



ANALYSIS OF SENATE BILL 180: CONSTITUTIONAL ISSUES

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INTRODUCTION

In our August 7, 2025, paper, *Analysis of Senate Bill 180: Land Use Issues*, we described the ramifications of SB 180 (adopted as Chapter 2025-190, Laws of Florida) on the ability of local governments to engage in land-use planning. Tangible adverse impacts of the law have already begun to occur, including the Department of Commerce's invalidation of at least two recently proposed local government plan amendments, and at least one lawsuit by a developer seeking to invalidate a local government's plan amendment adopted within the law's retroactive timeframe.

As local communities and elected officials begin to learn the full ramifications of this new law, they are beginning to seriously question whether it has gone too far in prohibiting the exercise of local home-rule powers and may have been enacted in violation of several requirements in the Florida Constitution. This paper identifies several bases on which the law is vulnerable to a constitutional challenge.

SB 180 AND THE FLORIDA CONSTITUTION

VIOLATES "SINGLE SUBJECT" LIMITATION

SB 180 violates the "**single subject**" limitation on legislation in Article III, Section 6 of the Florida Constitution, which states:

"Every law shall embrace but one subject and matter properly connected therewith"

A law "shall embrace but one subject and matter *properly connected* therewith." *Franklin v. State*, 887 So. 2d 1063 (Fla. 2004). The various matters included in a law must have a natural and logical connection. *Board of Public Instruction of Broward Co. v. Doran*, 224 So.2d 693 (Fla.1969). In *State v. Thompson*, 750 So. 2d 643 (Fla. 1999) the Court held that a legislative act that created a violent career criminal sentencing category, but also created a cause of action for damages related to domestic violence, addressed these two distinct subjects, and the Legislature had "not identified a broad crisis encompassing both career criminals and domestic violence." *Id* at

648. The Court explained that the Constitution (1) prohibits “log rolling” of unrelated matters, and (2) surprise or fraud, leading to careless or unintentional adoption, and (3) requires “fair notice of what is being considered so the people may comment on it.” “[T]here must be a natural or logical connection between the various sections of the bill.”

In *State v. Johnson*, 616 So. 2d 1, 4 (Fla. 1993), the Florida Supreme Court found that a bill amending statutory sentencing guidelines violated the single-subject rule because the issues it addressed - the habitual offender statute and licensing private investigators and changing their authority to repossess personal property – were “two very separate and distinct subjects”. The Court noted that the single – subject rule prevents a situation where one bill “becomes a cloak for dissimilar legislation having no necessary or appropriate connection with the subject matter”.

SB 180 violates the single-subject rule because it invalidates comprehensive plan and land-development code measures that have no logical connection to the main purpose of the Act, emergency management. It changes the law regarding post-storm rebuilding and emergency management but also changes the substantive law concerning every single issue that is addressed in a local government comprehensive plan and land-development regulation, including dozens of issues wholly unrelated in any way to emergency management and post-storm rebuilding of structures damaged by storms.

DOES NOT PROVIDE REASONABLE NOTICE OF SUBJECT MATTER IN TITLE

The Act’s **title** violates Article III, Section 6 of the Florida Constitution, which states:

“Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.”

A bill’s title must assure proper notice is given of the subject matter of proposed legislation to “provide reasonable notice to a person whose interests may be directly affected by the proposed legislation, so that he may inquire further into the details thereof and, if he so desires, seek to prevent its enactment or to persuade the legislature to change its substance.” *North Ridge General Hosp v. City of Oakland Park*, 374 So.2d 461 (Fla. 1979). If the title is not broad enough so that the average person can reasonably foresee that his interests might be affected, the notice is constitutionally insufficient. *Id.* The proper test is whether the wording of the title misleads a person of average intelligence as to the scope of the law and is insufficient to put that person on notice to read the text of the bill. *Williams v. State*, 370 So.2d 1143 (Fla.1979).

Florida courts have overturned many laws due to defective titles. *See, State v. Physical Therapy Rehab. Ctr. of Coral Springs, Inc.*, 665 So. 2d 1127 (Fla. 1st DCA 1996); (Title was misleading because it referred to the imposition of a fee cap on radiation therapy providers only, and to certain specific health care providers, but the text of the law applied to other providers and procedures not mentioned in the title); *Mayo v. National Truck Brokers, Inc.*, 220 So. 2d 11 (Fla.1969) (law invalidated because it increased license renewal fees, but the title stated

it related to “application fees, certificate fees, permit fees, and filing fees” and thus misleadingly omitted license *renewal* fees); *Hillsborough v. Price*, 149 So. 2d 912 (Fla. 2d DCA 1963)(the title stated that the act authorized a County “to dispose of stray untagged vicious dogs”, but the law also applied to vicious dogs which were not stray or untagged); *Christensen v. Commercial Fishermen’s Ass’n*, 137 Fla. 248, 187 So. 699 (1939) (invalidated a law where the title said it applied to certain waters and certain nets, but the text prohibited the use of nets un-mentioned in the title and applied to waters beyond those identified in the title).

The failures of SB 180’s title resemble those in the court decisions that have overturned other laws for defective titles when the title excluded from its mention geographic areas and issues the law did in fact impact. The title does not adequately inform the reader of everything that is included in the bill. The summaries of certain sections of the bill fail to explain that cities, in addition to counties, are affected by those sections. Given the important distinctions between counties and municipalities made throughout Florida law, this distinction matters. Also, some parts of the title state that certain sections of the law pertain only to certain counties, but the three Federal Disaster Declarations for Hurricanes Debby, Helene, and Milton cumulatively covered every county in the state, and thus the bill applied to every county and city in the state, rendering the title’s reference to “certain counties” misleading.

CREATES UNREASONABLE CLASSIFICATIONS

The Act **classifies political subdivisions on a basis that is not reasonably related to its subject**, in violation of Art. III, Section 11(b) of the Florida Constitution, which states:

“In the enactment of general laws ... political subdivisions ... may be classified only on a basis reasonably related to the subject of the law.”

Classifications in a general law “must bear a reasonable relationship to the primary purpose of the law.” *Ocala Breeders’ Sales Co., Inc. v. Florida Gaming Centers, Inc.*, 731 So. 2d 21, 26 (Fla. 1st DCA 1999), *aff’d*, 793 So. 2d 899 (Fla. 2001). Statutes that employ arbitrary classifications are invalid. *License Acquisitions, LLC v. Debary Real Estate Holdings, LLC*, 155 So. 3d 1137, 1143 (Fla. 2014).

SB 180 arguably creates unreasonable classifications by applying the same prohibitions against cities that suffer no hurricane-related damage as it does to those that do, simply by virtue of being within a county that had any portion of its boundaries fall within 100 miles of a hurricane track. It applies its prohibitions to “impacted local government[s]”, - counties “listed in a federal disaster declaration located entirely or partially within 100 miles of the track of a storm declared to be a hurricane by the National Hurricane Center while the storm was categorized as a hurricane ...” **and** all municipalities located within such a county. This classification is unrelated to the “emergency” subject of the law.

VIOLATES “NATURAL RESOURCES” CLAUSE IN THE FLORIDA CONSTITUTION

The Act violates the **Natural Resources** clause in Article II, Section 7a of the Florida Constitution, which reads:

“It shall be the policy of the state to conserve and protect its natural resources and scenic beauty. Adequate provision shall be made by law for the abatement of air and water pollution and of excessive and unnecessary noise and for the conservation and protection of natural resources.”

SB 180, by precluding local governments from enacting changes to their Comprehensive Plans and Codes that may be necessary to conserve and protect their natural resources and scenic beauty, or abate air or water pollution, excessive and unnecessary noise, or conserve and protect natural resources, violates this constitutional requirement.

VIOLATES “SUBSTANTIVE DUE PROCESS” CLAUSE IN THE FLORIDA CONSTITUTION

The law violates the “**substantive due process**” clause in Art I, Section 9 of the Florida Constitution, which states:

“No person shall be deprived of life, liberty or property without due process of law”

A law is invalid under the “Substantive Due Process” clause if it is not reasonably related to achieving a permissible legislative objective that is **not discriminatory, arbitrary or oppressive**. *Joseph v. Henderson*, 834 So. 2d 373 (Fla. 2d DCA 2003); *Young v. Broward County*, 570 So. 2d 309, 309-310 (Fla. 4th DCA 1990); *Lasky v. State Farm Ins. Co.*, 296 So. 2d 9, 15 (Fla. 1974). A statute must bear a rational and reasonable relationship to a legitimate state objective, and it cannot be arbitrary or capriciously imposed. *Dep’t of Corr. v. Fla. Nurses Ass’n*, 508 So. 2d 317, 319 (Fla. 1987). All laws must have a “just and reasonable relationship” to a “legitimate governmental purpose”. *Rollins v. State*, 354 So.2d 61 (Fla. 1978). Even if a law serves a legitimate governmental purpose, the means used must be “rationally related to that legitimate purpose.” *Amerisure Ins. Co. v. State Farm*, 897 So. 2d 1287, 1291 (Fla. 2005); *Dep’t of Ins. v. Dade County Consumer Advocate*, 492 So.2d 1032 (Fla. 1986).

SB 180 is arbitrary and capricious for the following reasons:

1. First, **the law has no rational relationship to its asserted purpose**, because it applies to municipalities that experienced no impacts of a hurricane whatsoever if any part of the county in which the city lies was within 100 miles of the track of a storm declared to be a hurricane. SB 180 contains various matters that are not connected to and are unrelated to emergencies, including the total ban in Sections 18 and 28 on any “more restrictive or burdensome” land-use and zoning regulations, and Section 18’s prohibition on moratoria on construction, reconstruction, and redevelopment of property, even if the property is intact

and was not damaged by a hurricane or other emergency. This is particularly true in counties with a large geographic area.

2. Second, the approach SB 180 takes – a complete prohibition on stricter or more burdensome development standards on any issue addressed in a comprehensive plan or land development code (including issues wholly unrelated to rebuilding damaged structures or property after hurricanes) -- has no rational relationship to its asserted purpose as described in its title: “An act relating to emergencies.” It is arbitrary to prohibit local governments from enacting zoning and land-use regulations on every issue governed by comprehensive plans, regardless of any impact on rebuilding after storm damage, whenever a hurricane track intrudes into any part of a county.
3. Third, **the law has no rational relationship to its asserted purpose because its prohibitions in Section 18 are triggered by future random hurricane-landfall events regardless of the actual impact of the hurricane relative to structural or property damage.**
4. Fourth, **Section 28 arbitrarily and capriciously prohibits local governments throughout the entire state from enacting zoning and land-use regulations retroactively from August 1, 2024, through October 1, 2027, without any rational justification**, and invalidates previously enacted Plan and Code provisions without any rational justification.
5. Fifth, **SB 180 is “void-for-vagueness.”** This “due process” doctrine “bars enforcement of a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application.” *Samples v. Florida Birth-Related Neurological Injury Comp. Ass’n*, 114 So. 3d 912, 919–20 (Fla. 2013). It is designed to “ensur[e] that all laws clearly notify the public of the specific conduct required or forbidden.” *Samples v. Fla. Birth-Related Neurological Injury Comp. Ass’n*, 114 So. 3d 912, 920 (Fla. 2013).
 - a. First, SB 180 **creates uncertainty as to whether a local government is an “impacted local government”**. The Act does not elaborate on the term “listed in the Federal Disaster Declaration”. The Federal Emergency Management Administration’s disaster declarations identify the specific counties to which the designation applies. But there are different types of services and funding available to local governments identified in a federal disaster declaration, and not all counties are within the same category (i.e., whether they qualify for Individual Assistance (IA), Public Assistance (PA) or both). The phrase “listed in a federal disaster declaration” as used in SB 180 does not explain whether it applies to a county that appears in any designation, regardless of the category.
 - b. Second, it is unclear what it means for a local government to be “located entirely or partially within 100 miles of the track of a storm declared to be a hurricane.” Determining the exact geographic area that was “within 100 miles **of the track** of a storm declared to be a hurricane by the National Hurricane Center **while the storm was categorized as a hurricane ...**” **may be subject to imprecise determinations.** Identifying the geographic

area within 100 miles *of the track* may be subject to differences in professional judgment. This uncertainty is compounded by the lack of definition of “track of a storm”.

- c. Third, **the substance of the actions the law prohibits is unconstitutionally vague.** SB 180’s prohibitions on “more restrictive or burdensome” moratoria, planning and zoning regulations, and other ambiguous provisions render the law incomprehensible and create substantial uncertainty as to what kinds of measures will be invalid.
- d. Fourth, **the lack of a definition of the overly broad phrase “more restrictive or burdensome” renders the law unconstitutionally vague.** Does this prohibit regulatory changes that are different, but not objectively more restrictive? Does it preclude the adoption of a comprehensive set of changes that include some that reduce existing restrictions and some that increase others? Is the test qualitative or quantitative, or both? Is it measured by economic impact or spatial coverage of a development standard? Does it prohibit measures that might require additional information or analysis only?
- e. Fifth, SB 180’s **broad sweep makes it virtually impossible to know what local governments must do, may do, or are prohibited from doing, given the myriad requirements in the *Community Planning Act* for local governments to enact plan or code provisions that accomplish certain legislative objectives.** Section 163.3211, Fla. Stat. states that the *Community Planning Act* “shall govern” where it is “in conflict with any other ...law relating to local governments ... authority to regulate the development of land....”

Local governments, landowners and residents cannot know what the law is. On one hand, SB 180 prohibits “more restrictive or burdensome” development standards. On the other, Chapter 163 **requires** local governments to, among other things:

- Adopt and amend comprehensive plans and land development regulations. (§163.3167, Fla. Stat.)
- Evaluate and update their comprehensive plans and land development codes, at least every 7 years, based on changes in local conditions. (§163.3191, Fla. Stat.)
- Amend their codes to implement any plan amendments. (§163.3202, Fla. Stat.)
- Amend the plans to include mass-transit provisions when a local government’s population hits certain population levels. (§163.3177 (6)(b), Fla. Stat.)
- Update their sanitary sewer elements by July 1, 2024, and as needed thereafter to account for future developments. (§163.3177(6)(c), Fla. Stat.)
- Review and amend their capital improvements element annually, to coordinate with the applicable metropolitan planning organization’s long-range transportation plan, include projects necessary to ensure that adopted level-of-service standards are achieved and maintained for a 5-year period, and projects necessary to achieve the pollutant load reductions in a basin management action plan pursuant to s. 403.067(7). (§163.3177(3)(a), Fla. Stat.)

SB 180 also seemingly conflicts with section 171.062, Fla. Stat., which requires a city to adopt a plan amendment to include newly annexed land into the city’s future land use map. What is the

law now if the city's plan and regulations are more burdensome than those of the county? What if they are a mixed bag of more liberal and stricter?

SB 180 does not allow a reasonable person to know what the law is relative to a local government's authority and responsibility relative to comprehensive planning and land development regulations.

VIOLATES THE "UNFUNDED MANDATES" PROVISION IN THE FLORIDA CONSTITUTION

SB 180 violates the "Unfunded Mandates" provision in Article VII, Section 18(a) of the Florida Constitution, which states that "[n]o county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds[.]"

SB 180 Section 7 requires that local emergency management-related staff positions meet increased biannual training requirements and participate in an annual emergency readiness conference. Section 16 adds many new pre - and post-storm event recovery requirements that will require expenditures by counties and cities. Section 24 imposes new requirements relative to debris management sites that will require county and city expenditures.