

# Florida Legislative Update 2021

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# Overview of Legislation

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HB 337 (signed by Governor) – Impact Fees

HB 35 (signed by Governor) – Legal Notices

HB 487 (passed House & Senate) – Comp Plan Amendments

HB 421 (passed House & Senate) – Expansion of Bert Harris Act

HB 401 – (passed House & Senate) - Local Zoning Regulations

# HB 337 – Restriction on Impact Fee Increases

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Limits how much impact fees can be increased.

If a local government, school district, or special district increases impact fees less than 25 percent above the current rate, the increase must be implemented in two equal annual increments.

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If a fee is increased between 25 and 50 percent above the current rate, the increase must be split into four equal installments.

*No impact fee increase may exceed 50 percent*

*Impact fee may not be increased more than once every four years*

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*Exception:* If a local government, school district, or special district establishes the need for the increased impact fee pursuant to the rational nexus test, it must:

- (1) provide a study showing the *extraordinary circumstances* requiring the additional increase that was completed within 12 months before the increase,
- (2) hold at least two publicly-noticed workshops, and
- (3) adopt the increase by at least a two-thirds vote.

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-Assignability and transferability to adjacent zones is a right, and is retroactive.

-The impact fee increase limitations operate retroactively to January 1, 2021.

# **HB 337 – Restriction on Impact Fee Increases, Cont'd**

- ❖ Revised to clarify that *all* impact fee categories (not just education and traffic) are eligible for a dollar-for-dollar credit against improvements.
  
- ❖ Revised the definition of creditable improvements to include:
  - ❖ Construction/reconstruction/improvements of facilities with a life expectancy of at least five years
  
  - ❖ Land acquisition/improvement/design/engineering/permitting costs, fire department or police/safety vehicles, school buses, and equipment necessary to outfit the vehicles.

# HB 35 - Legal Notices

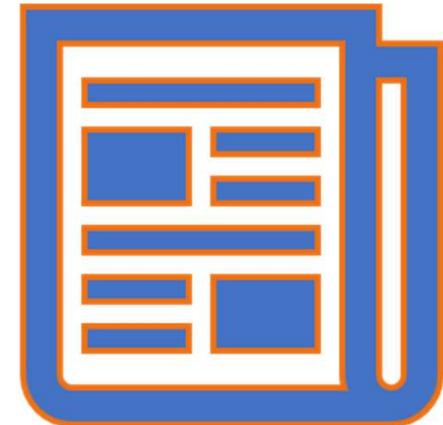
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Modifies the criteria that a newspaper must satisfy to publish legal notices.

Gives governmental agencies the option to publish legal notices on the website of a qualified newspaper and on the Florida Press Association's (FPA) repository website under specified conditions.

Authorizes a newspaper publishing legal notices online to charge for such publication up to the amount it would charge to publish the notices in its print edition.

Requires the FPA to seek to ensure that minority populations throughout the state have equitable access to legal notices posted on the FPA's repository website and requires the FPA to publish a report containing specified information.



# HB 487 - Comprehensive Plan Amendments



Increases the maximum acreage of a small-scale comprehensive plan amendment from 10 acres to 50 acres and increases the maximum acreage for a small-scale comprehensive plan amendment within a rural area of opportunity from 20 acres to 100 acres.

Any landowner with a development order existing before the incorporation of a municipality may elect to abandon the development order and develop the vested density and intensity contained therein pursuant to the newly created municipality's comprehensive plan and land development regulations.

The vested uses, density, and intensity must be consistent with the municipality's comprehensive plan. All existing concurrency obligations in the development order remain valid.

# HB 421 - Expansion of Bert Harris Act

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The bill modifies the Bert Harris Act to:

- ❖ Revise the terms “action of a governmental entity” and “real property”
  - ❖ “Action of a governmental entity” to include adopting or enforcing any ordinance, resolution, regulation, rule, or policy; and
  - ❖ “Real property” to include any legal interest in land, including surface, subsurface, and mineral estates and any other relevant land interest held by a property owner.
- ❖ Reduce the timeframe under which a claimant must notify the government before filing an action from 150 days to 90 days
- ❖ Specify that written settlement offers are presumed to protect the public interest



# HB 421 - Expansion of Bert Harris Act, Cont'd

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- ❖ Allow the claimant to have the court, rather than a jury, determine damages
- ❖ Extend the point from which a prevailing claimant may recover attorney fees and costs
- ❖ Authorize a property owner to notify the government that he or she deems a law or regulation's impact on his or her real property to be restrictive of allowable uses and to retain the right to pursue a Bert Harris claim after relinquishing the subject real property under specified circumstances
- ❖ Property owner may sue as soon as he or she must comply with the exaction or condition of approval.

# HB 401 – Preemption of Local Zoning and Development Regulations

- ❖ Removes local government authority to regulate building design in certain areas
- ❖ Prohibits local governments from adopting land development regulations that require specific building design elements for single- and two- family dwellings, unless covered by an exemption.
- ❖ Designated local historic districts, Community Redevelopment Authority (CRA) districts, and Planned Unit Developments (PUDs) are exempt.
- ❖ Prohibits a local government from requiring a contract between a builder and an owner as a condition to apply for or obtain a building permit.

# Discussion / Questions

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