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# FLORIDA LEAGUE OF CITIES 2018 Federal Action Agenda

## FEDERAL PREEMPTION OF SMALL WIRELESS INFRASTRUCTURE DEPLOYMENT

In 2017, the Florida Legislature passed the Advanced Wireless Infrastructure Deployment Act which creates a state process for the deployment of small wireless infrastructure in local rights-of-way. Federal efforts to create a process for this same infrastructure will complicate and impose different or more stringent standards on Florida's cities than the existing process under current Florida law. For the past year and a half telecom providers and Florida local governments have worked together, in the framework provided by the state legislature, to adopt ordinances implementing the State act. **THE IMPACT OF PROPOSED FEDERAL ACTION WILL BE TO SLOW SMALL WIRELESS INFRASTRUCTURE DEPLOYMENT IN FLORIDA.**

### Federal Communications Commission (FCC) Declaratory Ruling/ Order

On September 26, 2018, the FCC adopted a Declaratory Ruling and Third Report and Order that among other things, creates new limits on local wireless siting review, creates a cap on the collocation and other fees that can be collected, and limits conditions relating to aesthetics. The FCC, which currently consists of 4 non-elected members, passed these actions by a vote of 3-1.

### Senate

Senators John Thune (R-SD) and Brian Schatz (D-HI) introduced S. 3157, the Streamlining the Rapid Evolution and Modernization of Leading-edge Infrastructure Necessary to Enhance (STREAMLINE) Small Cell Deployment Act.

The FCC actions and S. 3157 are a direct affront to traditionally-held local authority and will complicate, rather than simplify, national efforts to expedite small wireless infrastructure deployment by prolonging state and local processes. The Florida League of Cities shares Congress' goal of ensuring efficient, safe, and appropriate deployment of new broadband technology. However, these federal efforts are not the best way to achieve this shared goal and will in fact grind to a halt the permitting and deployment of this infrastructure in Florida. The deployment of small wireless infrastructure is a local issue and cities should have a say in the use of the public's rights-of-way and in a city's aesthetics. Additionally, creating standards at the federal level that conflict with the Florida law will create chaos and confusion in seeking to determine whether a city must use federal or state guidelines because the federal and state law apply to different but overlapping sets of equipment. The Florida law also provides exclusions and exemptions not included in the FCC actions or S. 3157, and addresses undergrounding of utilities and hurricane preparedness, which is not addressed in the federal actions.

The Florida Legislature has already tackled issues relating to small wireless infrastructure deployment, and federal preemption is not warranted in this state and local government matter. The Florida League of Cities urges Congress to oppose federal efforts to preempt the deployment of small wireless infrastructure.



## INVESTING IN WATER INFRASTRUCTURE

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Florida is expected to have 15 million additional residents by 2070. Cities construct sewer plants to comply with state and federal water quality regulations, and similarly, build the necessary infrastructure to provide clean drinking water for today and for the future. Florida's ability to meet the water needs of its growing population, industries and natural environment exceeds available supply and infrastructure. An estimated \$48.71 billion is needed over the next 20 years to meet needs for drinking water, irrigation, wastewater infrastructure, flood control, nutrient pollution, Everglades restoration, beach inlet erosion and other vital water issues.

The Water Resources Development Act of 2018 (WRDA) is a bipartisan bill that authorizes numerous water resources projects and policies for navigation, flood control, recreation, water supply and emergency management. WRDA addresses Florida municipal interests related to ports, inland waterways, vegetation, wetlands, watersheds, coastal restoration, safe drinking water and clean water infrastructure.

The U.S. House of Representatives recently passed S. 3021, America's Water Infrastructure Act, which includes WRDA authorization. The Florida League of Cities urges the Senate to pass the WRDA reauthorization that provides needed funding for several Florida water projects. FLC further urges Congress to appropriate funds for these programs.

## WATER QUALITY/RED TIDE

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Water quality is of vital importance to Florida's municipalities, their residents, businesses and visitors. It is an essential element to the state's economy and numerous municipal economies throughout the state. There is a widespread, high concentration and prolonged presence of harmful Red Tide in waters of the Gulf of Mexico and its adjacent estuarine areas. Often, this red tide results in large numbers of dead fish and marine life washing up on beaches and within rivers and waterways in numerous jurisdictions throughout the state. The decaying fish and marine life further degrades water quality. Additionally, excess water discharged from Lake Okeechobee is one of several factors causing widespread and prolonged toxic blue-green algal blooms in coastal and inland waterways around the state. The widespread and prolonged algal blooms threaten Florida's environment and fragile ecosystems, including its beaches, rivers and wildlife. There is no indication the harmful red algal blooms and toxic blue-green algal blooms will abate before lasting economic harm occurs.

In August, Florida Senators Marco Rubio and Bill Nelson introduced S. 3374, the South Florida Clean Coastal Waters Act, which would direct the Interagency Task Force on Harmful Algal Blooms (HABs) to assess the causes and consequences of HABs in Lake Okeechobee and around Florida's south and southwestern coast. The Florida League of Cities supports S. 3374 and greatly appreciates the efforts of Senators Rubio and Nelson, Representative Brian Mast (R-18-FL) and members of Florida's congressional delegation who have worked on this important issue.



## FEMA DEOBLIGATIONS/CLAWBACKS

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The FEMA Public Assistance Program (FEMA PA), which provides recovery project funding to local governments for uninsured infrastructure repairs following a presidential disaster declaration, is a critical part of a community's recovery process. However, over the last several years, a number of local governments in Florida have expressed concerns with the FEMA PA process.

In 2011, the Department of Homeland Security's Office of Inspector General (OIG) began auditing previously approved recovery projects in an attempt to recapture funds that the OIG asserts should not have been awarded. As a result of the audits, FEMA sought to retroactively "deobligate" previously approved recovery funds from local governments, despite the passage of many years since the recovery funding was originally approved. Many of the audits were from 2004 and 2005 storms. The disaster assistance monies that cities and counties received had been long spent on recovery projects that, in some instances, were previously identified, developed and determined eligible by FEMA staff.

In a state where the question is not if a natural disaster will occur but rather when, the Florida League of Cities strongly supports the mission and role of FEMA and the assistance it provides to local governments in times of need. These so-called deobligations can run into the millions of dollars and impact the budgets of local governments across Florida. The Florida League of Cities urges Congress to amend the Stafford Act to include a three-year statute of limitations during which a local government can be audited to give the city or county a reasonable timeframe to respond to information requests from FEMA.

U.S. Representative Lois Frankel (D-21-FL), Senator Bill Nelson and Senator Marco Rubio have introduced legislation to amend the Stafford Act to change the three-year statute of limitations by which FEMA can audit individual projects that received Disaster Assistance funding. Under the provision, the statute of limitations would begin once the Project Worksheet is transmitted, rather than upon completion of the final expenditure report for the entire disaster. The language has a retroactive date of 2004. This provision is included in H.R. 302, legislation that provides long-term reforms to the Federal Aviation Administration (FAA) and federal disaster programs. The Florida League of Cities urges Congress to pass H.R. 302 to improve the FEMA deobligation process among other provisions in the legislation.

The Florida League of Cities greatly appreciates the efforts of Representative Frankel, Senators Nelson and Rubio, Representative Mario Diaz-Balart (R-25-FL) and other members of Florida's Congressional Delegation for their efforts over the years to provide more certainty to cities and counties.



## **NATIONAL FLOOD INSURANCE PROGRAM**

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The National Flood Insurance Program (NFIP) was created in 1968 in response to the lack of available private flood insurance and continued increases in federal disaster assistance due to floods. The NFIP allows property owners in participating communities to buy subsidized insurance to protect against flood losses.

Flooding is a serious risk in Florida due to the state's geography and proximity to water, both inland and coastal. Florida has more than 1.7 million active NFIP policies and \$435.7 billion in coverage. Florida property owners have received more than \$5.0 billion in claims since 1978. The NFIP is set to expire on November 30, 2018.

As a government program, the NFIP should treat its customers equitably and should adhere to insurance principles that rates must not be excessive, inadequate or unfairly discriminatory. Any necessary increases in premiums should be implemented with regard to customers' ability to absorb those increases. Additionally, properties should be rated based on their ability to withstand risk, not on their use or ownership structure. Nationwide, NFIP flood maps are generally outdated and don't accurately measure a community's flood risk. Efforts should be made to work directly with cities, counties and other stakeholders on the map revision process, ensuring locally generated data and/or models are considered.

Recognizing that nearly all properties have some risk of flooding, incentives should be created to encourage participation in the NFIP for property owners not located in high-risk flood zones. This will not only help protect those who are caught off guard by unpredicted flooding, but it will also help the program become more financially stable.

The Florida League of Cities urges Congress to advocate for a package that does not increase costs on vulnerable residents and provides increased funding for accurate flood mapping and mitigation.

## **MAINTAIN FUNDING FOR IMPORTANT FEDERAL PROGRAMS**

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The Florida League of Cities would like to thank Senators Nelson and Rubio and other members of Congress for increasing funding for programs like Community Development Block Grant (CDBG), Transportation Investment Generating Economic Recovery (TIGER) and other federal programs that provide important funding assistance to cities. We ask that you continue funding these and other federal programs that benefit local communities.

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