



Legislative Report Fourth Week of Regular Session March 22-26, 2010

The Legislature met for the fourth week of the 2010 Regular Session beginning March 22th. The following is a brief summary of the discussions of note that took place during the week.

BUDGET

With an abbreviated week planned in observance of the Passover and Easter holidays, the Legislature was determined to move quickly through the budget and is beginning to take steps to put broad based issues such as class size, bright futures scholarships, economic development and fee rollbacks into play for their negotiations in the closing weeks.

The Senate's Ways and Means Committee will complete their committee work today in preparation for a floor vote on the budget on Wednesday of next week. The Senate's work on the budget provided the first glimpse of how the Legislature will use FMAP funds and provided some relief to the Health and Human Services budget, which was hurting. Senator Durrell Peaden, Chair of the Senate's Health and Human Services Appropriations Committee, ran an amendment to restore \$243 million in cuts to critical programs, including the Medically Needy program and Meds AD, healthy families, services to those with developmental disabilities and the hospital inpatient and outpatient rates. The funding is nonrecurring and contingent on Florida's receipt of the FMAP dollars. Other items of note that were restored:

- Senator Diaz de la Portilla restored cuts to local services programs in the Department of Elder Affairs, which includes the meal programs and several Alzheimer programs.
- Senator Fasano restored \$15 million in state-aid to libraries, which is a huge improvement, but it is also approximately \$8 million less than current year funding.
- Senator Baker and Senator Lawson restored \$15 million in the Florida Forever land program in order to move the issue to a conference position. The amendment provides

\$300,000 to the FRDAP program and provides some funding for the Florida Communities Trust Program.

- Senator Fasano restored \$500,000 for the Highway Beautification grants program.

Both Chambers are expected to finalize their budgets next week. Here are highlights of the current positions on some of the most significant issues in the growth and environmental categories:

	Senate (SB 7090)	House
Florida Forever	15,000,000	0
Everglades Restoration	10,000,000	0
Local Water Projects	0	0
Drinking Water Revolving Loans	88,454,969	62,400,000
Wastewater Treatment Construction Facility	157,780,534	95,173,516
Construction		
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	22,800,000	18,300,000

SUBSTANTIVE LEGISLATION

PCB ANR 10-14 – Drinking Water

This proposed committee bill was considered for the first time by the House Agriculture and Natural Resources Policy Committee. The bill would rename the Florida Water Pollution Control Financing Corporation the “Florida Pollution Control and Drinking Water Financing Corporation,” and would expand the available projects on which the Corporation could expend funds to include drinking water supply projects. The proposed committee bill was recommended favorably on Thursday with two technical amendments by the committee. It will now be assigned a bill number and move through the process.

CS/HB 77 – Florida Energy and Climate Commission

This bill directs the Florida Energy and Climate Commission (Commission) to prepare a report, to be submitted to the President of the Senate and the Speaker of the House of Representatives, by December 1, 2011, that:

- Identifies methods of increasing energy-efficiency practices among low-income households. At a minimum, these include energy efficiency programs currently offered to low-income households by community action agencies, community-based organizations, and utility companies. The Commission must also identify similar programs offered to low-income households in other states.
- Determines the statewide impact of improving the level of energy efficiency of rental housing properties, including, but not limited to, the environmental benefits of the improvements, and the potential fiscal impact on property tenants, owners, and landlords and the economy.
- Considers the relative equity and economic efficiency of the cost share for such energy efficiency improvements.

The bill also provides recommendations to effect more energy efficiency practices among low-income household residents. The bill was favorably recommended by the House Energy and Utilities Policy Committee this week.

SB 142 – Water Management Districts

This bill removes a provision adopted last session (SB 2080) that directed the water management districts’ governing boards to delegate to the executive director their authority to take final action on consumptive use permits and environmental resource permits. The bill also removes the provision that prohibited governing board members from interfering during the permit review process if that permit would require final agency action by the governing board.

The bill creates a provision that will allow governing boards to delegate permitting decisions to the executive director and will allow the executive director to delegate to designated staff. It also directs the governing board to provide a process for the appeal of permits denied under such delegation.

The bill was recommended favorably by the Senate Environmental Preservation and Conservation Committee, and will now move on to Governmental Oversight and Accountability. The companion bill in the House (**HB 659**) is now in the Agriculture & Natural Resources Policy Committee, its first committee of reference.

HB 143 – Transportation Concurrency Exceptions

Section 163.3180(4)(b), F.S., exempts public transit facilities from transportation concurrency requirements to promote alternative modes of transportation. Some specific exemptions under this paragraph include:

- Airport passenger terminals and concourses
- Air cargo facilities

- Hangars for aircraft storage or maintenance

This proposed committee substitute (PCS) amends § 163.3180(4)(b), F.S., to exempt hangers for the assembly or manufacture of aircraft from transportation concurrency requirements. The bill was recommended favorably on Thursday by the House Military and Local Affairs Committee.

CS/SB 152 - Surcharge on Bottled Water

This bill would impose an environmental surcharge “on each bottle of water sold in the amount of 6 percent of the sales price of each item, article, or group of items of or containing bottled water when sold at retail in this state.” The funds collected from the surcharge would be deposited into the Ecosystem Management and Restoration Trust Fund within the Department of Environmental Protection.

The bill was recommended favorably by the Senate Commerce Committee this week and now moves on to the Finance and Tax Committee.

HB 207 – Contamination Notification

This bill would clarify and expand the notification of contamination when it is discovered. The bill would require notification of contamination be given to:

- The mayor, the chair of the county commission, or the comparable senior elected official representing the affected area.
- The city manager, the county administrator, or the comparable senior administrative official representing the affected area.
- The state representative and state senator representing the affected area.
- All real property owners, presidents of any condominium associations or sole owners of condominiums, presidents of any cooperative associations or sole owners of cooperatives, lessees, and the tenants of record for:
 - Any real property, other than the property at which site rehabilitation was initiated pursuant to s. 376.3071(5), s. 376.3078(4), s. 376.81, or s. 376.30701, at which contamination has been discovered;
 - Any properties identified within the boundaries of a contaminant plume located on a contaminant plume map provided pursuant to subparagraph (2) (b) 4., any properties identified by state licensed professional engineer or professional geologist through a certified site-specific determination that such contamination is reasonably likely to be present beyond the boundaries of the source property, or any properties within a 500-foot radius of each sampling point at which contamination is discovered where a contaminant plume map is not provided, if site rehabilitation was initiated pursuant to s. 376.30701 or an administrative or court order; and

- Any properties identified within the boundaries of a contaminant plume located on a contaminant plume map provided pursuant to subparagraph (2) (b)4., any properties identified by a state licensed professional engineer or professional geologist through a certified site-specific determination that such contamination is reasonably likely to be present beyond the boundaries of the source property, or any properties within a 250-foot radius of each sampling point at which contamination is discovered where a contaminant plume map is not provided, if site rehabilitation was initiated pursuant to s. 376.3071(5), s. 376.3078(4), or s. 376.81, or at, or in connection with, a permitted solid waste management facility subject to a groundwater monitoring plan.

In addition, the bill provides for notice under certain circumstances to private PreK-12 schools, child care facilities, public or private colleges or universities, and under some circumstances notices to parents or those attending those facilities.

The bill was recommended favorably on Thursday in the House Agriculture and Natural Resources Policy Committee with a strike-all amendment, which is generally described above.

SB 274 – Growth Management

This bill was not considered this week by Senate Community Affairs, which means that it likely will be considered the next time the committee meets. A proposed committee substitute (PCS) and an amendment are pending to the bill.

The PCS specifies which local governments are affected by military bases, and authorizes commanding officers to provide comments on local government waivers that may have an effect on the military installation. The PCB requires local governments that fail to meet the future land use element requirements by June 30, 2012, to go into mediation, and creates the potential for sanctions by the Administration Commission. The PCB protects the homestead exemption of active military and their spouses, and allows the spouses to receive a temporary professional license if they are with their active duty spouse. It also allows the Adjutant General to hire an Assistant Adjutant General.

The pending amendment addresses seaport security measures, and limits the ability of seaports to charge a fee for the administration of any access control credentials for port workers.

SB 0304 – St. Johns River License Plate

This bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to develop a license plate titled “St. Johns River.” The plate will be available to drivers wishing to pay an extra \$25 annual use fee, distributed to the St. Johns River Alliance, Inc. to fund competitive grants for targeted community-based or county-based research or projects.

The bill was recommended favorably by the Senate Environmental Preservation and Conservation Committee, and now moves on to General Government Appropriations. The companion bill in the House (**HB 0053**) was passed unanimously on the House Floor, and is now in Senate Messages.

SB 544 - Relating to Brownfield Development

This bill provides requirements for claiming certain site rehabilitation costs in an application for a contaminated site rehabilitation tax credit. The bill specifies additional requirements for the DEP in its annual report to the Legislature regarding site rehabilitation, and criteria for prioritizing certain brownfield site projects that eliminate public health hazards.

The bill includes in the definition of “mixed use projects” the construction in designated brownfield areas of mixed-use units that include residential, commercial, or other compatible or permitted uses. The bill expands businesses eligible for brownfield redevelopment bonus refunds to include those that demonstrate a fixed capital investment of at least \$500,000 and create between 5 and 50 jobs in mixed-use business, multiunit housing, commercial, retail, or industrial activities.

The bill provides that all site rehabilitation costs claimed must have been for work conducted between January 1 and December 31 of the year for which the application is being submitted, and that all costs must have been paid prior to submittal of the tax credit application, but no later than January 31 of the following year.

The bill was recommended favorably by the Senate Environmental Preservation and Conservation Committee, and now moves on to General Government Appropriations.

The companion bill in the House (**HB 1177**) was referred on March 1, but has yet to be heard by its first committee of reference, the Military & Local Affairs Policy Committee.

CS/SB 550 – Relating to Environmental Protection

This is a comprehensive (177 pages without title) proposed committee substitute dealing with multiple water issues. Specifically, the PCS:

- Reorganizes various provisions of ch. 373, F.S., into a new part VII.
- Permits funding for alternative water supply projects through the State Board of Administration
- Expands the definition of alternative water supply to include conservation projects.
- Adds a Blue Belt assessment criterion to the alternative water supply ranking criteria.
- Repeals portions of SB 2080 (passed in 2009) including the delegation of permit decisions from the water management district governing boards to the executive directors and the prohibition on board interference.

- Establishes criteria for the development of a statewide stormwater management rule.
- Expands the definition of “pollution” to include nutrients when their concentrations in water bodies cause imbalances in the ecosystem.
- Provides specific authority to the Department of Environmental Protection (DEP) to establish water quality criteria to limit nutrient loading in water bodies.
- Requires the DEP, in cooperation with the WMDs, to create and maintain an online portal available to the public listing all consumptive use permits (CUP).
- Directs the DEP to create numeric nutrient criteria for the state that will fulfill the U.S. Environmental Protection Agency’s (EPA) mandate under the Clean Water Act.
- Directs that \$200 million in bonds may be issued for sewage collection, treatment and disposal in the Florida Keys Area of Critical State Concern.
- Provides specific standards that central wastewater facilities and septic systems in the Florida Keys must meet.
- Permits residents of Monroe County to adopt by referendum a 1-cent surtax to pay for stormwater and wastewater upgrades.
- Extends the deadline of compliance for central wastewater facilities and septic systems upgrades to December 31, 2015 from July 1, 2010.
- Provides procedures for removal of the designation of the Florida Keys Area of Critical State Concern once all requirements of the Administration Commission are met.
- Creates regional management entities (RME) for septic system inspection, maintenance, repair and replacement for all septic systems in the state. Provides for duties, powers and implementation requirements for RMEs.
- Directs the DEP to submit a report to the Governor and Legislature on the effects of reclaimed water use by February 1, 2012.
- Clarifies that wastewater facilities contributing flow to another wastewater facility that discharges to an ocean outfall must meet the 60-percent reuse requirement for any diverted quantity of wastewater flow. The percentage of the diverted flow processed as reuse will be applied to the facility discharging to an ocean outfall.
- Bans the land application of class AA, class A and class B wastewater residuals, except for class AA residuals marketed, distributed and applied as fertilizer products, after July 1, 2015.
- Bans the land application of septage (septic tank waste) after January 1, 2015, or sooner if the septage is produced as the result of operations from a RME.
- Renames the “Florida Water Pollution Control Financing Corporation” as the “Florida Water Pollution Control and Drinking Water Financing Corporation.” Adds and modifies definitions to conform to the creation of the new corporation and its expanded duties, provides rulemaking authority, and specifies additional criteria concerning loan recipients’ ability to repay their loans.
- Creates the “Florida Springs Protection Act.” Provides specific requirements for septic systems and agricultural operations in spring zones. Authorizes governmental agencies and entities to engage in rule making to administer the provisions of the Florida Springs Protection Act. Expands the Acquisition and

Restoration Council's ranking criteria for Florida Forever funding to contain a springs protection criterion.

- Directs the University of Florida's Water Institute to serve as the lead advisory body to provide the Legislature scientifically-based policy recommendations for water resources.
- Directs the Building Commission to develop recommendations that result in water conservation.
- Reinforces the WMDs duty to negotiate disputes in good faith before proceeding to litigation against other governmental entities.
- Requires the lining of all construction and demolition debris (C&D) landfills constructed after July 1, 2010.

This bill (as amended) was adopted by the Senate Environmental Preservation and Conservation Committee. The bill will now move on to the Governmental Oversight and Accountability Committee.

CS/HB 691 – Underground Facility Damage Prevention and Safety

This bill was approved by two House committees this week; the Civil Justice & Courts Policy Committee and the Military & Local Affairs Policy Committee. Both unanimously approved this bill which amends the “Underground Facility Damage Prevention and Safety Act” (Act), the purpose of which is to identify and locate underground facilities prior to an excavation or demolition in order to prevent injury to persons or property or interruption of services resulting from damage to those facilities. It does so by creating a not-for-profit corporation, Sunshine State One-Call of Florida, Inc. (SSOCOF), to administer a free-access notification system.

In summary, the bill:

- Specifies matters over which local government entities may not adopt ordinances or rules;
- Establishes low-impact marking practices, and provides that violations of certain low-impact marking practices are noncriminal infractions;
- Establishes a voluntary alternative dispute resolution program available to all member operators, excavators, and other stakeholders to help resolve disputes arising from excavation activities;
- Establishes procedures concerning excavations proposed within 15 feet of a “high-priority subsurface installation” and defining such installations;
- Creates a process for reporting and determining fines for noncriminal infractions that are the proximate cause of certain “incidents” involving damage to high-priority subsurface installations and defining such incidents;
- Provides a specific time frame for excavators to notify the SSOCOF system before beginning any excavation or demolition beneath state waters and clarifies provisions related to the marking of underwater facilities;
- Prohibits member operators from using information provided to the SSOCOF system by other member operators for marketing purposes or for any other purposes not stated in Chapter 556, F.S.;

- Expands liability for damages caused by excavation with hand tools from excavators only to excavators and member operators;
- Prohibits an excavator from notifying the system of an emergency unless the excavator reasonably believes that the intended excavation or demolition is due to an emergency situation or condition as defined in the Act, and providing that falsely notifying the SSOCOF system of an emergency situation or condition is a noncriminal infraction;
- Increases the civil penalty for noncriminal infractions from \$250 plus court costs to \$500 plus court costs and eliminates the power of an enforcing authority to require appearance before a county court.

The bill will next be heard by the House General Government Policy Council.

HB 773 – Expedited Permitting

This bill would move responsibility for expedited permitting of projects from the Office of Tourism, Trade and Economic Development (OTTED) to the DEP. It also would modify the thresholds for projects that are eligible for expedited permitting, to allow projects creating at least 50 jobs (rather than the present requirement of 100); or 25 jobs (rather than the present 50) in an enterprise zone or small county.

The bill also would make eligible for the expedited permitting process “Projects resulting in the production of biofuels cultivated on lands that are 1,000 acres or more or the construction of a biofuel or biodiesel processing facility or a facility generating renewable energy as defined in s.366.91(2)(d).”

The bill was recommended favorably by the House Economic Development Policy Committee on Thursday.

HB 843 – Rural Enterprise Zones

This bill provides that any catalyst site that is not located in a rural enterprise zone must be designated as a rural enterprise zone by the Office of Tourism, Trade, and Economic Development (OTTED) upon request from the site’s host county. A “catalyst site” is defined in s. 288.0656, F.S., as a parcel or parcels of land within a rural area of critical economic concern that has been prioritized as a geographic site for economic development through partnerships with state, regional, and local organizations.

There are currently four Rural Catalyst Sites, with two - Highlands and Calhoun Counties - already located in rural enterprise zones. The others - Suwannee County and Columbia County - are not currently located in a Rural Enterprise Zone. Upon request from Suwannee County and Columbia County for a rural enterprise zone designation, the two catalyst sites will be granted access to the incentives provided by the Florida Enterprise Zone Program.

The bill was recommended favorably by the House Economic Development Policy Committee.

HB 963 – Seaports

The bill includes several proposals related to seaports, and provides as follows:

- Creates a framework for the Department of Environmental Protection (DEP) to issue port conceptual permits for various seaport projects. The bill provides guidelines as to what should be included in the permit application and what is included in the port conceptual permit;
- Requires the FSTED Council to provide the Florida Department of Transportation (DOT) with a list of port projects that can be made production-ready within the next 5 years;
- Requires certain projects and seaport funding to be included in DOT's tentative work program;
- Provides a time frame for DOT to process certain work program amendments related to seaports;
- Deletes references to memoranda of agreement between DEP and the Florida Ports Council for a supplemental permitting process for seaports. Instead, DEP is empowered to directly provide a supplemental permitting process; and
- Conforms statutes related to concurrent permit processing and agency duties with respect to state lands to incorporate port conceptual permits.

The bill was considered and recommended favorably by the House Economic Development Policy Council, and an amendment was added to the bill providing that “[a] seaport listed in s. 311.09(1), F.S. may receive or solicit proposals from and enter into a public-private infrastructure project agreement with a private entity, or a consortium of private entities, to build, operate, manage, maintain, or finance a port-related public infrastructure project.”

HB 981 – Relating to Agriculture

This bill clarifies that land classified as bona fide agricultural land, retains that classification when offered for sale if the land continues to be used primarily for bona fide agricultural purposes. The language is intended to be remedial and clarifying, and applied retroactively to all parcels for which a final court order has not been issued.

The bill provides the DEP with clear authority to develop and implement a general permit that will allow application of pesticides for the control of insects, aquatic weeds, algae, or other pests. The Fish and Wildlife Conservation Commission (FWCC) and the Department of Agriculture and Consumer Services (DACS) may enter into agreement with the DEP to ensure uniform regulation of pesticides applied to the waters of the state.

The bill provides that the Citrus Research and Development Foundation, Inc. (a direct support organization of the University of Florida) shall serve as the advisory council for a citrus research marketing order. The Foundation is responsible for providing advice on administering the order to the DACS, conducting citrus research, and performing duties assigned by the department. The Foundation's board of trustees shall be composed of 13 members, including 10 citrus growers, two representatives from the University of Florida's Institute of Food and Agricultural Sciences, and one member appointed by the Commissioner of Agriculture.

The bill provides for the collection of agricultural assessments used to defray costs associated with marketing orders to be deposited in "the appropriate trust fund" rather than the General Inspection Trust Fund as required by current law. The bill replaces the one cent cap on assessment imposed on citrus fruit with a requirement the rate not exceed the rate established by the marketing order. The bill also expands the types of research that may be conducted by the DACS.

Amendments were adopted by the Agriculture & Natural Resources Policy Committee on Friday morning, including:

- For purposes of the income methodology approach to assessment of property, adds agricultural improvements, structures, or equipment located on classified land, which is used as a natural resource conservation practice or to implement state-adopted best-management practices; and
- Allowing for temporary deviation from the acute toxicity provisions of rule 62-302.500, Florida Administrative Code, not to exceed the time necessary to control the target pests, if the application does not reduce the quality of the receiving waters or adversely affect any threatened or endangered species;

As amended, the bill was recommended favorably. A Committee Substitute will now move on to the General Government Policy Council, its final reference.

A companion bill in the Senate (**SB 2182**) had a reference to the Environmental Preservation and Conservation Committee removed this week. The Senate bill will now be considered by the Finance and Tax and General Government Appropriations Committees.

HB 1109 – Water Supply

This bill is a response to concerns raised by some that the provisions of Chapter 373 relating to water supply and permitting are scattered throughout the chapter, and therefore the chapter should be restructured to make it easier to find and cross-reference related sections of law. The bill creates a new Part VII to Chapter 373, F.S., to include all those existing sections of Chapter 373, F.S., that address water supply policy, planning, production and funding.

The bill repeals ss. 373.0361, 373.0391, 373.0831, 373.196, 373.1961, 373.1962, and 373.1963, F.S., as these sections are incorporated into the new Part VII. Numerous conforming cross-reference changes are provided. The bill is not intended to make any changes to substantive law.

The bill was recommended favorably by the House General Governmental Policy Council and now moves on to the floor. Similar language has been incorporated in the comprehensive Senate water bill, SB 550 (discussed *infra*), but the prospect for that bill's passage is unclear.

HB 1169 – Ports Investments

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 in exchange for 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.

The bill was recorded favorably by the Finance & Tax Council, and now moves on to the Economic Development & Community Affairs Policy Council.

HB 1239 – Docks

This bill incorporates several sections from a similar bill which died in Senate Messages during the 2009 Regular Session. Specifically, the bill:

- Allows for roof structures over certain dock facilities in aquatic preserves;
- Removes the need for a variance for docks in certain shellfish waters;
- Directs the DEP to develop a list of activities for applicants to consider regarding mitigation or public interest requirements;
- Directs the DEP to implement an e-permitting program, and requires the plan be submitted to the President of the Florida Senate, Speaker of the Florida House of Representatives, and the Legislative Committee on Intergovernmental Relations;
- Directs the DEP to expand, if economically feasible, the use of online self-certification for appropriate exemptions and general permits issued by the DEP and water management districts (WMDs).
- Prohibits local governments from specifying the method or form of documentation indicating that a project meets the provisions for authorization under chapters 161, 253, 373, or 403, F.S.; and,
- Authorizes the use of different construction materials and minor deviations to allow upgrades to current structural and design standards for the replacement of docks.

The bill (as amended) was recommended favorably by the Agriculture & Natural Resources Policy Committee and now moves on to the General Government Policy Council, its final reference.

The companion bill in the senate (**SB 1118**) had its reference to General Government Appropriations removed this week, and has been placed on the Calendar for second reading.

CS/HB 1445 - Relating to 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). Specifically, 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 DACS;
- Requires a security officer school or recovery agent school to obtain the division's approval for use of a fictitious name;
- Requires all 40 hours of training be completed prior to private investigator intern and security officer licensees submitting their applications;
- Specifies the quantity of antifreeze to be submitted to DACS 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;
- Changes the registration renewal fee for brake fluid from \$50 to \$100;
- Transfers to the food banks and food recovery programs the responsibility to provide pertinent information to DACS for dissemination to the public;
- Allows the inspection and registration of sites in the natural environment where aquatic plants are tended for harvest;
- Increases the administrative fine cap for violations relating to plant industry;
- Deletes language regarding the grading of poultry, which has not been used in 10 years;
- Grants DACS authority to delegate to local governments the issuance of authorizations for open burning;
- Establishes a certified pile burner program within DACS;
- Amends the Florida Farm Winery program to recognize wine produced from agricultural products other than grapes;
- Exempts tropical foliage from the provisions of the License and Bond law;

- Clarifies that if a dealer in agricultural products fails, refuses or neglects to apply and qualify for a license renewal on or before its expiration date, a penalty shall apply;
- Grants DACS the authority to issue a stop-operation order for amusement rides;
- Exempts contracts involving sellers of travel from the requirements of a written contract;
- Requires a concealed firearm license applicant to submit fingerprints administered by DACS; and,
- Repeals language relating to the Florida Agricultural Museum as well as the Florida Agricultural Exposition from statute.

The bill was recommended favorably by the Agriculture & Natural Resources Policy Committee (with three minor amendments), and now moves on to the General Government Policy Council, its final reference.

HB 1559 - Recycling

This bill was temporarily postponed after a contentious hearing in the House Agriculture and Natural Resources Policy Committee on Thursday. The sponsor proposed a strike-all amendment that would have required reporting on recycling activities from certain government entities and would have “strongly encouraged” certain private entities to report as well. Among other provisions, the amendment would direct the DEP and Enterprise Florida to create the Recycling Business Assistance Center (Center) by July 1, 2010, and would direct Enterprise Florida to consult with state agency economic development liaisons, and to coordinate between state agencies and the private sector on the strategy for developing new markets and expanding and enhancing existing markets for recyclable materials. The bill also provides for specific duties of the Center.

The amendment would require each county to reduce the amount of solid waste disposed of in landfills by 50 percent by 2012, 55 percent by 2014, 60 percent by 2016, 70 percent by 2018, and 75 percent by 2020 - and provides that counties failing to meet and report such reduction requirements are to be placed on a noncompliance list posted on the DEP’s website. The amendment would also require the DEP to conduct at least one unannounced inspection annually at all waste-to-energy facilities to ensure that said facilities are in compliance with the solid waste permit conditions. The bill would also repeal § 288.1185, F.S., the Recycling Markets Advisory Committee, since it has been inactive for approximately 20 years.

Because the bill was temporarily postponed this week, and the committee is not scheduled to meet again, it is unclear whether this bill can pass this session.

SB 1752 – Relating to Economic Development

On Thursday, the full Senate approved the comprehensive Jobs Bill. Among the many economic and development incentives, the bill included a number of provisions that were of great concern to local governments and the environmental community. There were significant amendments made to the bill on the Senate floor. The bill was amended to reauthorize certain exemptions, 2-year extensions, and local comprehensive plan amendments granted, authorized, or adopted in accordance with the provisions of Chapter 2009-96, Laws of Florida (SB 360) adopted last year.

With regard to environmental regulation the following provisions were *removed* from the bill:

Section 23 – Expedited Permitting

This section would have required 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 would have been deemed approved by default, unless the permit was part of a federally delegated program. (§ 373.4141, F.S.)

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

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

Amendments were also made to the following sections, which currently remain in the approved bill:

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;
- The bill specifies that the DEP is the only entity authorized to delegate programs under 373.441.
- As amended on the floor the section requires that DEP approve the requests for delegation if the local government seeking that delegation satisfies the requirements for delegation in rule (IE has the financial, and technical ability to administer the same);
- 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.

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.).

The bill is now in House messages.

CS/SB 1952 – Water Management Districts / Basin Boards

This bill provides that a member of the governing board serving as chair of a basin board would be a regular, voting member of the basin board and would be counted for purposes of establishing a quorum. In the event a vacancy occurs and a successor is not appointed within 180 days, the remaining members of the basin board would be able to continue to transact official business provided a quorum of the whole authorized number of members of the board is present. This would provide continuity in basin board operations, particularly during budget and tax time. The CS also provides for the appointment of more than one basin board chair from among the members of the Governing Board, to be consistent with Governing Board practice and policy.

The CS removes obsolete language referring to the annexation of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District by the SWFWMD. The bill clarifies that all districts' cooperative funding programs are not subject to the rule making requirements of chapter 120, F.S., however, they are still subject to the provisions of s. 120.569, F.S., which allow affected individuals to challenge district decisions.

Two amendments adopted this week would authorize local governments to adopt landscape irrigation restrictions by ordinance as “set forth or approved” by water management district rules, and would provide the Northwest Florida WMD and the Suwannee River WMD with greater flexibility regarding the use of state funds awarded to the agencies from the Water Protection and Sustainability Trust Fund.

The bill as amended was reported favorably by the Senate Government Oversight and Accountability Committee and will next be heard by the Senate General Government Appropriations Committee.

CS/CS/SB 2000 – Ports

This bill includes several proposals related to Florida seaports. A strike-all amendment was adopted by the Senate Environmental Preservation and Conservation Committee, which provides the following:

- Creates a port conceptual permit system which would allow for the issuance of a Master Permit that ties together a series of individual environmental permits and authorizations normally needed for port operations.
- Clarifies the applicability of state stormwater rules to structures related to port activities under certain conditions.
- Revises the work program amendment process for seaport projects funded under the Department of Transportation’s 5-year work program. As clarification, deletes references to memoranda of agreement between the DEP and the Florida Ports Council for a supplemental permitting process. Instead, the DEP is authorized to directly provide a supplemental permitting process.
- Adds wetlands communities as an issue requiring consideration when establishing mixing zones related to dredging and return water discharges.

The bill (as amended) was recommended favorably by the Senate Environmental Preservation and Conservation Committee, and a Committee Substitute will now move on to Community Affairs.

SB 2018 – Florida Keys Area

The majority of Monroe County, including its municipalities (with the exception of Key West), is included in the Florida Keys Area of Critical State Concern (§ 380.0552, F.S.). This designation provides for special growth management provisions, including development permitting allocations, under the direction of the Administration Commission.

Package plant owners and homeowners with septic tanks have been waiting for completion of public facilities for many years because chapter 99-395, Laws of Florida, gives Keys municipalities the authority to mandate connection within 30 days of system availability. Understandably, these owners do not want to invest in expensive system upgrades only to be forced to pay expensive connection fees, impact fees and user charges relatively soon thereafter. This bill “imports” chapter 99-395, Laws of Florida, into statute and makes three other fundamental changes to existing law:

- Refines the Area of Critical State Concern to require completion of construction of central wastewater facilities and upgraded onsite systems;
- Revises §§ 381.0065 and 403.086, F.S., to reinforce that local governments are accountable for completion of the wastewater facilities and onsite system upgrades;

- Extends the wastewater compliance deadline from July 1, 2010 to December 31, 2015, and details the conditions associated with the deadlines in §§381.0065 and 403.086, F.S.

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

A companion proposed committee bill (PCB ANR 10-15) was adopted this week by the House Agriculture and Natural Resources Policy Committee and has now been assigned a bill number (**HB 7151**).

CS/SB 2322 – Energy Improvement Districts

This bill provides supplemental authority for local governments to finance energy efficiency and renewable energy improvements, and changes or improvements made for the purpose of improving a property's resistance to wind damages for property owners that wish to participate in this financing program on a voluntary basis.

The CS authorizes local governments to levy a non-ad valorem assessment for such improvements that shall be repaid through an assessment, a municipal or county lien, or other lawful method. The CS also grants local governments the authority to issue debt, payable from revenues received from the improved property, and to partner with one or more local governments for the purpose of providing such improvements.

The bill was reported favorably by the Communications, Energy, and Public Utilities Committee and a Committee Substitute (CS) will next be heard by the Senate Finance and Tax Committee.

SB 2354 - Sewage Disposal Facilities

The bill clarifies that any facility that diverts domestic wastewater flow from a facility that discharges wastewater through an ocean outfall must meet the 60 percent reuse requirement for the diverted quantity. The reuse will then be credited to the facility originally discharging the domestic wastewater through an ocean outfall. An amendment was adopted that provides that diverted flow shall also be deducted from the receiving facility's actual flow from which its required reuse is calculated. Currently, there are six (6) domestic wastewater facilities in Palm Beach, Broward, and Miami-Dade Counties discharging treated domestic wastewater into the Atlantic Ocean.

By unanimous vote, the bill (as amended and substituted by PCS) was recommended favorably by the Senate Environmental Preservation and Conservation Committee. The bill will now move on to Community Affairs.

The companion bill in the House (**HB 1225**) was also considered this week and was recommended favorably by the General Government Policy Council. The House bill will now be placed on Calendar for second reading.

SB 2592 - 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. If cost-effective, DEP must transition sites eligible for funding assistance to long-term natural attenuation monitoring if certain criteria are met. The bill requires DEP to evaluate whether default concentrations for natural attenuation monitoring or long-term natural attenuation monitoring are cost-effective and will adequately protect public health and the environment, and must consider site-specific characteristics in the evaluation.

Unless institutional controls have been imposed by the responsible party or property owner to restrict land use, 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.

Sites that are eligible will be initiated by the source property owner or responsible party 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.

The bill was recommended favorably by the Senate Environmental Preservation and Conservation Committee, and will now move on to the Transportation Committee. The companion bill in the House (**HB 1385**) was recommended favorably (with three conforming amendments) by the Agriculture & Natural Resources Appropriations Committee on Friday morning. The bill now moves to the General Government Policy Council.

HB 7103 - Relating to Agriculture (formerly PCB ANR 10-08)

The bill prohibits, with some limited exceptions, counties from imposing an assessment or fee for stormwater management on land classified as agricultural if the agricultural operation has a

National Pollutant Discharge Elimination System (NPDES) permit, an environmental resource permit (ERP), a works-of-the-district permit, or implements best management practices (BMPs). The bill also prohibits counties from enforcing any regulations on land classified as agricultural if the activity is regulated by BMPs, interim measures or regulations. The powers of a county to enforce applicable wetland protection ordinances, regulations or rules adopted prior to July 1, 2003 are not limited by the provisions of the bill. Additional exceptions are provided for areas located in the Wekiva River Protection Area and where a program is operated under a delegation agreement from a state agency or a water management district.

The bill creates the “Agricultural Land Acknowledgement Act,” which requires a political subdivision to require an applicant to sign a written acknowledgement prior to issuing a local land use permit, building permit, or certificate of occupancy for nonagricultural land located adjacent to agricultural land. The bill provides that the acknowledgement is a public record and must be maintained by the political subdivision as a permanent record, and must be presented to prospective buyers at or before the execution of a contract for sale. The Department of Agriculture and Consumer Services is granted rule-making authority to implement the provisions of the act.

The bill exempts any person (rather than any “natural person” as in current law) involved in the sale of agricultural products grown by said person, from obtaining a local business tax receipt. The bill amends the definition of “farm tractor” to clarify that a farm tractor may be operated incidentally on the roads of the state.

The bill reverses legislation enacted in 2005 and returns tropical foliage to exempt status from the provisions of the License and Bond law. The bill exempts farm fences from the Florida Building Code, and exempts farm fences and nonresidential farm buildings from county or municipal codes and fees (except for those provisions implementing local, state, or federal floodplain management regulations). The definition of “nonresidential farm building” is clarified to more accurately define what types of buildings are exempt from county or municipal codes and fees.

The bill allows multi-peril crop insurers who meet the statutorily required capital and surplus to do business in the state, providing agricultural producers with increased insurance options. Finally, the bill amends Chapter 823, F.S., to mirror the language in Chapter 403, F.S., regarding the materials used in agricultural production that may be burned in the open.

The bill was recommended favorably by the Agriculture & Natural Resources Policy Committee, and now moves on to the General Government Policy Council, its final reference. Similar bills (**SB 2348** and **HB 1445**) are discussed *supra*.

HB 7175 - Relating to Consumptive Use Permits (formerly PCB ANR 10-09)

This bill amends specific sections of Part II of Chapter 373, F.S., relating to consumptive use permits (CUPs). Specifically, the bill:

- Increases from 5 to 10 years the duration for filing a CUP compliance report with the applicable water management district
- Provides that decreases in a permittee's need for a permitted allocation due to conservation activities shall not result in a modification that decreases the maximum allocation during the term of the permit, and provides the same for an agricultural water use permit that requires the implementation of the most efficient irrigation system that is economically feasible and available at the time of permit issuance.
- Provides an exception such that a CUP may not be revoked after two years of nonuse if the nonuse was due to effective conservation measures.

The bill was recommended favorably by the Agriculture & Natural Resources Policy Committee, and now moves on to the General Government Policy Council, its final reference. There is no Senate companion.

PCSMB for (HB 1407, HB 1367 and HB 1605) – Water Management

These three bills were consolidated into a single bill this week.

The bill amends statutory provisions relating to the make-up of water basin boards. In the event that two WMD board members are sitting on a water basin board, the pair will rotate the chair/co-chair position on an annual basis. If there is a vacancy on a water basin board, a quorum of the total remaining basin board members may transact business until a successor is appointed. The bill places a Southwest Florida WMD board member on the Manasota Basin Board beginning July 1, 2010.

The bill exempts WMD cooperative funding programs from Chapter 120, F.S., rulemaking requirements, unless any portion of an approved program affects the substantial interests of a party.

The bill directs WMD governing boards to conduct reviews for lands for which title is vested in the WMD. The purpose of the review is to determine which lands are no longer needed for conservation and restoration, or are no longer considered environmentally critical or sensitive. Such lands will be made available for purchase so the property can be re-entered onto the county ad valorem tax roll of the applicable county.

The bill creates a WMD governing board nominating commission consisting of nine members; three appointed by the Governor, three appointed by the President of the Senate, and three appointed by the Speaker of the House of Representatives. The Executive Office of the Governor will provide all administrative support for the nominating commission and shall adopt rules necessary to administer this section.

Under the bill, a commissioner is considered a "state officer" for purposes of financial disclosure requirements. Commissioners may not be a current or former WMD governing board member,

may hold public office, are not eligible during the term of office and for a period of 2 years thereafter for appointment to any board for which the commission has the authority to make nominations, and may be suspended for cause by the person who appointed them. The commission members must submit to the Governor three recommended nominees for each district governing board position. Under the bill, a nominee must reside in the territorial jurisdiction of the governing board to which the commission will recommend appointments, and must have significant experience in one or more of the following areas: agriculture; the development industry; local government; government-owned or privately owned water utilities; law; civil engineering; environmental science; hydrology; accounting; finance; or the landscape profession. The Governor would be required to select appointees from the list of recommended nominees for any vacant WMD board position.

The bill also provides that landscape irrigation restrictions of a water management district may be implemented by ordinance of applicable local governments and specifically authorizes local governments to adopt such ordinances implementing landscape irrigation restrictions as set forth in water management district rules or orders. The bill also directs the water management districts, in evaluating water use applications from public water suppliers, to consider whether the applicable local government has adopted an ordinance implementing landscape irrigation restrictions and adopted ordinances for landscaping consistent with Florida-friendly landscaping provisions.

This bill, which now combines all three bills referenced above, was considered and recommended favorably by the House Agriculture and Natural Resources Policy Committee on Thursday, and will likely move forward as **HB 1407**.