



Legislative Report / 2010 Session Week of March 15-19

The Legislature took on big issues this week such as the sovereign immunity issue was heard in the Senate as well as a 'slip and fall' bill, a wide ranging jobs bill and several hearings on offshore oil drilling. All of this was in addition to the House and Senate individual appropriations committees meeting.

Florida's Budget

The Senate budget subcommittees completed their work on their proposed budgets today, Friday, clearing the way for a vote in the full committee next week. A vote on the House budget bills in the full committee is scheduled for next week as well. We are continuing to work with stakeholders to encourage the Legislature to use federal FMAP funds to reduce impacts on health and social services providers.

The Senate's proposed cuts to health and human services are of particular concern, with cuts to hospital and nursing home rates, cuts to services for the developmentally disabled, and cuts to vision and dental services for seniors. The Senate has also proposed a full cut of all of the local services programs in the Department of Elder Affairs, including several local Alzheimer's programs, elderly meals programs and various senior center programs.

The House budget does not include these cuts, and we have been working closely with Representative David Rivera, the House appropriations chairman, to ensure that the programs are restored during conference.

We remain very concerned about library funding. While their efforts were admirable, the group of 4 - 5 people protesting library cuts on the 4th floor of the Capitol does not exactly demonstrate to the Legislature a broad and vocal constituency of concerned citizens.

While the nation seems focused on the congressional health care vote, FMAP remains a top concern to those of us in the state Capitol. While the FMAP extension seems poised to pass after a nod from the US Senate last week, quick action by the House is of the utmost importance as the Florida Legislature approaches critical budget deadlines.

The following is a brief summary of the discussions of note that took place during the week.

Budget

The House and Senate continued to move their budgets through the process this week. Here are highlights of some of the most significant issues in the growth and environmental categories:

	Senate	House
Florida Forever	0	0
Everglades Restoration	0	0
Local Water Projects	0	0
Drinking Water Revolving Loans	\$ 88,454,969	\$ 62,400,000
Wastewater Treatment Facility Const.	\$157,780,534	\$ 95,173,516
Beach Restoration	\$ 15,000,000	0
Underground Petroleum Tank Clean-up	\$142,000,000	\$120,000,000
Mosquito Control	\$ 2,166,168	\$ 2,160,000
Total Maximum Daily Loads	\$ 6,500,000	\$ 6,463,233
Water Management District Trust Funds	\$ 18,300,000	\$ 18,300,000

Substantive Legislation

PCB ANR 10-09 - Consumptive Use Permits

This proposed committee bill (pursuant to a strike all amendment) is being promoted by utility interests in the State and adds the following provision to §373.236(4):

Decreases in a permittee's demand for the permitted allocation due to conservation activities shall not result in a modification that decreases the maximum allocation during the term of the permit. An agricultural water use permit that requires implementation of the most efficient irrigation system that is economically feasible and available at the time of permit issuance shall not be modified to decrease the maximum allocation during the term of the permit if the permittee has implemented the required irrigation system.

An amendment to the amendment added the underlined language to §373.243(4):

For nonuse of the water supply allowed by the permit for a period of 2 years or more, the governing board or the department may revoke the permit permanently and in whole unless the user can prove that his or her nonuse was due to extreme hardship caused by factors beyond the user's control or due to reductions in water use caused by the implementation of conservation measures.

Both amendments were adopted and the bill as amended was passed out of committee.

PCB ANR 10-10 - Water Conservation

This proposed committee bill (pursuant to an adopted amendment) specifies the creation of the Florida-specific Conserve Florida Clearinghouse and authorizes the preparation of a Guide to be used to assist public water supply utilities in the design and implementation of goal-based conservation plans. The bill provides that water management districts and public water supply utilities are “encouraged” to use the guide in developing conservation plans, reporting on the implementation practices and measures included in consumptive use permits, evaluating proposals for financial cost sharing, and assessing effectiveness.

The bill provides that as part CUP applications, a utility may propose a goal-based conservation plan tailored to its individual circumstances “as a partial or entire alternative to the water conservation requirements adopted by the appropriate water management district.” The plan must include a means for measuring progress towards the water conservation goal(s).

The bill also provides that the water management district “shall approve the plan” if the utility provides reasonable assurance that the plan will provide cost-effective water conservation to achieve a reasonable demand for water considering the customers, service area, and other individual circumstances of the utility. This language deletes the requirement that goal-based plans must be at least as effective as water conservation requirements adopted by the appropriate water management district.

The bill as amended was passed by the committee.

PCB ANR 10-11 – Stormwater

The House Agriculture and Natural Resources Committee also passed this proposed committee bill regarding stormwater quality treatment. The PCB provides:

- Legislative intent that nutrients in stormwater contribute to the impairment of state waters, and a uniform statewide rule would provide scientific and technically sound assistance to permittees.
- DEP shall develop a rule by 7/31/11, in coordination with WMDs, which takes into account geographic differences, rainfall patterns, topography, soil, and vegetation. Districts and local governments shall implement the rule, but may adopt, amend or retain BMAPs for TMDLs, Everglades, Northern Everglades, and Lake Apopka improvement plans.
- Variations from the rule are prohibited. Existing rules will remain in effect until the new rule is adopted. Compliance with treatment requirements will create a presumption of compliance whether numeric or narrative.
- The rule shall establish guidelines for new development on 10 acres or more, and on sites with legacy pollutants. The following remains subject to rules currently in effect: stormwater systems in existence; permitted activities (except modifications extending construction beyond 4 years or leading to substantially different impacts); and systems serving the agriculture industry.

Although members expressed concerns with fiscal impacts (described as uncertain but extensive), rural and agricultural exemptions, and dispute resolution, the PCB (as amended) was passed by the committee.

SB 126 - Community Redevelopment

On Tuesday, the Senate Finance and Tax Committee considered a bill which would expand the current definition of the term "blighted area" in § 163.340(8), F.S., to include undeveloped land previously used as a military facility, which the Federal government has declared surplus within the preceding 20 years. This would authorize a county or municipality to create a Community Redevelopment Area (CRA) as a means of redeveloping these former installations. In addition, the local government could establish a community redevelopment trust fund utilizing revenues derived from tax increment financing (TIF) to finance redevelopment projects within that area.

The bill was recorded favorably and now moves on to the Senate Transportation and Economic Development Committee.

SB 262 – Relating to the Department of Community Affairs

This is the Senate's bill reenacting the Department of Community Affairs, including the Division of Community Planning, the Division of Housing and Community Development, the Division of Emergency Management, and the Florida Housing Finance Corporation. The bill was recommended favorably this week by the Senate Community Affairs Committee and now moves on to Transportation and Economic Development Appropriations.

HB 569 – Landfills

This bill would allow the deposit of yard waste in Class I landfills, if those facilities: i) are designed to utilize an active gas collection system, ii) provide or arrange for beneficial use of the landfill gas collected; and iii) obtain a permit modification.

The bill was recorded favorably by the House General Government Policy Council, its final committee of reference, and now will be placed on the Calendar for second reading.

PCS/SB 570 – Solid Waste Recycling

The Proposed Committee Substitute (PCS) includes numerous provisions aimed at increasing the percent of the waste stream that is recycled in Florida. Specifically, the PCS:

- Amends § 403.7032, F. S., to require all cities, county, state entities, public schools and businesses that employ more than 25 people, to report to their county their recycling rates on all recyclable materials.
- Directs the Department of Management Services (DMS) to modify their procurement system to track the state's purchases of green and recycled materials.
- Revises § 288.9015, F.S., and directs the DEP and Enterprise Florida, to create the Recycling Business Assistance Center to coordinate between state agencies and the private sector to develop new markets for recyclable materials.
- Amends § 403.7046, F.S., to delete an obsolete requirement that the DEP appoint a technical advisory committee to assist in developing rules governing the regulation of recovered materials.
- Specifies that all Materials Recovery Facilities must report the details of the materials they receive to DEP and to the counties.
- Amends § 403.705, F.S., to require the DEP to report to the Legislature the state's recycling rates every two years.
- Revises § 403.706, F.S., outlining the state's incremental recycling goals and specific benchmarks that must be reached by December 31, 2020. Specifically, each county must implement a recycling program that is designed to recycle:
 - i) 40% by December 31, 2012,
 - ii) 50% by December 31, 2014,
 - iii) 60% by December 31, 2016,
 - iv) 70% by December 31, 2018,
 - v) 75% by December 31, 2020.
- Outlines state recycling goals commercial and multi-family dwellings. The bill provides that all commercial and multi-family construction projects including but not limited to apartment complexes which begin construction after July 1, 2010, must provide an opportunity for the tenants and owners to recycle, including providing designated space for the placement of recycling receptacles.
- Requires that if the state has not reached a recycling rate of forty-five percent by January 1, 2014, DEP will investigate and report to the Legislature programmatic changes that could assist in achieving the recycling goal.
- Deletes a requirement that all counties compost at least 5 percent of organic materials.
- Details that solid waste for the production of renewable energy can count toward the recycling goals if the county in which a waste to energy facility is located has a program that is designed to recycle at least fifty percent of the municipal solid waste by means other than gasification or combustion. An allowance is made, however, for those counties that have bond payments tied to the revenue stream of these facilities.
- Specifies that local governments may enact ordinances to require multi-family dwellings and apartment complexes to establish programs for the separation of recyclable materials.
- Specifies that the Capitol buildings report their recycling rates to Leon County, and that those rates shall be posted on DEP's website.

- Includes a provision that allows for a pilot program to test innovative recycling practices.
- Outlines state recycling goals for construction and demolition debris. Requires that each county implement a program that will reduce C&D debris that is disposed of in landfills by:
 - i) 40% by December 31, 2012,
 - ii) 50% by December 31, 2014,
 - iii) 60% by December 31, 2016,
 - iv) 70% by December 31, 2018,
 - v) 75% by December 31, 2020.
- Revises § 403.707, F.S., to require liners and leachate collection systems in certain landfill facilities constructed after July, 2010, that accept construction and demolition materials.
- Establishes recycling benchmarks in addition to the requirement that all construction and demolition debris be processed prior to disposal.
- Requires that DEP conduct at least one unannounced inspection annually, at all waste-to-energy facilities, to ensure that the facility is in compliance.
- Repeals § 288.1185, F.S., the Recycling Markets Advisory Committee in the Office of Tourism, Trade, and Economic Development.

The bill was passed by the Senate Environmental Preservation and Conservation Committee and will now move on to the Senate Community Affairs Committee.

HB 665 – Affordable Housing

This bill revises those statutes which govern the implementation of affordable housing practices and procedures statewide by the Florida Housing Finance Corporation (FHFC). The FHFC is the state entity primarily responsible for encouraging the construction of affordable housing in Florida. The bill addresses a number of different subject areas.

The bill revises the state housing strategy to provide targeted assistance for persons with special needs. It includes an analysis of persons with special needs in the strategy's periodic review and report and provides for the distribution of housing funds for multifamily rental housing. To address the housing needs of persons most in need, the bill creates two new definitions to enact the newly established state housing strategies: those suffering from a “*disabling condition*” and those defined as “*person[s] with special needs.*”

The bill empowers the FHFC with specified powers necessary or convenient to carry out the purposes of affordable housing relating to the investment of surplus funds and, the administration of programs receiving federal funding for which no corresponding program has been previously created by statute.

The bill provides that funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for use in the State Apartment Incentive Loan (SAIL)

Program, Florida Homeownership Assistance Program (FHAP), Community Workforce Housing Innovation Pilot (CWHIP) Program, or the State Housing Initiatives Partnership (SHIP) Program may not be used to finance or otherwise assist new construction until July 1, 2011.

HB 1095 – Relating to Special Districts

This bill revises the merger and dissolution procedures in § 189.4042, F.S. for independent special districts. The bill specifies when a referendum is required, and preempts any special acts to the contrary. The bill also requires a determination of the proper allocation of indebtedness and the transfer of title.

The bill clarifies that independent special districts created by a county or municipality by referendum may be merged or dissolved by referendum. Likewise, any independent special district with ad valorem taxation powers, which was created by referendum or any other procedure, may be merged or dissolved by the procedure by which it was granted that taxing authority.

The bill also provides that the government formed as a result of a merger shall assume all indebtedness of, and receive title to all property owned by, the preexisting independent special district. The proposed charter shall determine the proper allocation of the indebtedness and the manner in which the debt shall be retired.

An amendment was adopted which provides that if the governing body of a special district unanimously adopts a resolution declaring the district inactive, and no administrative appeals were filed, the special district may be dissolved without a referendum.

The bill as amended was recorded favorably by the Military & Local Affairs Policy Committee and now moves on (as a committee substitute) to the Finance and Tax Council.

HB 1109 – Water Supply

This bill creates a new Part VII to Chapter 373, F.S., to include all of those existing sections within the chapter that address water supply policy, planning, production and funding. Specifically, the bill repeals §§ 373.0361, 373.0391, 373.0831, 373.196, 373.1961, 373.1962, and 373.1963, F.S., and incorporates these sections into the new Part VII, with numerous conforming cross-references.

The bill (with one technical amendment) was recorded favorably by the Military & Local Affairs Policy Committee, and the committee substitute will now move on to the Natural Resources Appropriations Committee.

SB 1118 - Docks

This bill was heard and a Committee Substitute (CS) adopted by the Senate Community Affairs Committee. Specifically, the bill:

- Amends § 258.42, F.S., allowing private residential single-family dock owners in aquatic preserves to build roofs over their docks, boat lifts and davits.
- Amends § 403.061, F.S., authorizing the DEP to conduct rulemaking for the construction of small docking facilities in shellfish harvesting and recreation waters.
- Directs the DEP to maintain a list of projects or activities that satisfy mitigation or public interest requirements.
- Directs the DEP to develop a project management plan for expanding online self-certification.
- Amends § 403.813, F.S., providing that minor changes and upgrades to docks and piers do not require a permit for repair or replacement.

SB 1126 – Permitting

This bill transfers certain responsibilities for the expedited permitting of economic development projects from the Office of Tourism, Trade, and Economic Development (OTTED) in the Executive Office of the Governor to the DEP. The bill expands expedited permit review eligibility to biofuel production and power generation. It also changes the procedures to appeal state action under the expedited review process.

The bill was favorably recommended by the Senate Community Affairs Committee and now moves on to the Commerce Committee.

HB 1169 – Ports Investment

This bill creates a new section of law entitled the Florida Ports Investment Act. The bill creates an incentive for insurance companies to make investments in the entity created by the bill in exchange of future insurance premium tax credits. The entity will make subsequent investments in port projects upon application by ports. An insurance company which makes an investment will earn a vested credit against premium tax liability equal to one-hundred percent of the face amount of the credits purchased by the participating investor. The insurance company is entitled to use no more than 10 percent of the credit, including any carry-forward credits, per year beginning with premium tax filings for calendar year 2012. The total amount of tax credits which may be allocated may not exceed \$100 million. Participating insurance companies may use no more than \$10 million annually.

On March 17, 2010, the Economic Development Policy Committee adopted a strike-all amendment, which:

- Revised how the vested credit against premium insurance tax liability is determined.
- Revised how the Florida Ports Investment Corporation is created, and provides that it and its advisory company are subject to open records laws.
- Added to the corporation's board the Secretary of the Department of Transportation as an ex officio, non-voting member.
- Required that funding for any projects must be made on a matching basis.
- Reduced the total amount of tax credits which may be allocated from \$500 million to \$100 million, and reduced the amount of tax credits that may be used from \$50 million to \$10 million annually.
- Revised the transfer of tax credits provisions to authorize only a one-time transfer.
- Allowed the Department of Revenue to share tax credit information with the Office of Tourism, Trade, and Economic Development (OTTED).

The bill was reported favorably by the committee, and now moves on to the Transportation & Economic Development Appropriations Committee.

SJR 1206 – Property Tax Exemption – Renewable Energy Source Devices

This joint resolution proposes an amendment to article VII, Sections 3 and 4 of the Florida Constitution, which if approved by voters at the next general election, would give the Legislature authority to grant an ad valorem tax exemption for a renewable energy source device, and for real property on which the device is installed and operated. The value and duration of the exemption shall be fixed by general law, not to exceed the original cost of the device or a term of ten years.

The joint resolution also creates a new section in article XII of the Florida Constitution proposing a schedule of effective dates for these constitutional amendments. The resolution was approved by the Senate Community Affairs Committee this week.

HB 1225 - Relating to Sewage Disposal Facilities

Current law requires any sewage disposal facility discharging through an ocean outfall to install a functioning reuse system no later than December 31, 2025. A “functioning reuse system” is defined as an environmentally, economically, and technically feasible system that provides a minimum of 60 percent of the facility's annual flow for irrigation of public access areas, residential properties, or agricultural crops; aquifer recharge; groundwater recharge; industrial cooling; or other acceptable reuse purposes authorized by DEP. Flows directed from the outfall facilities to other facilities that will provide 100 percent reuse of the redirected flows prior to December 31, 2025, will count towards meeting the 60 percent requirement.

An amendment to the bill was adopted by the House Agriculture & Natural Resources Policy Committee. The bill as amended now provides that an entity that diverts wastewater flow from a receiving facility discharging through an ocean outfall is required to meet the 60-percent reuse requirement. Reuse by the diverting entity shall be credited to the diverting entity, and the diverted flow shall also be correspondingly deducted from the receiving facility's actual flow on

an annual basis from which the required reuse is calculated, such that the reuse requirement will then be recalculated accordingly.

The bill as amended was recorded favorably by the Agriculture & Natural Resources Policy Committee, and a Committee Substitute will now move to the Natural Resources Appropriations Committee.

HB 1297 – Northeast Florida Regional Transportation

This bill expands upon the recommendations of a DOT report, prepared pursuant to a legislative direction in 2009, regarding the creation of a regional transportation authority in Northeast Florida.

Specifically, the report recommended that the Legislature form a Regional Transportation Study Commission to finalize the analysis in the report, and to prepare draft legislation on forming the Regional Transportation Authority (RTA). The bill creates the Northeast Florida Regional Transportation Study Commission, which is to be composed of citizens from Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties, with non-voting representatives from the Jacksonville Transportation Authority (JTA), DOT, the Northeast Florida Regional Council, and the North Florida Transportation Planning Organization. The commission will be staffed and funded by JTA.

By December 31, 2012, the Commission is required to prepare a report detailing its findings and making specific legislative recommendations, including:

- A regional transportation elements plan;
- The defining characteristics of transportation elements of regional significance;
- An implementation plan for undertaking a regional transportation elements plan, which may include the establishment of the regional transportation authority,
- Legislation consistent with this act; and
- Any other recommendations the commission deems appropriate.

The bill was unanimously passed by the Roads, Bridges and Ports Committee, and a Committee Substitute will now move to the House Transportation and Economic Development Appropriations Committee.

HB 1385 - Petroleum Contamination Site Cleanup

This bill allows the DEP to establish a long-term “natural attenuation” monitoring category for sites in the Petroleum Cleanup Program. The DEP is required to utilize natural attenuation monitoring strategies and, when cost-effective, transition sites eligible for restoration funding assistance to a lower priority, long-term natural attenuation monitoring where a site meets certain criteria.

The bill requires DEP to evaluate whether natural attenuation monitoring is cost-effective and whether it will adequately protect public health and the environment. DEP must also evaluate site-specific characteristics that will allow for higher natural attenuation or long-term natural attenuation concentration levels.

Unless institutional controls have been imposed by the responsible party or property owner to restrict the uses of the site, the bill precludes local governments from denying development orders or permits on the grounds that petroleum contamination exists onsite.

The bill establishes a low-scored site initiative for sites with a priority ranking score of 10 points or less and provides conditions for voluntary participation. If these conditions are met, DEP must issue a No Further Action (NFA) order, which means minimal contamination exists onsite and that contamination is not a threat to human health or the environment. If no contamination is detected, DEP may issue a site rehabilitation completion order (SRCO).

Sites that are eligible will be initiated by the source property owner or responsible party for the contamination and are strictly voluntarily. DEP may pre-approve the cost of the assessment pursuant to § 376.30711, F.S., including 6 months of groundwater monitoring, not to exceed \$30,000 for each site. DEP may not pay the costs associated with the establishment of institutional or engineering controls. Assessment work must be completed no later than 6 months after DEP issues its approval.

The bill authorizes DEP to spend no more than \$10 million per fiscal year to assess low scored sites. Funds will be made available on a first-come, first-served basis and will be limited to 10 sites in each fiscal year for each responsible party or property owner. The bill deletes the provisions relating to funding for limited interim soil-source removals, which sunsets June 30, 2010.

By unanimous vote, the bill was recorded favorably by the House Agriculture & Natural Resources Policy Committee, and now moves on to the Natural Resources Appropriations Committee.

CS/HB 1445 - Department of Agriculture and Consumer Services

This bill addresses several issues related to agriculture and the powers and duties of the Department of Agriculture and Consumer Services (DACS). Among other things, the bill:

- Gives the DEP rule-making authority to periodically update the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes;
- Requires local governments, in some areas, to meet certain criteria prior to adopting additional or more stringent standards relating to the Model Ordinance;
- Allows on-line submission of certain applications to the department;
- Requires all 40 hours of training be completed prior to license application by private investigator interns and security officers;
- Specifies the quantity of antifreeze to be submitted to the department for testing;

- Authorizes DACS to collect fees for the analysis and inspection of ethanol;
- Removes language restricting the stop-sale order for brake fluid to be confined to the location where the violation occurred and changes the registration renewal fee for brake fluid from \$50 to \$100;
- Allows the inspection and registration of sites in the natural environment where aquatic plants are tended for harvest;
- Deletes language regarding poultry grading which hasn't been used in 10 years;
- Grants DACS authority to delegate to local governments the issuance of authorizations for open burning and establishes a certified pile-burner program;
- Amends the Florida Farm Winery program to recognize wine produced from agricultural products other than grapes;
- Grants DACS the authority to issue a stop-operation order for amusement rides;
- Requires a concealed firearm license applicant to submit fingerprints administered by DACS

By unanimous vote, the bill was recorded favorably by the House Agriculture & Natural Resources Policy Committee, and now moves on to the Natural Resources Appropriations Committee.

HB 1509 – Economic Development

This economic development bill addressing a number of substantive areas was considered and a proposed committee substitute was adopted by the House Economic Development Policy Committee. The PCS contains numerous provisions, including:

- Amends authority to grant economic development ad valorem tax exemptions;
- Establishes a legislative notification procedure that an action or proposed action by the Governor exceeds delegated authority, and provides a mechanism for the Governor and agency response to such notification;
- Amends allowable uses for grants awarded under the regional rural development grants program;
- Makes changes to the high impact business performance grant program and the quick action closing fund, and
- Extends certain water-related permits issued by the DEP or water management districts pursuant to ch. 373, F.S., and certain local-government issued development orders and building permits.

SB 1752 – Relating to Economic Development

This is the comprehensive Senate Jobs Bill. Among the many economic and development incentives, the bill includes the following provisions:

Section 23 – Expedited Permitting

This section requires DEP, water management districts, or a local government with delegated permitting authority to approve or deny a permit within 30 days of receipt of any application for activities involving the management or storage of surface waters. After 30 days, the permit will be approved by default, unless the permit is part of a federally delegated program. (§ 373.4141, F.S.)

Section 24 - Local Government Delegation

This section creates a permit-delegation appeals process before the Governor and Cabinet. More specifically, the section amends § 373.441, F.S., as follows:

- Provides for a local government to petition the Governor and Cabinet for the review of a denial of a request for delegation of authority or one on which the DEP has not acted within 1 year;
- Requires DEP to provide specific detail of why it denied a local government's request for a delegation of authority, including the statutory or rule provisions that the local government's submission did not satisfy;
- Specifies that the Governor and Cabinet may reverse DEP's decision;
- Provides that a county having a population of more than 75,000 or a municipality serving populations of more than 50,000 must apply for delegation of authority on or before June 1, 2011. A county, municipality, or local pollution control program that fails to apply for delegation of authority may not require permits that in part or in full are substantially similar to the requirements needed to obtain an environmental resource permit

Section 25 - Self-Certification for Certain Permits

This section amends § 403.061, F.S., to direct DEP to expand the use of online self-certification for appropriate exemptions and general permits issued by the department and the water management districts, if the expansion is economically feasible.

The section also provides that a local government may not specify the form or method for documenting whether a project meets the requirements for authorization for coastal permits (ch. 161, F.S.); sovereign-submerged land permits (chapter 253, F.S.); consumptive use permits (ch. 373, F.S.); or permits related to the management and storage of surface waters (ch. 403, F.S.).

Section 26 - General Permit for Certain Activities Designed by Professional Engineers

This section amends § 403.814, F.S., to allow surface water management projects of up to 40 acres in size, which have been designed by a licensed professional engineer and which meet other specific criteria, and to proceed without obtaining a DEP or WMD permit as long as the agency is notified within 10 days after the project has begun. The activities may commence without any DEP or a WMD action if:

- The surface water management system’s design plans and calculations are signed and sealed by a professional engineer;
- The system will not be located in surface waters or wetlands;
- The system will not cause adverse water-quality impacts to receiving waters and adjacent lands or to existing surface water storage and conveyance systems, or create adverse flooding, as provided by DEP or WMD rule;
- The system will not adversely affect water-quality standards of public water

bodies (“waters of the state”), include Outstanding Florida Waters, as provided by

DEP or WMD rule;

- The system will not adversely impact the minimum flow and level of surface or ground waters, as provided by DEP or WMD rule;
- The system will not cause adverse impacts to canals, levees, dikes, or other works of a WMD, as provided by DEP or WMD rule;
- The system will not be part of a larger plan of development or a sale;
- The system complies with all applicable National Pollutant Discharge Elimination System (NPDES) requirements, as implemented by DEP or WMD rule; and
- Within 10 days after project construction begins, the professional engineer who designed the project submits to DEP or the applicable WMD written notice of the project’s commencement.

SB 2182 – Agriculture

This bill, as amended:

- Prohibits the denial of an agricultural classification on land if the only changed circumstance is that the land has been offered for sale, and applies this prohibition retroactively to all parcels for which a final court order has not been entered.
- Grants authority to the Department of Environmental Protection (DEP) to enter into agreements with the Department of Agriculture and Consumer Services (DACS) and the Fish and Wildlife Conservation Commission (FWCC) to develop a permitting process that will allow DEP to regulate pesticides applied to waters of the state in a manner that satisfies the requirements of the National Pollutant Discharge Eliminations (NPDES) Program in accordance with the federal Clean Water Act.
- Provides that the Citrus and Research Development Foundation, Inc., shall serve as the advisory council for a citrus research marketing order and provides the membership composition for the foundation’s board of directors.
- Amends the box assessment for citrus fruit to an assessment not to exceed the amount included in the marketing order and requires the funds to be deposited into the appropriate trust fund instead of the General Inspection Trust Fund
- Removes language that limits research projects to citrus diseases.

The bill was recommended favorably by the Senate Community Affairs Committee (with several amendments) and now moves on to the Environmental Preservation and Conservation Committee (which was just added to the committees of reference this week).

SB 2322 – Energy Improvement Districts

This bill authorizes local governments to create energy improvement districts to finance energy efficiency and renewable energy improvements for participating property owners, which would be repaid through district levied non-ad valorem assessments on the property. The bill also establishes tax exemptions for all assets and properties within the district.

The bill provides for the creation of district boards with the authority to issue assessment bonds, revenue bonds, notes, bond anticipation notes or other evidence of indebtedness to finance certain energy and wind resistance improvements.

The bill was recommended favorably by the Senate Community Affairs Committee, and a committee substitute will move on to the Communications, Energy, and Public Utilities Committee.

SB 2452 – Relating to Growth Management

This bill is intended to provide some degree of certainty in light of the lawsuit challenging the constitutionality of last year's Senate Bill 360 (Chapter 2009-96, Laws of Florida). The bill provides protection for exemptions related to developments of regional impact, permit extensions, and comprehensive plan amendments or land development regulations implementing transportation concurrency exception areas. Any judicial declaration of invalidity shall operate only prospectively with respect to these provisions. The bill provides a retroactive effective date of June 1, 2009.

The bill was recommended favorably by the Senate Community Affairs Committee and will now move on to the Judiciary Committee, its final reference.

CS/SB 2074 – Agriculture

This bill addresses the following issues related to agriculture:

- Prohibits counties from enforcing any regulations on land classified as agricultural if the activity is regulated by best management practices, interim measures, or regulations.
- Prohibits counties from imposing an assessment or fee for stormwater management on land classified as agricultural if the operation has a National Pollutant Discharge Elimination System permit, an environmental resource permit, a works-of-the-district permit, or implements best management practices.
- Allows a county to enforce its wetland protection acts adopted before July 1, 2003.

- Creates the Agricultural Land Acknowledgement Act to ensure that agricultural practices will not be subject to interference by residential use of land contiguous to agricultural land.
- Requires an applicant for certain development permits to sign and submit an acknowledgement of certain contiguous agricultural lands as a condition of the political subdivision issuing the permits.
- Expands eligibility for exemption from a local business tax receipt for persons who sell land for farm, aquacultural, grove, horticultural, floricultural, or tropical fish farm uses, or products manufactured therefrom.
- Revises the term “farm tractor” to clarify that a farm tractor may also be an all terrain vehicle, or other utility vehicle.
- Reverses legislation enacted in 2005 to return tropical foliage to exempt status from the provisions of the License and Bond law.
- Exempts farm fences from the Florida Building Code, and farm fences and nonresidential farm buildings from county or municipal codes and fees.
- Allows additional fiscally sound, multi-peril crop insurers to sell crop insurance in Florida.
- Makes § 823.145, F.S., consistent with § 403.707, F.S., relating to the disposal of certain materials used in agricultural operations.

The bill was recommended favorably by the Senate Community Affairs Committee and a committee substitute now moves on to the Banking and Insurance Committee.

PCB EUP 10-03 - Property Assessed Clean Energy (PACE)

This proposed committee bill establishes a Property Assessed Clean Energy (PACE) Program for Florida. PACE is a model that has recently become popular as an innovative way for local governments to encourage property owners to reduce energy consumption and increase energy efficiency. The PACE model allows individual residential, commercial, or industrial property owners to contract directly with qualified contractors, with the local government providing the upfront funding through proceeds of revenue bonds; repaid through an assessment on participating property owners’ tax bills.

The bill creates § 163.08, F.S., providing supplemental authority to local governments regarding qualified improvements (a list is included in the bill) to real property. The bill provides that if a local government adopts an ordinance or resolution creating a program to provide up-front financing for energy conservation and efficiency, renewable energy, or wind resistance improvements, a property owner within the jurisdiction may apply to the local government for funding to finance a qualifying improvement. The qualifying improvement must be affixed to an existing building or facility that is part of the property and if the work requires a license, it must be performed by a properly certified or registered contractor. The bill also provides for notice to the mortgage holder.

The bill authorizes a local government to: partner with one or more local governments for the purpose of providing and financing qualifying improvements; levy a non-ad valorem assessment

to fund a qualifying improvement; incur debt to provide financing for qualifying improvements; and collect costs incurred from financing qualifying improvements through a non-ad valorem assessment, a municipal or county lien, or through any other lawful method.

Finally, the bill provides that no provision in any agreement between a local government and an energy, power, or utility provider shall limit or prohibit any local government from exercising its authority under this section and that the section is additional and supplemental to county and municipal home rule authority.

The bill was passed by the House Energy & Utilities Policy Committee and will now move on to the House floor.