

THE CITY OF NEW SMYRNA BEACH - CITY ATTORNEY'S OFFICE

RESOLUTION NO. 22-25: CONSIDER THE ADOPTION OF A RESOLUTION THAT WOULD AUTHORIZE THE CITY TO PARTICIPATE IN A CLASS ACTION LAWSUIT AGAINST THE STATE OF FLORIDA IN OPPOSITION TO SENATE BILL 180.

September 9, 2025

Background:

On June 26, 2025, the Governor of the State of Florida signed Senate Bill 180, entitled "Emergencies." SB 180, among other things, prohibits ordinances that impose "more restrictive or burdensome" comprehensive plan amendments, land development regulations, or procedures concerning review, approval, or issuance of site plans, development permits, or development orders (collectively, "Land Use and Zoning Regulations") for the period commencing retroactively from August 1, 2024, through October 1, 2027. As a result of this bill any new ordinance or regulation that was passed by this Commission is void from inception. This bill had a direct impact on the City's newly adopted stormwater management regulations declaring them void ab initio.

The City Commission previously attempted to persuade the Governor to veto the proposed bill and authorized the City Attorney's Office to draft a formal letter in opposition to the legislation. Despite these efforts, the Governor signed the bill into law. As a result, the City is now tasked with the responsibility of enforcing the new statute.

As of now, two counties and eight cities (Manatee and Orange County, Alachua, Deltona, Stuart, Windermere, Delray, and Weston) have passed resolutions to join the lawsuit. The law firm leading this initiative has reached the required threshold of 10 plaintiffs to proceed with filing a class action lawsuit. The firm plans to file the suit in mid-September.

Findings:

The City Commission should consider two options regarding its response to the recently enacted State legislation.

Option 1: The City could adopt the proposed resolution, authorizing participation in a class action lawsuit against the State of Florida. The lawsuit would challenge the constitutionality of the Bill and seek to have it rescinded or revoked. If the Attorney files for an injunction and is successful, there may be short-term relief through the suspension

of the Bill's enforcement. However, if an injunction is not filed or is unsuccessful, the legal process could become lengthy and extend over several years.

Option 2: Alternatively, the Commission could choose to collaborate with other municipalities, counties, and local lobbyists to pursue amendments to the Bill during the next legislative session. Notably, the Volusia County Commission has already voted to take this approach. Their legal department has proposed specific amendments and is working closely with lobbyists to advocate for these changes.

Fiscal Analysis:

If the Commission chooses to proceed with joining the lawsuit, the associated legal cost would be a flat fee of \$10,000 to represent the City. This fee is payable within 10 days following the adoption of the attached resolution. In the event the case is appealed, the City would be required to pay the law firm an additional \$5,000 for the appeal, due within 30 days after the appeal is filed. If the case is further appealed to the Florida Supreme Court, an additional \$5,000 would be payable to the law firm at that stage. The total potential cost to the City, if the case proceeds through all levels of appeal, would be \$20,000.

If the City chooses to work with lobbyists, as well as other cities and counties, to propose amendments to the law during the next legislative session, the associated cost is currently unknown.

Strategic Plan Item:

No

Staff Report Created By: Carrie Avallone - City Attorney

Attachments:

[volusia county proposed changes.pdf](#)

[Res 22-25 SB 180 Lawsuit.pdf](#)