

**County Attorney**  
1769 E. Moody Blvd Bldg 2  
Bunnell, FL 32110



[www.flaglercounty.gov](http://www.flaglercounty.gov)

Phone: (386) 313-4005

Fax: (386) 313-4105

**TO:** BOARD OF COUNTY COMMISSIONERS

**FROM:** SEAN MOYLAN, DEPUTY COUNTY ATTORNEY

**CC:** AL HADEED, COUNTY ATTORNEY  
SARAH SPECTOR, ASSISTANT COUNTY ATTORNEY  
HEIDI PETITO, COUNTY ADMINISTRATOR  
JORGE SALINAS, DEPUTY COUNTY ADMINISTRATOR  
ADAM MENGEL, GROWTH MANAGEMENT DIRECTOR

**DATE:** MAY 16, 2025

**RE:** 2025 SB 180

-----

I write to bring to your attention SB 180, legislation with the potential to undermine the home rule authority of local governments in Florida greater than any preemption promulgated by Tallahassee to date. The bill is ostensibly intended to help hurricane victims, and it has many beneficial provisions in that regard, such as expedited permitting for homeowners rebuilding after a hurricane and requirements to post emergency information on county websites. But it contains a trojan horse for local land use regulations.

It is best to quote directly from the bill. Section 28 of the bill states in relevant part:

Each county listed in the Federal Disaster Declaration for Hurricane Debby (DR-4806), Hurricane Helene (DR-4828), or Hurricane Milton (DR-4834), and each municipality within one of those counties, **may not** propose or adopt any moratorium on construction, reconstruction, or redevelopment of any property damaged by such hurricanes; **propose or adopt more restrictive or burdensome amendments to its comprehensive plan or land development regulations;** or propose or adopt more restrictive or burdensome procedures concerning review, approval, or issuance of a site plan, development permit or development order, to the extent that those terms are defined by s. 163.3164, Florida Statutes, before October 1, 2027, and any such moratorium or restrictive or

---

Andy Dance  
District 1

Greg Hansen  
District 2

Kim Carney  
District 3

Leann Pennington  
District 4

Pam Richardson  
District 5

burdensome comprehensive plan amendment, land development regulation, or procedure shall be **null and void ab initio. This subsection applies retroactively to August 1, 2024.** (bold emphasis mine)

Flagler County is within the scope of this prohibition due to being part of the disaster declaration for Hurricane Milton. It means we cannot amend our Comprehensive Plan or Land Development Code with more restrictive or burdensome provisions until October 2027. And it applies retroactively to last August! While the Florida Constitution prohibits retroactive (“ex post facto”) criminal laws, there is no analogue for non-criminal laws. Amazingly, I am told that, based on the three hurricanes referenced, the prohibition applies to every county and city in the entire state.

This upends our efforts to update our Comprehensive Plan and Land Development Code. It voids most of the tree protection ordinance we adopted last September and the Airport Zoning Ordinance. It also halts the Live Local Act ordinance staff has recently prepared for the Commission. Note however, the bill only prohibits regulations that are more restrictive or burdensome. Staff will evaluate the Comp Plan update and ordinances to see if any portions may still be adopted as *not* more restrictive or burdensome. Another option is to adopt ordinances with an effective date of October 1, 2027.

But wait, there’s more. The prohibition on Comp Plan and LDC amendments could continue indefinitely beyond 2027. Section 18 of the bill extends the prohibition to counties within 100 miles of the track of future hurricanes that lead to a federal disaster declaration. This prohibition would last for one year from landfall. Given the increased frequency and strength of tropical cyclones, this does not bode well.

For both the prohibition due to Hurricane Milton in Section 28 and the open-ended prohibition in Section 18, the bill gives standing to “any person” to sue the County and requires the County to pay the plaintiff’s attorney’s fees should the plaintiff prevail. We will have to tread carefully as we don’t want to be in a position of litigating whether a land development regulation is or is not more restrictive or burdensome.

Under the guise of protecting hurricane victims, the Legislature has taken an enormous step to limit local land use planning in Florida. While the bill has not yet been presented to the governor and is not yet law, it passed the House 106 – 0 and passed the Senate 34 – 1. It is slated to take effect July 1<sup>st</sup>.