



# 2017 Legislative Issue Briefs



## Drones

### Priority Statement:

The Florida League of Cities SUPPORTS legislation that allows first responders to use drone technology to save lives and protect people and property. In addition, such legislation should allow municipalities to continue to apply generally applicable laws to regulate drone technology to ensure public safety and retain quality of life while protecting civil liberty.

### Talking Points:

- The Florida League of Cities SUPPORTS legislation that allows first responders to use drone technology to save lives and protect people and property. In addition, such legislation should allow municipalities to continue to apply generally applicable laws to regulate drone technology to ensure public safety and retain quality of life while protecting civil liberty.
- Municipalities should have the ability to craft their own drone ordinances to encourage innovation while also protecting the safety of their citizens.
- Local governments should retain their land use and zoning powers to designate when and where drones may take off, land and operate, as well as any operational limitations or criteria.
- Local governments should have the ability to punish a drone operator for operating an unmanned aircraft in a manner that recklessly endangers persons or property.
- Courts have regularly held that municipalities have the right, pursuant to their respective police powers, to regulate the use of land in any rational way, and such zoning decisions will be afforded a presumption of validity.
- Many cities are experimenting with using drones to support the work of city departments. Common uses include law enforcement, firefighting, disaster relief and search and rescue missions.

### Background:

Current law prohibits a person, state agency or political subdivision from using a drone to record an image of privately owned real property or people on private property with the intent to conduct surveillance on the individual or property and without written consent to do so. An exception for certain law enforcement agency activity was expanded in 2015 to include activities by property appraisers, utilities, aerial mappers, cargo delivery systems and any other person or entity engaged in a business licensed by the state and subject to certain conditions.

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Municipalities should have the ability to craft their own drone ordinances to encourage innovation while also protecting the safety of their citizens. Local governments should retain their land use and zoning powers to designate when and where drones may take off, land and operate, as well as any operation limitations or criteria. In addition, local governments should have the ability to punish a drone operator for operating an unmanned aircraft in a manner that recklessly endangers persons or property.

Courts have regularly held that municipalities have the right, pursuant to their respective police powers, to regulate the use of land in any rational way, and such zoning decisions will be afforded a presumption of validity. Accordingly, it is likely a regulation governing where an aircraft can takeoff and/or land will be constitutionally valid unless it is found to be “clearly arbitrary and unreasonable, having no substantial relationship to the public health, safety, moral or general welfare.” Cities have substantial authority in this area, as regulations enacted with the stated purpose of protecting public safety, public health, aesthetics and the general welfare are regularly found to be a legitimate exercise of a municipalities police power.

However, drones present unique challenges and concerns for cities. Drones raise safety, privacy, nuisance and trespassing concerns, all of which are compounded by the lack of accountability associated with most drone operations today. Drones can be operated remotely, making it difficult to identify operators who fly recklessly, harass individuals or cause injury to persons or property.

There are numerous safety concerns as they relate to drones. One public safety concern is what happens when drones (of all sizes) fail and fall out of the sky. Cities may have to deal with questions of liability when drones malfunction, crash, are taken over by hackers, or otherwise are rendered beyond the control of their operator. There have been numerous reported incidents involving drones crashing into city streets, injuring pedestrians and otherwise causing harm on the ground and in low-altitude airspace, which are of great concern to cities.

**Status:**

**Drones (Oppose—Preemption)**

**CS/SB 832** (Young) and **CS/HB 1027** (Yarborough) preempt local government from enacting or enforcing an ordinance or resolution relating to the design, manufacture, testing, maintenance licensing, registration, certification or operation of an unmanned aircraft system, including airspace, altitude, flight paths, equipment or technology requirements. Pilot, operator or observer qualifications and training and certification requirements are also preempted to the state. However, local governments do retain authority to enact or enforce local ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage or other illegal acts arising from the use of unmanned aircraft systems if such laws are not specifically related to the use of an unmanned aircraft system for those illegal acts. In addition, the bills prohibit a person from knowingly and willfully operating a drone over, or allowing a drone to make contact with or come within a specific distance of, a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility. CS/SB 832 passed Senate Communications, Energy and Public Utilities Committee unanimously and is now in the Senate Rules Committee. CS/HB 1027 passed the House (117-0).

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**Personal Delivery Devices (Support)**

**SB 460** (Brandes) and **CS/HB 601** (Williamson) authorize a county or municipality to regulate the operation of personal delivery devices and do not restrict a county or municipality from adopting regulations for the safe operation of personal delivery devices primarily on sidewalks and crosswalks. A personal delivery device operator is required to maintain an insurance policy that provides general liability coverage of at least \$100,000 for damages arising from the operation of a personal delivery device. SB 460 passed the Senate Banking and Insurance Committee unanimously and is now in the Senate Rules Committee. CS/HB 601 passed the House (115-0).

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