

news from the Florida Shore and Beach Preservation Association

Message from the President

During these trying times and the expected economic hardships that will surely follow, FSBPA is ready to assist you in whatever way we can. And, when the time comes, Florida's world-famous beaches will once again welcome throngs of visitors. In the meantime, please take all necessary precautions to stay safe and healthy. We will see you soon.

As to the 2020 Regular Session, the Legislature had to extend until Thursday, March 19, to finally pass the \$93.2 budget (HB 5001), its only constitutionally required bill. The budget has not been presented to Governor DeSantis yet, however, he already said he expects to wield his veto power liberally to free up potential dollars to deal with the COVID-19 crisis. So, while beaches once again received \$50 million, we are all in a holding pattern for now as we await the final post-veto budget numbers.

Even so, the 2020 Regular Session provided some insight regarding some new policy pathways the Legislature is exploring, including climate change and associated impacts such as sea-level rise. While near-term actions by the Legislature are unknown, especially with the COVID-19 crisis unfolding, the long-term policy implications are undeniable – the state must deal with impacts to the state from climate change in a comprehensive manner. The following excerpts from the Regular Session wrap-up for our BeachWatch members highlight the budget and policy positions of this Legislature.

2020 BeachWatch Legislative Session Wrap-Up Excerpts from Pepper Uchino and Debbie Flack, March 22nd

Teacher pay raises, the Clean Waterways Act, politically divisive Scope of Services and E-Verify legislation, and very generous end-of-session House and Senate Supplemental Project Lists ("sprinkles") stand out in a relatively slow-paced session, which was punctuated by COVID-19 concerns. Friday, March 13, came and went without a budget, forcing a nearly week-long extension.

continued on next page

Inside this Edition

April 2020

63rd Annual Conference September 16-18, 2020 Hyatt Regency Coconut Creek Bonita Springs, Florida



Call for Abstracts ...page 9

FDEP Agency Updates ...page 10

Whether you have cabin fever or spring fever, virtual visits to Florida's beaches are available at <u>https://www.visitflorida.com/en-us/</u> <u>florida-now.html</u> Click on "webcams" below the map



Photo courtesy of The Beaches of Fort Myers & Sanibel



Friday the 13th lived up to its reputation, lasting late into the night with the two chambers reworking and greatly reducing the overall cost of the "tax package." Anticipated negative revenue impacts from COVID-19 on a state dependent on a sales tax and increasing reliance on a tourismdriven economy clearly came into play. It didn't stop there, with the first after-midnight budget conference meeting of the full committee chairs, and another and final pass late Saturday afternoon with Representative Cummings and Senator Bradley.



After the requisite 72-hour cooling off period after

providing the budget the members, the 2020 Legislative Session officially ended Thursday, March 19th with passage of the \$93.2B Conference Report on HB 5001, which represents a 2.4% spending increase. The 2020 Session adjourned, sine die, Thursday, March 19, at 1:50 p.m. Despite being a bit late, and some last-minute strategic reductions, it was everything and more for Florida's beaches.

Once again, a large number of bills were filed (more than 3500), while nearly 200 bills passed before the 2020 Session adjourned.

The good news is we are already seeing the benefits of our multi-year initiative to revisit and involve the Legislature in revising and prioritizing annual beach and inlet management project ranking criteria. As intended, the new policy provisions of the 2019 Legislation made the extensive policy proviso in the budget that we have had to rely upon in recent years a thing of the past. Further, we began (versus ended) with the targeted annual funding level of \$50 million in both House and Senate budgets from their initial roll-out to the final Budget Conference Report. All our mutual BeachWatch advocacy funding goals and objectives were met or exceeded. Looking back, the final piece of the puzzle was put in place. For the first time statewide beach funding is all recurring Amendment 1 Land Acquisition Trust Fund (LATF) dollars.

Appropriations

It all came together— our shared BeachWatch governmental strategy that surpassed expectations in a difficult budget year accommodating \$500M teacher pay raises, the Governor's recommended \$625 million for water quality enhancement and the Everglades, \$3.9 billion in reserves, and a last minute back-of-the-bill addition of \$60M to the Department of Health as an initial response to COVID-19. There is already considerable chatter on the possibility of a special session to further address the urgent human and economic needs in response to the virus, which is raging in parts of the country.





Our 2020 session funding strategy was to simply repeat \$50M for FY 2020/21 for the 4th year in a row. We expected, but did not take for granted, the current year recurring trust funds (of just over \$40M) would be in the base budget and sustained throughout the FY 20/21 appropriations process. In our pre-Session update, we stated "it was a dream, not a goal" to secure the last \$10M in recurring LATF dollars. We weren't expecting it or telegraphing our wishful thinking. After all, we didn't even start with \$50M, a combination of trust funds and General Revenue, in the Senate last session, so we certainly didn't want to get ahead of ourselves. Our primary focus was on sustaining our recent advances in terms of effective program policy and adequate funding.

The Traditional Statewide Beach Budget for 2020/21

(Conference Report on HB 5001) 1676 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONSTATE ENTITIES - FIXED CAPITAL OUTLAY; BEACH PROJECTS – STATEWIDE From the Land Acquisition Trust Fund \$50,000,000

This final \$50M allocation provides funding for statewide beach projects ranked 1-15 in their entirety and part of 16* as well as all 8 post-construction monitoring projects categorically funded in <u>DEP's Beach</u> <u>Management Funding Assistance Program for FY 2020/21</u>.

*Pinellas County(Pass-a-Grille), Charlotte County, St. Joe Peninsula, Jupiter/Carlin, Panama City Beach, Anna Maria Island, South Ponte Vedra/Vilano Beach, Delray Beach, Longboat Key, Mid-Town, Ocean Ridge, Captiva Island, North Boca Raton, Broward County Seg. II, Martin County, Collier County

Using the new statutory "greater than" provision for inlet funding (the proportional formula vs. historical fixed 10%), inlet projects including monitoring will receive just over 13% or \$6.6M (vs. \$5M). Also keep in mind the department has the authority to allocate remaining unencumbered surplus funds for beach and inlet projects in continuing priority order based on "readiness to proceed." A reasoned assessment of the adequacy of the 2020/21 funding allocation reflects a statewide beach program that sustains a relatively larger number of annual projects and reduces the funding backlog of just a few years ago.

When the session began, \$40,185,070 was already in the base budget for FY20/21. This year's additional allocation of \$9,814,930 is recurring as well. This \$50 million allocation is from a single trust fund, and for the first time ever, it is all recurring.

Whatever the reasoning, the final achievement on behalf of Florida's beaches for the 2020 Session was the **magic number and source**, the starting point for future years. How far we have come? Recurring trust funds over the past four years have gone from \$10M, to \$29.5.M, to last session's totally unexpected additional \$10M to bring us to just over \$40M. Now in the Conference Report on HB 5001, Florida's beach program has secured the ultimate goal the BeachWatch "Coalition of Interests" set out to achieve. When combining the statewide beach allocation with four local member appropriations projects, the Governor when reviewing the General Appropriations Act will consider beach-related funding of \$53,950,000. Fortunately, the \$50M for statewide projects reflects the Governor's Budget Recommendation for FY 20/21 so only the Association's expressed appreciation to the Governor is in order.

Page 4

April 2020



An obvious word of caution is in order— **there are no guarantees going forward**. There is a current appreciation for the economic benefits of Florida's beach program, and we need to work to preserve it. Let's make it hard to forget, losing 1998 dedicated funding of \$30 million annually for beach projects in 2008 during the recession, when it has taken since then to get back to a similarly-advantageous funding position.

Other Coastal-related Appropriations Issues

The following is a list of funding items monitored during Conference and their final budget allocation in HB 5001 that may be of interest:

- Water Quality Improvement (incl: Blue-Green Algae Task Force) \$10.8 M
- Hurricane Irma Marine Fisheries Disaster Recovery \$8.4M
- Hurricane Michael Marine Fisheries Disaster Recovery \$8.2M
- Harmful algal blooms \$600,000
- Coral Reef Disease Response \$820,000
- Coral Reef Protection \$10M
- Reef Protection/Tire Abatement \$2.5M
- Habitat Restoration \$1.5M
- Alternative Water Supply \$40M
- Florida Resilient Coastline Initiative \$10M
- Indian River Lagoon Water Improvement Projects \$25M
- Water Quality Improvement Grants \$25M
- St. Johns, Suwanee and Apalachicola River Watershed Projects \$25M
- Water Projects \$76.6M (Budget \$43.5, plus Supplemental "sprinkles")
- Florida Coastal Zone Management Program \$832,000

Other Budget and Policy-related Issues of Interest

Department of Agriculture: There was only one specific policy-based issue in the Agriculture & Natural Resources silo bumped to the Budget Conference Chairs that was resolved in late negotiations. That was the transfer of the Office of Energy (\$1.75M) from the Department of Agriculture to the Department of Environmental Protection, which ultimately was not included in the Conference Report.

Visit Florida: HB 213 (SB 362) passed, keeping the tourism marketing program in state law, reauthorizing it from July 1, 2020 to October 1, 2023. The Conference Report includes \$50M from the State Economic Enhancement and Development Trust Fund and Tourism Promotional Trust Fund for FY20/21.

The Tax Package: HB 7079 was almost derailed the last scheduled day of the session (Friday the 13th). After a saving amendment, amidst growing concerns surrounding COVID-19, the package was greatly reduced to less than \$50M, with \$41.8M of that for the back-to-school tax holiday. The controversial issue was one we identified in BeachWatch Updates, beginning in February, when the House tax package was just a PCB (Proposed Committee Bill), as that one provision in particular that could be of interest to BeachWatch members. As part of s. 125.0104, F.S., the Tourism Development Tax, an additional tax use was identified to fund a variety of specific water quality improvement projects.

Next Page



FSBPA has always monitored legislative proposals to expand the uses of the TDT, for fear of further diluting a major funding source for local government cost-sharing of beach and inlet management projects as part of the statewide program. A number of years ago, the Association urged consideration of current statutory language that prohibits funds identified by a county or city as the local matching source for projects in the state's long-range budget plan or funds contractually authorized in a financial plan for a federally authorized project to be used for other purposes. With limited local government funding options, we have a responsibility to identify potential challenges for sustaining the program and its economic and storm damage protection benefits over time. Be assured, however, we recognize as a "league of coastal governments" that establishing funding priorities is your responsibility alone.

This session was an exclusive tourism industry-driven battle that succeeded. However, it clearly left many in the House displeased, questioning in the final hours of session spending on advertising when water resources continue to be degraded. This was not the first year this idea was floated, and it will not be the last. It will be a balancing act for our coalition. Together, we must ensure that the beach nourishment emphasis and an important local matching source are sustained during the discussion of water quality and coastal resiliency local funding needs. Regardless, of how delicately we craft the argument, beach nourishment will be part of the discussion. The tourism industry brought us into the fold decades ago, reluctantly. Going forward, they might prefer advocating "beaches" be part of the "water quality projects" expansion sharing the "beaches 3rd cent" vs. their advertising dollars or other exclusive uses.

Substantive Policy Bills (Passed)

As you may be aware, the Association has begun focusing on near-shore environmental health issues in addition to our traditional program areas. While the risks of erosion on our beautiful beaches will never abate, the state must begin to address the impacts to our beaches and those who use them from other significant threats including sea-level rise, water quality and coral reef health. In particular, multiple studies show sea-level rise jeopardizes the very existence of many of our beaches, and we don't need any studies to prove how harmful algal blooms, both blue/green and red tide, render large swaths off limits for weeks and even months at a time. These events have and will continue to devastate our local beach dependent communities. Because of these emerging threats, the Association began more closely tracking relevant substantive legislation this Session and will take a more active role in supporting such bills beginning next Regular Session (Starting March 2021). The following summaries are for relevant bills we tracked this Session. If you would like information on any bill that did not make it through the process this year, please contact us.

SB 178 (HB 579) Financing of Construction Projects – Representing a major policy shift in addressing sea level rise, this bill requires a public entity that commissions or manages a construction project within the coastal building zone, using funds appropriated from the state, to conduct a sea level impact projection (SLIP) study prior to commencing construction. The DEP is required to adopt a rule to implement standards for SLIP studies, which must be conducted, submitted to DEP, and published on DEP's website for 30 days before construction can commence.

Shoreline

Regarding enforcement, the bill authorizes DEP to bring a civil action to seek injunctive relief to cease construction, enforce the section or rules adopted pursuant thereto, or seek recovery of state funds expended on a coastal structure, if construction commences without complying with the bill. However, the bill does not require a public entity to actually comply with any findings or recommendations contained within the study.

SB 326 (HB 73) Environmental Regulation – This bill, in relevant part, allows the repair or replacement of a dock or pier of the same or smaller size if it is within 5 feet of the original location and does not impact aquatic resources. Local governments are not allowed to require further verification from the owner for such dock repairs or replacements.

SB 712 (HB 1343) Water Quality Improvements – This is the Legislature's most recent attempt to address the significant degradation in Florida's water quality. As such, and because the provisions of the bill may impact your communities and your beach environment, more detail is provided here than usual.

Wastewater --- The bill transfers the Onsite Sewage Program from the Department of Health (DOH) to the Department of Environmental Protection (DEP) starting in 2021. The bill creates a temporary septic technical advisory committee within DEP. The bill also requires local governments to create septic remediation plans for certain basin management action plans (BMAPs). DEP must also implement a fast track-approval process for NSF/ANSI 245 nutrient reducing septic systems and revises provisions relating to septic system setback rules.

Regarding domestic wastewater, the bill requires local governments to create wastewater treatment plans for certain BMAPs but authorizes different cost options for projects that meet pollution reduction requirements. It creates a wastewater grant program that allows DEP to provide grants for projects within BMAPs, alternative restoration plans, or rural areas of opportunity that will reduce excess nutrient pollution. The bill requires, beginning July 1, 2025, wastewater treatment facilities discharging into the Indian River Lagoon to use advanced waste treatment. Lastly on wastewater, the bill imposes new requirements on wastewater facilities and DEP to prevent sanitary sewer overflows and underground pipe leaks.

Biosolids --- The bill requires enrollment in DACS's BMP program and prohibits the application of Class A or Class B biosolids within 6 inches of the seasonal high water table, unless a nutrient management plan and water quality monitoring plan provide reasonable assurances that the application will not cause or contribute to water quality violations. Permits will have to comply with the statute within two years and with DEP's biosolids rule within two years of it becoming effective. The bill grandfather's all existing local government biosolids ordinances.

Stormwater --- The bill requires DEP to: 1) update its stormwater design and operation rules and Environmental Resource Permit Applicant's Handbook; 2) make revisions to its local pollution control staff training; 3) evaluate the self-certification process for the construction, alteration, and maintenance of a stormwater management system; and 4) revise the model stormwater management program.

Agriculture --- Depending on the locale, agricultural operations can be a major source of surface water pollution. The bill requires the Department of Agriculture and Consumer Services (DACS) to perform onsite inspections at least every 2 years of agricultural producers enrolled in best management practices (BMPs).



DACS must prioritize inspections for producers in the BMAPs for Lake Okeechobee, the Indian River Lagoon, the Caloosahatchee River and Estuary, and Silver Springs. Many of these areas either directly or indirectly connect to our coasts. The bill creates a cooperative agricultural regional water quality improvement element as part of a BMAP in areas where agriculture is a significant source of pollution. Projects under the element could include conservation easements and dispersed water management. The bill authorizes legislative budget requests to fund these projects and requires DEP to allocate at least 20 percent of the funds it receives for projects in areas with the highest nutrient concentrations.

Other Major Provisions --- The bill doubles the fines for wastewater violations and increases the cap on total administrative penalties that may be assessed by DEP from \$10,000 to \$50,000 and the cap per violator from \$5,000 to \$10,000. It also requires DEP to establish a real-time water quality monitoring program, subject to appropriation, which there was none this year. The bill prohibits local governments from providing legal rights or so-called "rights of nature" to any plant, animal, body of water, or other part of the natural environment unless otherwise specifically authorized by state law or the State Constitution.

SB 966 (HB 1035) Public Record Exemption for Disaster Recovery Assistance – The bill makes confidential and exempt from public disclosure requirements property photographs and personal identifying information of an applicant for or a participant in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance for a presidentially declared disaster. The provision applies to photographs and personal identifying information held by the Department of Economic Opportunity, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency. The bill will alleviate some of the privacy concerns the residents in disaster areas, such as hurricanes, in applying for disaster recovery assistance.

SB 1042 (HB 1061) Aquatic Preserves – The bill designates the coastal region of Citrus, Hernando, and Pasco counties as an aquatic preserve system under the Florida Aquatic Preserve Act of 1975 and names it the "Nature Coast Aquatic Preserve." The bill also designates the region as an Outstanding Florida Water and includes legislative intent that the area "be preserved in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations." The preserve essentially closes the gap between the Big Bend Seagrasses and Pinellas County Aquatic Preserves.

SB 1450 (HB 1091) Environmental Enforcement – This bill, like parts of SB 712, makes numerous changes to the penalties for violating Florida's environmental laws. The bill increases required or maximum environmental penalties in various sections of the Florida Statutes, including for coastal zone construction. Most of the changes result in an increased penalty of 50 percent. DEP's administrative penalties are also increased for violations of ch. 403, F.S., from \$10,000 to \$50,000. Further, The bill changes the duration that several penalties may run, so that each day during any portion of which certain violations occur constitutes a separate offense, including administrative penalties for unauthorized discharges of domestic wastewater.

The bill also address leaking sanitary sewer laterals (the pipes that connect a building to the sewer pipe). The bill requires a seller of real property to disclose to a prospective purchaser, before executing a contract for sale, any defects in the property's sanitary sewer lateral that are known to the seller. The bill also encourages municipalities and counties to voluntarily establish within their respective jurisdictions an evaluation and rehabilitation program for sanitary sewer laterals on residential and commercial properties to identify and reduce leaks from laterals.



SR 1572 Climate Change – This is a Senate Resolution on climate change. The resolution expresses the intent of the Legislature to support and adopt policies that will prepare Florida for the environmental and economic impact of climate change, sea-level rise, and flooding. It also recognizes the important role that resiliency and infrastructure will play in fortifying this state. While the House did not adopt a similar resolution, this resolution may indicate the start of a major policy shift in the Legislature. It was adopted unanimously.



2020 Annual Conference September 16-18 Bonita Springs, Florida

Florida communities are facing unprecedented and unforeseen challenges this spring because of COVID-19, and public beaches are not impervious to this unique emergency. Beach and hotel closures go against the grain of our strategies and ideals to promote healthy beaches as a key



economic driver to Florida – a state whose tourism industry accounts for a record-high 13.4% of overall revenues with beaches as the #1 reason why. Still, we are all stepping up to do our part in slowing the spread of the virus through closures and quarantines.

While we monitor COVID-19 closely, FSBPA will move forward in preparing for the 2020 Annual Conference in hopes those efforts to slow the virus are successful and our economy begins to rebound this summer. FSBPA members are resilient and field-tested from years of working through a sundry of emergencies including hurricanes, nor'easters, harmful algal blooms and sea level rise. In the past, we have effectively shared our experiences and learned from one another; and in the process, we have become better managers, communicators, and stewards of our coastal environment. Let's not let this year be different. Keep your ideas coming and willingness to share with one another, what works and what doesn't.

CALL FOR ABSTRACTS

FSBPA is accepting a limited number of abstracts for inclusion in the Annual Conference program. Abstracts must have a policy focus. Ideas may include

- Measuring the economic benefits of beaches
- Sharing local government beach management funding strategies
- Shifting the mindset in your community on all things coastal resiliency
- Examining effective communication tactics (emergencies, access/easements, or prudent/imprudent construction activities)
- Rebounding after a crisis (in response to COVID-19 and the economic downturn)
- Implementing inlet management projects with major enhancements
- Regionalizing beach and/or inlet management projects does it work?
- Adding environmentally friendly beach and dune components to project designs

Be sure to submit an abstract to <u>mail@fsbpa.com</u> by June 15 for consideration. We will keep you informed about the status of our annual conference through our newsletters, website updates, and emails. Please email if you need assistance or have questions.



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FDEP Office of Resilience and Coastal Protection Updates



Spring, Beaches and COVID-19

Spring is here, and so is sea-turtle nesting season.

While many beaches, state parks, aquatic preserves and other state managed lands are closed due to COVID-19, coastal construction projects are ongoing, and permit-required monitoring is still being conducted and reviewed. The Florida Fish and Wildlife Conservation Commission (FWC) staff are closely coordinating with turtle and shorebird monitors to ensure coverage, so please call your usual Florida Department of Environmental Protection (DEP) staff contacts if you experience difficulties.

To assist in this, DEP staff sent a statewide email to local sponsors and/or agents, asking that DEP be notified of any planned construction activities during turtle nesting season. This will enable FWC to plan for and approve monitors in advance of anticipated construction start dates.

There are several permit applications in the process of review. The Beaches, Inlets and Ports Program, as well as the Coastal Construction Control Line Program, will be conducting business as usual. The Redfish Pass Inlet Management Plan has been posted to the website.

Beach Management Funding News

The Florida Legislature provided for \$50 million in Trust Fund dollars for the Beach Management Funding Assistance Program to cost-share with projects on the prioritized list. Once the Governor signs the budget, project managers will communicate with local sponsors to initiate the state cost-share agreement process. Many beaches may be restored or nourished with these funds.

Revisions to Rule 62B-36, F.A.C., are ongoing. There was substantial attendance at the second workshop, and several comments were received and are being reviewed. All workshop proceedings and materials can be found on DEP's webpage. While we hope to have a final rule in place before the next funding cycle, there are still some key components to fine tune. A third public workshop is tentatively scheduled to be conducted as a webinar for late April to discuss comments received and incorporated rule changes. Notice of the workshop, as well as a revised draft rule and project ranking trials will be distributed at least 14 days before the next workshop.

Coastal Construction Control Line (CCCL) Self-Service Permits for Minor Construction

To successfully uphold CDC guidance to maximize social distancing, there is an online self-service permit option for minor structures and activities located seaward of the CCCL, but landward of a beachfront house or in its side yards. The self-service permit for minor construction associated with a single-family dwelling is



one of three CCCL permits automated for paperless permitting, the other two are self-service permits for special events and beach cleaning. These no-cost, self-service permits are part of DEP's Enterprise Self-Service Authorization (ESSA) paperless permit initiative and are available through the Business Portal at www.FLDEPportal.com.

With the CCCL self-service permit for minor construction, the applicant certifies that the residential construction can be conducted in a manner consistent with CCCL regulations protecting beaches, dunes, property, sea turtles and beach access in <u>section 161.053</u>, Florida Statutes and Chapter <u>62B-33</u>, Florida Administrative Code. CCCL Beach Inspectors conduct compliance inspections of 10 percent of self-service CCCL permits.

What single-family residential coastal construction is eligible for self-certification?

- Minor structures and activities on single-family properties seaward of a CCCL, and located
 - landward of a major road, or
 - if beachfront, on the landward side of the house or in the side yards, and
 - not in coastal counties of Monroe, Hillsborough, Pasco, Hernando, Citrus, Levy, Dixie, Taylor, Jefferson and Wakulla.
- Where sited in one of the above locations, privacy fences and other frangible walls no more than six feet tall, sidewalks, driveways, equipment pads, ornamental garden structures, open decks with no roofs, water and irrigation wells, and onsite sewage disposal systems qualify for the permit.
- Where sited in one of the above locations, no more than 50 cubic yards of fill with no greater than two-foot vertical change in grade, and no more than 100 square feet of removal of native beach dune vegetation qualify for the permit.
- Where sited in one of the above locations, unroofed open decks are not to exceed 600 square feet qualify for the permit.

The online permit application works best when as much project-related information is collected as possible prior to entering the self-certification. This includes ownership information, dimensions of all proposed structures and their locations either in the front yard or side yards of the existing single-family residence.

To apply, sign into or register at the <u>DEP Business Portal</u>, click the box that says "Apply" and on the next page choose the "Build" and then the "Field Permit for Minor Structures and Activities Seaward of the CCCL" options. Enter project information and choose the exact location of your project on the map. Read the instructions carefully at each step.

For further information regarding CCCL self-service field permits, please call the Beach Field Services Program at (850) 245-7595 or email <u>CCCL@FloridaDEP.gov</u>.



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Florida Shore & Beach Preservation Association PO Box 13146, Tallahassee FL 32317 Phone: (850) 906-9227 • Fax: (850) 462-3575 www.fsbpa.com • mail@fsbpa.com

CALENDAR OF EVENTS

FSBPA Conferences

September 16-18, 2020 FSBPA Annual Conference Hyatt Regency Coconut Point, Bonita Springs, Florida



February 3-5, 2021 34th Annual Tech Conference Embassy Suites by Hilton, St. Augustine Beach, Florida



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