

NUCA of Florida Legislative Update

By Kari Hebrank

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Week III of the Legislative Session was a whirlwind of activity with the House giving final passage to the “Live Local” omnibus affordable housing bill (SB 102) and a comprehensive tort reform package passed both chambers (HB 837) and was signed into law by the Governor. Lien law legislation passed its final committee stop on the House side and construction defects reform (SB 360) was approved by the full House on March 24. Both chambers revealed their proposed budgets, in excess of \$113B, with a difference of \$700M between the two spending plans. Notably, both chambers dedicate \$500M to drinking-water and wastewater grants and \$1.1B to Everglades & other water projects.

- **Public Construction**—HB 383 by Rep. Griffiths; SB 346 by Sen. DiCeglie
A top priority for NUCA of Florida, these bills amend Chapter 218, F.S., and Chapter 255, F.S. to ensure timely payment to contractors who perform public construction work, revise time periods for certain processes relative to the contracted work, remove the \$1M threshold for state-funded projects from the definition of a “public works project.”
ACTION: HB 383 passed H. Local Administration, Federal Affairs & Special Districts Subcommittee on Feb. 22 and moves to State Affairs. SB 346 was amended to drop the threshold for local preference to \$350K from the current \$1M in S. Community Affairs and will be heard next in S. Governmental Oversight & Accountability on March 29 where it will be further amended to remove any dollar threshold for state-funded projects and remove “local or” from the bill.
- **Sanitary Sewer Lateral Inspections**—HB 661 by Rep. Truenow; SB 1420 by Sen. Rodriguez
These bills allow local communities to access, inspect, clean, repair, recondition or replace sanitary sewer mainlines and laterals within their jurisdiction. Local governments must notify the property owner of the inspection, provide timelines for the project, issue necessary permits and maintain responsibility for the repair work. The bills require one continuous monolithic pipe system and the connections for the structure, mainline and cleanout must be installed and integrated by a plumber into the continuous monolithic pipe system. The pipes must be inspected using a lateral launch or a similar CCTV camera system conducted by a Pipeline Assessment Certification Program or Lateral Assessment Certification Program certified camera operator. State and local funds earmarked for environmental preservation or protection of water quality may be used for the inspections.
ACTION: HB 661 was temporarily postponed in Water Quality, Supply & Treatment Subcommittee due to objections raised by Chair Stevenson. SB 1420 unanimously passed S. Environment and Natural Resources on March 27.
- **Construction Defects**—HB 85 by Rep. Snyder; SB 360 by Sen. Hutson
These proposals are intended to reduce frivolous construction defect claim by defining material violation, reducing the statute of repose from the current 10 years down to 7 years and changing the trigger for calculating the statute of repose timeline from the earliest of the temporary certificate of occupancy, certificate of occupancy or certificate of completion.
ACTION: SB 360 was substituted for HB 85 and passed the full House on a vote of 89-8 and must be re-approved by the Senate due to a typo of the word “certification” instead of “certificate.” SB 360 sailed thru the full Senate on March 15 by a vote of 31-8.

- **Local Licensing/Specialty Contracting--** SB 1584 by Perry; SB 1570 by Hooper; HB 1383 by Trabulsky; HB 1625 by Mooney;

These proposals are all intended to address concerns raised by passage of HB 735 in 2021 that specified certain job scopes (tile setting, painting, fences, etc.) did not require a license, to take effect this year July 1. Due to some interpretations by local governments, some specialty contractors were left facing the need to obtain a general contractor license to perform work they were previously performing with a specialty or local license. The Hooper and Mooney bill are supported by the Senate President's Office.

***ACTION:** HB 1383 was approved by H. Regulatory Reform & Economic Development Subcommittee 9-2 on March 22. Representatives Maney (R-Shalimar) and Nixon (D-Jacksonville) dissented.*

Interstate-Mobility & Universal Recognition Occupational Licensing Act—SB 1364 by Sen. Collins; HB 1333 by Rep. Koster

This legislation is intended to allow licensees from other states to obtain an occupational license in Florida and applies to professions, including construction, regulated under Chapter 455 and 456, F.S (health care). The bills allow portability of certain licenses or government certifications and requires licensing agencies and boards to provide a “universal license” based on license currently held, licensed work experience or military experience in another state or based on private certification in a non-licensing state based on work experience or military. Under the bill, an applicant with a valid occupational license or certification in good standing, or who otherwise meets the requirements for a lawful occupation, is presumed to be qualified for the license and must be issued one by the appropriate Florida licensing board. The legislation includes a requirement for the applicant to pass an examination specific to Florida laws that regulate the occupation.

***ACTION:** SB 1364 passed S. Regulated Industries on March 21; HB 1333 was unanimously approved by H. Regulatory Reform & Economic Development Subcommittee.*

- **Transportation/Aggregates** SB 64 by Hooper; HB 425 by Esposito & Andrade

This legislation is the omnibus FDOT package and requires FDOT to look for ways to cut project costs and even share up to 10 percent of cost-savings on redesigned projects if contractor/design-build company recommended the changes that resulted in cost-savings. Importantly for NUCA of Florida members, the bill prohibits a producer from certifying any shipment of aggregates to a customer other than the FDOT unless such shipment is in compliance with the FDOT's rules and requires producer certification of aggregates in accordance with the FDOT's rules. The legislation also provides that an electronic ticket generated by a system used by the FDOT serves as an official record for material deliveries on local government projects, and prohibits a local government from refusing to accept electronic tickets. Authorizes an applicant for an FDOT contractor certificate of qualification to submit with a timely submitted application a request to keep an existing certificate, with the current maximum capacity rating, in place until the expiration date.

***ACTION:** SB 64 is in S. Fiscal Policy. **Sen. Hooper mentioned they are looking to add \$5M for workforce training for road building/heavy civil.** HB 425 was approved unanimously March 9 in Infrastructure & Tourism Appropriations Subcommittee and is now in Infrastructure Strategies Committee.*

Bills We Are Trying to Like

- **Lien Law**—HB 331 by Rep. Overdorf; SB 624 by Sen. Grall
This comprehensive legislation revises certain time periods for recording a document and filing an action under the construction lien law and tolls such time periods in emergency circumstances. HB 331 modifies the notice of commencement, notice of termination and notice of nonpayment forms and changes when a notice of termination must be recorded and served and when it becomes effective; allows licensed general or building contractors providing construction management services to claim construction liens; modifies service requirements for documents required by the construction lien law; **modifies the available alternative forms of security in lieu of a payment bond on public works projects**; specifies the methods for discharging a lien may also be used to release a lien, in whole or in part, and modifies the requirements for recording a satisfaction or release of lien with the clerk’s office. HB 331 also allows recovery of reasonable attorney’s fees for prevailing party in an action to enforce a lien against a security. Lastly, the bill increases the threshold amount for filing a notice of commencement for building permit applicants from the current \$2500 to \$7500.
ACTION: HB 331 passed Judiciary unanimously on March 23. The companion, SB 624, was reported favorable by S. Banking & Insurance on March 15 and will be heard in Judiciary on March 29.

Immigration—SB 1718 by Sen. Ingoglia; HB 1617 by Rep. Michael

A top priority of Governor DeSantis, these bills make significant changes to employee verification procedures, specifically adding penalties if companies hire illegal aliens utilizing the E-Verify or I-9 process. Highlights of the bill include:

- Requires an employer using either the I-9 Form or E-Verify to retain the documentation used for at least 5 years;
- Alters the defenses for employers using I-9 Form or E-Verify;
- Amends the penalties for noncompliance with the employment verification law to allow for the suspension and revocation of licenses in certain circumstances and the imposition of fines;
- Increases the fines associated with violation of laws prohibiting the employment of unauthorized aliens;
- Creates a third degree felony for an unauthorized alien to knowingly use a false identification document, or who fraudulently uses an identification document of another person, to obtain employment;
- Prohibits a county or municipality from providing funds to any person, entity, or organization for the purpose of issuing an identification card or other document to an individual who does not provide proof of lawful presence in the United States;

ACTION: SB 1718 passed S. Rules 15-5 on March 15 and travels to S. Fiscal Policy next. The companion, HB 1617, has not yet been heard.

Bills We OPPOSE

- **Heat Illness & Injury Prevention**—HB 903 by Rep. Gottlieb; SB 706 by Sen. Rodriguez
This legislation would require employers of employees who work outdoors (agriculture, construction, landscaping) to implement an outdoor heat exposure safety program and provide annual training to employees and supervisors on heat illness prevention and treatment, supplemental to all industry-specific standards in place. Drinking water, staff breaks and access to shade must be part of the

safety plan. We believe this legislation is unnecessary and duplicative of existing OSHA standards that employers must meet to prevent heat illnesses.

ACTION: SB 706 will be heard in S. Commerce & Tourism first; HB 903 moves to Regulatory Reform & Economic Development Subcommittee first.

- **Buy American**—SB 304 by Sen. Boyd; HB 1239 by Rep. Griffitts
This bill requires iron and steel used in public works projects and materials utilizing any state-appropriated funds to be manufactured and produced in the United States **unless**:
 - Iron and steel products produced in the U.S. are not produced in sufficient quantity reasonably available or of satisfactory quantity;
 - The ease of U.S.-produced iron and steel products will increase the cost of the contract by more than 20 percent;
 - Complying with the law is inconsistent with the public interest.

Concerns expressed by NUCA of Florida to Sen. Boyd about the legislation include the impact on fixed price contracts, material volatility and supply chain issues. The bill defines “Iron or steel product” to mean any product made primarily of iron or steel, including, but not limited to, lined or unlined pipes and fittings; bars and rods; wire, wire ropes, and link chains; forgings; grating and drainage products; access covers, hatches, manhole covers, and other castings; hydrants; electric transmission and distribution poles; tanks; flanges; pipe clamps and restraints; valves; structural steel and other steel mill products; materials made primarily of iron and steel within precast concrete; and other construction materials made primarily of iron or steel.

ACTION: SB 304 passed Government Oversight & Accountability unanimously. HB 1239 was approved by Constitutional Rights, Rule of Law and & Government Operations Subcommittee on March 22.

- **Construction Materials Mining**—SB 186 by Avila; HB 77 by Fabricio
Beginning July 1, 2023, these bills specify ground vibration limit to ,15 inches per second for construction materials mining activities within 1 mile of residentially-zoned areas. The bills authorize the CFO to direct State Fire Marshal to modify standards, limits and regulation for use of explosives in connection with such construction materials mining activities.

ACTION: No movement this week.

- **Stormwater Rule**—The Florida Department of Environmental Protection released a new proposed stormwater rule on February 24. The proposed rule is intended to reduce nutrient loads but concerns raised include the unfair impact to the development community, lack of clarity in the rule, data documentation, and variation in groundwater and percolation around the state that impact compliance with the new, higher standards. To illustrate, it is expected that a 300-unit development would need to set aside 25 lots to accommodate the higher nutrient-reduction standards proposed by the stormwater rule.

ACTION: DEP held a public hearing on March 22 with stakeholders and is preparing amendments to the draft rule.