and Americans for Prosperity-Florida. Groups such as the Florida Association of Counties, the Florida League of Cities, the Florida AFL-CIO and Sierra Club Florida opposed the measure.

Lawmakers will start their annual 60-day session on Jan. 11. Simpson suggested Thursday that they could revisit a Senate proposal that would have blocked new government employees from enrolling in the traditional pension system and required them to enroll in a 401(k)-style plan. The issue fizzled in the House during the 2021 session.

Also, Simpson said lawmakers could again try to repeal the no-fault auto insurance system. Lawmakers passed a repeal during the 2021 session, but Gov. Ron DeSantis vetoed it in June.

Simpson said, “there's some opportunity, I think, to clean some of that up from last year,” before noting “we'll see if we have some partners this year.”

A repeal would end a decades-old requirement that motorists carry \$10,000 in personal-injury protection, or PIP, coverage to help pay their medical costs after accidents. The bill that DeSantis vetoed would have required motorists to carry bodily injury coverage.

Supporters and opponents of the bill offered conflicting arguments about whether the change would increase or reduce insurance rates for drivers and battled about an issue known as “bad faith” that can lead to costly lawsuits over how insurers handle claims.

In vetoing the measure, DeSantis noted the no-fault system has flaws and state law involving bad faith litigation is “deficient.” However, DeSantis added that the proposal didn’t “adequately address the current issues facing Florida drivers and may have unintended consequences that would negatively impact both the market and consumers.”

The Personal Insurance Federation of Florida, an insurance industry group that opposes the no-fault repeal, appears to be preparing for a fight over the issue during the 2022 session. It released a list of session priorities this week that included preventing a no-fault repeal.

“This legislation might be making a comeback, and PIFF strongly opposes the concept,” the group said in a news release about its priorities.

Simpson was at last week’s Florida Chamber event to address rising sea levels and flooding of coastal communities. Lawmakers this year approved a pair of bills that created a Resilient Florida Grant Program and directed the Department of Environmental Protection to conduct a statewide flood risk assessment.

“We know what’s at stake, right, and it’s the value of the state of Florida,” Simpson said.

-- *By Jim Turner*

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**SUMMARY**

[Senate Bill \(SB\) 1170](#), filed by Senator Brandes, proposes to shift responsibility for administering the State Housing Initiatives Partnership (SHIP) Program from the state to individual counties. Funds that currently flow from the state to the cities would now come from counties to the cities, which would create an additional workload for Pinellas County staff and decrease funding certainty for affected cities St. Petersburg, Clearwater and Largo.

At our workshop with the legislative delegation in August, Senator Brandes talked about his desire to streamline the affordable housing funding process in a similar manner to this proposal. He described wanting to remove SHIP requirements that some local governments perceive as burdensome; for example, that a given percentage of the funding be spent on homeownership vs. rental. However, the changes proposed in the bill do not accomplish that goal.

Both County and St. Petersburg staff have expressed concerns with the bill as currently drafted. If the bill could be modified to remove the County's responsibility for administering municipal SHIP funds, while deleting the burdensome program requirements, those concerns would be addressed.

SB 1170 has been referred to the Community Affairs, Appropriations, and Rules Committees. The effective date of the bill is July 1, 2022. There is no House companion.

**ATTACHMENT(S):** None

**ACTION:** As determined appropriate by the committee.

## **5. Transportation Bills of Interest**

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### **SUMMARY**

Below is a list of transportation-related bills that may be of interest to the committee. Several the bills include revised versions of legislation proposed last year or in previous years. Staff will track the progress of these bills and add to the list as needed throughout the session.

#### Transportation Funding

- [HB 6089](#) (Gregory): Removes the requirement that 1.5% of funds allocated by FDOT for construction projects be used for purchase of plant materials. No Senate companion.

#### Transportation Safety

- [HB 743](#) (McClain) and [SB 1252](#) (Baxley): Provides criminal penalties for a moving violation that causes serious bodily injury or death of a vulnerable road user. Requires payment of a fine, a minimum period of house arrest, completion of a driver improvement course, and revocation of driver license for a minimum specified period.
- [HB 127](#) (Slosberg): Prohibits drivers from using wireless communications devices in the immediate vicinity of first responders who are in the line of duty, including when a driver is pulled over to let an emergency vehicle pass. No Senate companion.
- [HB 189](#) (Duran), [SB 410](#) (Rodriguez), and [HB 797](#) (Overdorf): Authorizes counties and municipalities to enforce school speed zones through use of speed detection systems.

#### Electric Vehicles

- [SB 908](#) (Brandes): Imposes an annual flat fee and license tax structure for electric and plug-in hybrid vehicles. Provides for the proceeds to be deposited into the State Transportation Trust Fund and disbursed to local governments. Sunsets in December 31, 2030 unless amended by future legislation. No House companion. Linked to SB 918.
- [SB 918](#) (Brandes): Establishes the Electric Vehicle Infrastructure Grant Program, to be paid from the State Transportation Trust Fund using revenues generated from SB 908. The grant will fund both technical assistance and equipment purchase/installation, and is targeted to areas with high-density housing and low to moderate incomes. No house companion. Linked to SB 908.
- [HB 737](#) (Borrero) and [SB 920](#) (Perry): Requiring the Public Service Commission to adopt rules for an electric vehicle transportation electrification plan, which will offer competitive financial incentives for electric utilities to invest in EV infrastructure.



### Tampa Bay Area Regional Transit Authority (TBARTA)

- [SB 426](#) (Brandes) proposes to dissolve TBARTA and provide for the distribution of the authority's assets to the local governments represented on its board.

### Advanced Air Mobility

- [SB 728](#) (Harrell) proposes to create an Advanced Air Mobility Study Task Force adjunct to the Department of Transportation, and create a statutory definition for "VTOL aircraft."

### Earmarks from the State Transportation (Primary) Trust Fund

- [HB 2833](#) (Koster): City of Oldsmar – Provides an appropriation of \$1,000,000 for improvements to Douglas Road.
- [HB 4371](#) (Chaney): Madeira Beach – Provides an appropriation of \$1,000,000 for improvements to 1st Street East, 2nd Street East, Harbor Drive, and Municipal Drive.
- [HB 4381](#) (Chaney): Town of Redington Beach – Provides an appropriation of \$1,500,000 for resurfacing all interior roads within the city limits from 155<sup>th</sup> Avenue to 164<sup>th</sup> Avenue.

**ATTACHMENT(S):** None

**ACTION:** None required; informational item only.

## **6. Other Bills of Interest**

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### **SUMMARY**

Below is a list of bills pertaining to land use and other local governance topics that may be of interest to the committee. Staff will track the progress of these bills and add to the list as needed throughout the session.

#### Vacation Rentals

- [HB 6033](#) (Grieco): Reverses state preemption of local vacation rental regulation. No Senate companion.
- [SB 512](#) (Burgess) and [HB 325](#) (Fischer): Allows local governments to amend grandfathered vacation rental regulations (adopted before June 1, 2011) to be less restrictive without losing their grandfathered status. Allows local governments to require licensure and registration of vacation rentals. Requires vacation rental advertising platforms to collect and remit all applicable taxes.
- [SB 286](#) (Garcia): Provides that local laws requiring vacation rental owners or operators to provide the local government with certain contact information are not preempted to the state. No House companion.

#### Affordable Housing

- [SB 580](#) (Torres) and [HB 6017](#) (Eskamani): Deletes a provision that automatically terminates locally-adopted rent control measures after one year.
- [HB 6057](#) (Eskamani): Removes provisions requiring counties & municipalities to provide incentives to fully offset costs of certain affordable housing contributions or linkage fees. No Senate companion.

#### Residential Infill

- [HB 739](#) (Borrero) and [SB 1248](#) (Gruters): Requires each local government to adopt residential infill development standards, which may relax some regulations and expedite approval, but are not intended to increase densities above the surrounding development pattern. A local government may not deny a request for designation as a residential infill development if the applicant has complied with the general intent of the regulations.

#### Radio Communication Systems

- [HB 785](#) (Botana) and [SB 1190](#) (Boyd): Similar to unsuccessful legislation filed last year, requires two-way radio equipment for fire department communications with a specified

radio signal strength to be installed in new and existing high-rise buildings. Apartment buildings that are 75 feet or less in height are exempted from the requirement.

### Sustainability

- [SB 366](#) (Berman) and [HB 81](#) (Eskamani): Directs the Office of Energy within the Department of Agriculture and Consumer Services to develop a unified statewide plan to generate this state's electricity from renewable energy and reduce carbon emissions by specified dates; and prohibits the drilling, exploration, or production of oil and gas on the lands and waters of the state.
- [SB 380](#) (Rodriguez) and [HB 463](#) (Melo): Prohibits the creation of state and regional programs to regulate greenhouse gas emissions without specific legislative authorization.

### Equity

- [HB 221](#) (Davis) and [SB 388](#) (Berman): Establishes a new Office of Diversity, Equity, and Inclusion within the Executive Office of the Governor; provides for a Chief Diversity Officer and the creation of a strategic plan.
- [HB 57](#) (Fine, Fischer) and [SB 242](#) (Gruters): Prohibits state agencies, counties and municipalities from promoting "divisive concepts" or "race or sex scapegoating" in employee training.

### Virtual Meetings

- [SB 674](#) (Cruz): Authorizes governing bodies to use communications media technology to conduct meetings during declared states of emergency. The authorization expires six months from the declaration unless extended by the Governor. No House companion.
- [SB 690](#) (Rodriguez) and [HB 691](#) (Slosberg): Authorizes resilience-related advisory committees whose membership is composed of representatives of four or more counties when there is at least 200 miles of geographic distance between the county seats may conduct public meetings and workshops by means of communications media technology.

### Local Referenda

- [HB 777](#) (Robinson) and [SB 1194](#) (Botana): Requires local referenda affecting tourist development taxes, ad valorem tax millages, local option fuel taxes, and other local taxes/fees to be held on the date of a general election.

### Lobbyists

- [HB 501](#) (Gregory): Prohibits local governments and not-for-profit organizations from using public funds to retain lobbyists. No Senate companion.

**ATTACHMENT(S):** None

**ACTION:** None required; informational item only.

**7. Travel to Tallahassee**

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**SUMMARY**

During the legislative session, some local governments and other entities travel to Tallahassee, providing opportunities for local officials and state legislators to meet and share their priorities. At the November committee meeting, members expressed interest in having Forward Pinellas participate in this tradition, perhaps in conjunction with one or more partners.

February 1 and 2 have been identified as the best dates for interested Legislative Committee members and the Executive Director to travel to Tallahassee. An invitation has gone out to the remaining board members who may be interested in joining. The City of Clearwater and Amplify Clearwater are also scheduled to visit Tallahassee on February 1.

**ATTACHMENT(S):** None

**ACTION:** None required; informational item only.