

Florida Legislature Addresses Notice Requirements for Continued Public Hearings in Response to *Testa* Case

[Senate Bill 170](#) amends section 125.66, Florida Statutes, and section 166.041, Florida Statutes, to allow local governments to continue a duly noticed meeting without repeating publication and mailing requirements so long as the date, time, and place of the subsequent public meeting are publicly stated and the continuation is communicated in the agenda for the subsequent meeting. This change is due to the case *Testa v. Town of Jupiter Island*, No.4D22-432, 2023 WL 1808293 (Fla. 4th DCA Feb. 8, 2023), which held that the Town of Jupiter Island did not strictly adhere to the minimum notice requirement in section 166.041, Florida Statutes, because a new notice was not sent out for a continued public hearing.

Senate Bill 170 also requires local governments to prepare business impact estimates prior to passing an ordinance, summarizing the ordinance's public purpose, direct economic impact on businesses, and an estimate on the number of businesses to be impacted. This does not apply to ordinances implemented under part 2 of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning.

Senate Bill 170 also amends section 125.675, Florida Statutes, and section 166.0411, Florida Statutes, to set conditions on lawsuits brought by a party challenging a local ordinance as preempted by the State Constitution or state law as arbitrary and unreasonable. The local government must suspend enforcement of the ordinance if the action was filed no later than 90 days after the adoption date, the plaintiff/petitioner requests suspension in the initial complaint or petition, and the local government is served with the complaint or petition. Courts are required to give these cases priority over other pending cases and render a preliminary or final decision as expeditiously as possible.

Senate Bill 170 also amends section 57.112, Florida Statutes, to allow up to \$50,000 in reasonable attorneys' fees for civil action filed against a local ordinance for unreasonable or arbitrariness. These recoveries are only prospective in nature and apply to ordinances adopted on or after October 1, 2023. The bill also sets out various procedural changes in 125.66 and 166.041.

SB 170 was signed by the governor on June 29, 2023 and becomes effective on October 1, 2023, except as otherwise provided in the bill.