



## **Legislative Report Week Six of Regular Session April 5 - 9, 2010**

### **BUDGET**

The House and Senate were back in full swing during week 6, with a full slate of committee meetings. In addition to legislation moving through the committee process, both houses took action to put themselves in the proper posture for budget conference committee meetings which are expected to begin next week.

The House Select Policy Council on Strategic and Economic Planning Committee met Tuesday night to workshop the draft proposed committee bill for a Medicaid overhaul. Late this week, the Senate scheduled two meetings next week to put forth their proposal for reform on this issue. The Legislature is now anticipating Federal action on the FMAP funds which are expected next week. It is unclear how the two will move forward to conference if the Federal funds are delayed, however, the legislature may go forward and work from the Senate plan that is contingent on getting the FMAP dollars.

This week brought a number of high profile issues, aside from the Medicaid Reform legislation, the House heard and passed HB 7189/SB 6 which creates the 'Performance Fund for Instructional Personnel and School Based Administrators.' This bill would introduce merit-based pay for teachers hinging on student performance. This issue was hotly debated Thursday night on the House floor and passed just before 3:00 am by a vote of 64 – 55 on final passage. The legislation has been sent to the Governor who must act within the next seven (7) days. The Governor has given some indication that he may not sign this bill and groups across the state are working hard on both sides of this issue.

Combining all of these outstanding issues this week, one could understand the political temperature rising. To add to that, the Governor announced Thursday he is considering a special legislative session in May or June to take on the issue of anti-corruption recommendations expected from a statewide grand jury. Needless to say, that being an election year, legislators are anxious to end session on time and begin their campaigns. The atmosphere between many of the legislators and the Governor grows more contentious by the day.

As all of this heats up, the House and Senate expect to move into the Budget conference process by mid week and into next weekend.

## **SUBSTANTIVE ISSUES**

### **SB 126 - Relating to Community Redevelopment**

This bill includes in the definition of “blighted area” for purposes of the Community Redevelopment Act, those lands previously used as military facilities which are undeveloped and which the Federal government has declared surplus within the preceding 20 years.

The bill was recommended favorably by the Senate Transportation and Economic Development Appropriations Committee, its final committee of reference, and will now be calendared for second reading.

### **SB 262 / HB 665 – Affordable Housing**

This bill removes the statutory limitation on documentary stamp tax revenue that goes into the State and Local Government Housing Trust Funds and restricts the use of affordable housing funds for new construction activities for a certain period. The bill also provides targeted assistance for persons with special needs and requires multi-family housing funds to be administered to provide for individuals most in need of housing. The bill also allows the Florida Housing and Finance Corporation (FHFC) to receive federal funds for which no corresponding program has been created in statute and empowers local housing authorities to invest surplus funds.

More specifically, the bill:

- Authorizes local housing finance authorities to invest and reinvest surplus funds in interest-bearing time deposits or savings accounts that are fully insured by the Federal Deposit Insurance Corporation (FDIC), regardless of whether the bank or financial institution is a qualified public depository pursuant to s. 280.02, F.S.
- Amends s. 163.3177(6)(f), F.S., to require local government comprehensive plans to include information on senior affordable housing, and to direct local governments to dispose real property conveyed to them for affordable housing pursuant to s.125.379 or s.166.0451, F.S.
- Removes the statutory cap on documentary stamp tax revenue that is distributed into the State and Local Housing Trust Funds.
- Amends the State Housing Strategy Act to require housing fund distributions for multifamily rental housing to be administered to provide for individuals most in need of housing and to require annual affordable housing evaluations to specifically address persons with special needs.
- Provides definitions under ss. 420.0004(7) and (13), F.S., for “disabling condition” and “person with special needs”

- Extends the availability of low interest mortgage loans under the SAIL Program to include projects that set aside units for persons with special needs, and grants the FHFC the authority to receive federal funding for which no corresponding program has been created in statute and to establish selection criteria for such funds by request for proposals or other competitive solicitation.
- Includes persons with special needs as a qualified tenant group for specified purposes of the SAIL Program, limiting the reservation of funds for this group to no more than ten percent of the funds available at that time.
- Prohibits the use of affordable housing dollars for financing or assisting new construction until July 1, 2011. These affordable housing dollars include funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for the State Apartment Incentives Loan (SAIL) Program, Florida Homeownership Assistance Program (FHAP), Community Workforce Housing Innovation Pilot (CWHIP) Program, and the State Housing Initiatives Partnership (SHIP) Program.
- The bill also expressly states that nothing in this section shall restrict the use of funds to assist with the purchase of newly constructed homes that were completed prior to December 31, 2009, or the acquisition and rehabilitation of apartments that received their initial certificate of occupancy prior to December 31, 1995.

With minor amendments, the bill was recommended favorably by the Senate Finance and Tax Committee, and now moves on to Transportation and Economic Development Appropriations.

A similar bill in the House, **HB 665**, was passed on Wednesday by the House Economic Development & Community Affairs Policy Council, and will now be available for the Special Order calendar.

### **SB 274 – Growth Management**

This bill, which was initially filed as a “shell” bill in the Senate, was considered on Wednesday in the Senate Community Affairs Committee, and a Proposed Committee Substitute was adopted. The Committee Substitute:

- Amends s. 163.3175, F.S. to:
  - Provide legislative findings that incompatible development near military installations can adversely affect the ability of such installations to carry out missions;
  - List the communities affected by military bases, to which ss. 163.3175 and s. 163.3177(6)(a) apply;
  - Specify that the Florida Council on Military Base and Mission Support may recommend to the Legislature changes to the military installations and affected local governments based on a military base’s potential for impacts from encroachment;

- Allow the commanding officer to require the local government to transmit copies of applications for development orders requesting a variance or waiver from height or lighting restrictions or soundproofing requirements within areas defined in the local government's comprehensive plan as being in a zone of influence of the military installation
- Amends s. 163.3177, F.S., to require the future land use plan element to include criteria to be used to achieve the compatibility of lands adjacent or closely proximate to military installations based on factors identified in s. 163.3175(5), which includes safety, noise, compatibility, and whether the military mission will be adversely affected.
- Amends s. 196.061, F.S., to provide that valid military orders are sufficient to maintain permanent residence for homestead purposes for the officer and his or her spouse.
- Amends s. 250.10, F.S., to allow the Adjutant General, subject to confirmation by the Senate, to employ an additional federally recognized officer of the Florida National Guard with certain qualifications to be an Assistant Adjutant General for Army.
- Retitles s. 455.02, F.S., to read "Licensure of members of the Armed Forces in good standing with administrative boards and their spouses" and allows the Department of Business and Professional Regulation to issue temporary professional licenses to spouses as long as the spouse provides certain required information. The bill as amended also requires that the spouse submit their fingerprints to the Florida Department of Law Enforcement, which shall be forwarded to the Federal Bureau of Investigation for a background check. There is a fee associated with the application, and the application expires after 6 months and is not renewable.

An amendment was adopted with regard to seaport security, providing that a seaport may not charge any fee for the administration or production of any access control credentials in addition to the fee for the federal Transportation Worker Identification Credential (TWIC). Any cost associated with the administration or production of any access card, except for the federal TWIC, must be paid by the administering authority. Any attempt to pass the cost of such a credential on to any employee working on the seaport shall result in a civil fine of \$10,000.

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

### **SB 282 – Sunset Review of the Department of Community Affairs**

This bill reenacts the Department of Community Affairs, including Division of Community Planning, the Division of Housing and Community Development, the Division of Emergency Management, and the Florida Housing Finance Corporation. This bill reenacts sections 20.18 and 420.504 Florida Statutes.

The bill was recommended favorably by the Senate Governmental Oversight and Accountability Committee, and is now in Transportation and Economic Development Appropriations.

### **SB 382 / HB 1445 – Agriculture (Fertilizer Use)**

On Wednesday, the Senate Agriculture Committee approved a committee substitute for SB 382 addressing many varied issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (DACCS). Specifically the bill amends many provisions relating to consumer services in Florida including security officers, private investigators, recovery agents, car care, gas stations, plant industry, poultry, pest control, and amusement ride operations.

Among the more significant provisions impacting land use and local government authority, the bill requires that the agricultural use of land present at the time of fee simple acquisition be given priority regarding the management of the land.

The bill amends s. 403.9337, F.S., to provide criteria for revision of the Model Ordinance for Florida-Friendly Use on Urban Landscapes (2009). It authorizes the Department of Environmental Protection to adopt rules for updating the model ordinance and requires local governments to adopt the most recent version of model ordinance. It also provides the following criteria that may be included in a local government’s comprehensive program in order to adopt additional or more stringent standards than the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes:

- Nonpoint source activities adopted pursuant to s. 403.067(7);
- Florida-friendly landscaping requirements provided in s. 373.185, F.S., adopted into the local government’s development code; or
- The requirement for and enforcement of the implementation of low-impact development practices.

The proposed committee substitute provides that these new requirements will not apply to the use of fertilizer on lands used for scientific research, such as urban stormwater, water quality, agronomic, or horticultural.

The bill will next be heard by the General Government Appropriations Committee.

A similar bill in the House, **HB 1445**, was considered on Friday afternoon by the General Government Policy Council. A strike-all amendment and a substitute amendment to that strike-all were adopted. The substitute amendment replaced language that would have preempted to the state, the “sale and use” of pesticides in Florida. Due in large part to opposition from local governments, the language was revised to preempt only sales.

### **CS/SB 550 – Environmental Protection**

On Tuesday by the Senate Governmental Oversight and Accountability Committee considered and approved this comprehensive environmental bill, which includes significant revisions to laws relating to water resources management. A number of associations including the home builders and associated industries expressed serious concerns about the provisions in the bill relating to springs protection. Several members on the committee indicated that to pass the bill would need improvement. As of Thursday there was speculation that Sen. Constantine would likely jettison many of the most controversial section prior to the bills' stop in the Ways and Means Committee. Currently, the bill:

- 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 (SBA).
- 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 legislation passed in 2009 (per SB 2080); removing provisions that require the delegation of permit decisions from a water management district (WMD) governing board to the executive director for certain permits.
- 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 federal 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 onsite sewage treatment and disposal systems (septic systems) in the Florida Keys Area of Critical State Concern must meet.
- Permits residents of the 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 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 landfills constructed after July 1, 2010.
- Clarifies penalties for damaging or destroying any drainage works constructed in any WMD.

The bill will next be heard by the Senate General Government Appropriations Committee.

### **HB 903 – Strategic Intermodal System Plan**

On Wednesday, the House Economic Development & Community Affairs Policy Council approved this bill repealing s. 339.64 F.S., which established the Statewide Intermodal

Transportation Advisory Council. The council is no longer active, and held its last meeting in December 2004.

The bill will now be placed on the calendar and available for Special Order.

### **HB 963 - Seaports**

The purpose of this bill is to position Florida ports to compete in a global trade market associated with on-going work to widen and modernize the Panama Canal.

The bill includes several proposals related to seaports:

- 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.
- Conforms statutes related to concurrent permit processing and agency duties with respect to state lands to incorporate port conceptual permits.
- Authorizes ports to enter into public-private partnerships for infrastructure projects.

The bill will next be heard by the House Economic Development & Community Affairs Policy Council.

### **HB 981 / SB 2182 – Agriculture**

Among other things, this bill provides 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 bill also states that the classification is to be remedial and clarifying and applied retroactively to all parcels for which a final court order has not been issued. The bill also provides that agricultural improvements, structures, or equipment on agricultural land used as a natural conservation or best management practices shall be assessed the same tax assessment as those already recognized for irrigation systems or waste containment structures of dairy or poultry farms.

An amendment was adopted on Friday which provides that structures or improvements used for horticulture production that provide shade and shelter and improve water quality or water conservation, as designated by DACS interim measures or BMPs shall be assessed by the methodology described in statute. The bill as amended was recommended favorably by the House General Government Policy Council, its final committee of reference, and will now be available for Special Order calendar.

A similar bill in the Senate, **SB 2182**, provides that the Citrus and Research Development Foundation, Inc., shall serve as the advisory council for a citrus research marketing order. It also 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. The bill also removes language that limits research projects to citrus diseases.

The Senate bill was recommended favorably by the Finance and Tax Committee, and now moves on to General Government Appropriations.

### **SB 982 / HB 691 – Underground Facility Damage Prevention & Safety**

This bill revises provisions of the Underground Facility Damage Prevention and Safety Act, which currently creates a system by which persons intending to engage in excavation or demolition activities can provide notice of intent, to allow operators of underground facilities the opportunity to identify and locate their underground facilities. Among other changes, the bill:

- Prohibits local governments from enacting ordinances or rules that conflict with the Act;
- Establishes a program through the Division of Administrative Hearings (DOAH) for evaluating allegations of damage caused to high-priority subsurface installations;
- Provides for low-impact marking of underground facilities;
- Increases the amount of the civil penalty that may be imposed for a noncriminal infraction to \$500 from the current level of \$250;
- Requires the clerk of court to report annually on infractions under the act; and
- Requires Sunshine State One-Call of Florida, Inc., to establish a voluntary alternative dispute resolution program to resolve disputes arising from excavation activities.

With respect to incidents involving high-priority subsurface installations, the bill provides:

- Definitions of the terms “high-priority subsurface installation” and “incident”;
- Notice responsibilities of both excavators and operators;
- Procedures for reporting an alleged incident;
- A hearing and determination process related to the allegations, to be conducted by DOAH pursuant to a contract between the system and the division;

- Penalties and procedures.

The bill as technically amended was recommended favorably by the Senate Judiciary Committee, its final committee of reference, and will now be calendared for the Senate floor.

The companion bill in the House, **HB 691**, was passed by the General Government Policy Council on Friday, its final reference. The bill now will be available for the Special Order calendar.

### **HB 1095 – Special Districts**

On Friday the House Finance and Tax Council approved HB 1095 which amends the method for merger and dissolution of dependent and independent special districts. Currently any dependent or independent district created by special act may only be merged or dissolved by the Legislature unless otherwise provided by general law. Similarly an independent district created by a county or municipality through a referendum or any other procedure, may be merged or dissolved by the same procedure by which the district was created.

The bill revises the merger and dissolution procedures for independent special districts by specifying 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. Inactive special districts may be merged or dissolved by special act without a referendum under certain circumstances.

The bill will next be heard by the House Economic Development & Community Affairs Policy Council.

### **SB 1118 / HB 1239 – Docks**

This bill was amended and passed on second reading on the Senate floor on Tuesday. The bill modifies s. 258.42, F.S., allowing private residential single-family dock owners in aquatic preserves to build roofs over their docks, boat lifts and davits. The bill also amends s. 403.061, F.S., authorizing the Department of Environmental Protection to conduct rulemaking for building small docking facilities in shellfish harvesting and recreation waters. The bill directs the DEP to maintain a list of projects or activities that satisfy mitigation or public interest requirements, and directs DEP to develop a project management plan for expanding online self-certification.

The bill amends s. 403.813, F.S., providing that minor changes and upgrades to docks and piers do not require a permit for repairs or replacement. Lastly, the bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study and submit a report to the Board of Trustees of the Internal Improvement Trust Fund and the Legislature on the effects of regulation relating to submerged lands on private, residential multifamily docks or piers.

On Thursday, the bill was passed unanimously on third reading (with a technical amendment) by the full Senate. It will now be placed in House Messages.

The companion bill in the House, **HB 1239**, was recommended favorably in the General Government Policy Council with one technical amendment. The bill now provides that the roof over a dock may not overhang more than 1 foot beyond the footprint of the lift and the boat stored at the lift, and that such roofs are not included in the square-footage calculation of a terminal platform.

The bill as amended will now be available for Special Order calendar.

### **SB 1126 – Permitting**

This bill would transfer the responsibility for certifying eligible projects for expedited permitting for economic development projects that create high-wage jobs from OTTED to the Secretary of the DEP. The responsibility to conduct economic assessments for projects and comprehensive plan amendments submitted for expedited permit review remains within OTTED. It reduces by half the number of jobs a business must create before qualifying for expedited permit or comprehensive plan amendments review. The applicant and the Secretary of the DEP would develop a memorandum of agreement with input solicited from the respective heads of agencies and participating government entities.

Projects that result in the cultivation of biofuels on lands 1,000 acres or larger, including construction of a biofuel or biodiesel processing facility and power generating facilities using renewable fuel sources would become eligible for expedited permit review. “Renewable energy” is defined as in s. 366.91(2), F.S., to mean electrical energy produced from one or more of the following energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations.

Under the expedited review process, appeals of local government comprehensive plan approvals for a project shall occur through a summary hearing and be consolidated with the challenge of any applicable state agency actions. This differs from current law which gives the local government greater control over the appellate procedures.

The CS requires that recommended orders issued by an administrative law judge for challenges to state agency action in the expedited permit process must inform the parties of the right to file exceptions to the recommended order and to file responses in accordance with the Rules of Administrative Procedure. Additionally, the CS provides that for cases where the action of more than one agency of the state are challenged, the Governor shall issue the final order, except for the issuance of department licenses required under any federally delegated or approved permit program for which the department must enter the final order within 45 days of receipt from the administrative law judge (as opposed to 10 days as in current law). The recommended order must inform the parties of the right to file exceptions to the recommended order and to file responses in accordance with the Rules of Administrative Procedure.

The bill was recommended favorably by the Senate Commerce Committee and now moves on to the Policy & Steering Committee on Ways and Means, its final committee of reference.

### **SJR 1206 – Property Tax Exemption / Renewable Energy**

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 would 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 joint resolution must be approved by a three-fifths vote of each house of the Legislature.

The joint resolution was recommended favorably by the Senate Finance and Tax Committee, and now moves on to the Policy & Steering Committee on Ways and Means,

### **HB 1297 / SB 2470 – Northeast Florida Regional Transportation**

On Wednesday, the House Economic Development & Community Affairs Policy Council approved HB 1297 which creates the Northeast Florida Regional Transportation Study Commission. The commission will be composed of citizens from Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns, with nonvoting 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.

The bill requires that by December 31, 2012, the commission 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;
- Draft legislation consistent with this act; and
- Any other recommendations the commission deems appropriate.

The commission terminates upon the delivery of the final report and will be funded by JTA.

The bill was reported favorably and will now be placed on the calendar and available for Special Order. The companion bill in the Senate (**SB 2470**) was reported favorably by the Community Affairs Committee and now moves on to Transportation and Economic Development Appropriations, its final committee of reference.

## **SB 1516 – State-owned Lands**

This bill provides for the inventory of state-owned lands by requiring all state agencies, the judicial branch, and the water management districts to report certain data annually to the Division of State Lands in the Department of Environmental Protection (DEP).

The bill directs the DEP to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by October 1, 2010 and annually thereafter, a report that lists the state-owned real property recommended for disposition. The bill requires that, prior to disposition, a state-owned building or parcel of land shall first be offered for lease to state agencies, state universities, and community colleges.

The bill directs the DEP to create and maintain a comprehensive state-owned real property database that includes an accurate inventory of all real property leased, owned, rented, occupied or managed by the state or the judicial branch. The bill directs the DEP to submit an updated feasibility study for the Lands Inventory Tracking System, to include in its scope the comprehensive state-owned system, by November 1, 2010.

In addition, the bill requires the DEP to implement a project governance structure with an executive steering committee comprised of the secretary of the DEP, the executive director of the Department of Revenue (DOR), the director of the Division of State Lands, the state Chief Financial Officer, a property appraiser appointed by the Florida Association of Property Appraisers, Inc., a property appraiser appointed by the Property Appraisers, Inc., and the executive director of the Agency for Enterprise Information Technology. The bill directs the executive steering committee to complete a business process analysis and documentation of both the detailed system requirements and the overall system architecture and submit to the Governor and the Legislature by February 1, 2011.

This bill is consistent with the intent of CS/CS SB 1238, which reorganizes the current structure of the Department of Management Services and reassigns certain divisions and programs to other departments within the executive branch.

The bill was passed unanimously on third reading on the House Floor on Tuesday, and is now in Senate Messages.

## **SB 1518 – Transportation Concurrency Exception / Aircraft Manufacturing**

This bill amends section 163.3180 of the Florida Statutes, and exempts hangers for the assembly or manufacture of aircraft from transportation concurrency requirements.

The bill was recommended favorably by the Senate Transportation and Economic Development Appropriations Committee, its final committee of reference.

## **SB 1646 – Regional Workforce Boards**

This bill:

- Prohibits the expenditure of federal or state funds to pay for food and beverage for board members, staff, or employees of regional workforce boards, Workforce Florida, Inc., or the Agency for Workforce Innovation, except as expressly authorized by state law;
- Prohibits the expenditure of federal or state funds for recreational activities or entertainment costs on behalf of or to the benefit of board members, staff, or employees of regional workforce boards, Workforce Florida, Inc., or the Agency for Workforce Innovation;
- Prohibits regional workforce board members and their relatives from contracting with or having a financial interest in a contract established by the regional workforce board upon which the board member serves;
- Allows a board to contract with a public or a not-for-profit entity that has a representative who is a member of the board; however, requires that the contract must be approved by two-thirds vote of the entire board and that the board member who could benefit financially from the transaction or who is employed by or receives remuneration from the contracting entity abstain from voting on the contract;
- Requires board members to disclose all conflicts;
- Extends the contracting prohibition to the board's employees and relatives of the employees;
- Requires that the appointment of an executive director to staff a regional workforce board be approved by the chief elected officials; and
- Requires that the chair of a regional workforce board be subject to confirmation by the Senate.

This bill, which has already been passed by the full Senate, was passed on the House floor on Tuesday. The House passed the Senate bill as amended, and accedes to conference.

## **SB 1724 – Rural Enterprise Zones**

The Florida Legislature has created several programs to help promote economic development in rural or financially distressed communities. Among them are: the Florida Enterprise Zone Program (ch. 290, F.S.) which offers a myriad of state and local tax incentives to businesses that locate within the 57 existing rural or urban enterprise zones (EZs), and the Rural Area of Critical Economic Concern (RACEC) program (s. 288.0656, F.S.) which provides access to technical assistance, grants, collaborative permitting and planning assistance, and potential waivers of requirements for certain state incentive programs.

State agencies are directed to use all available economic development resources to promote and develop designated business catalyst sites within each RACEC. There are four catalyst sites; the

two located in Calhoun and Highlands counties are located within rural EZs, and the two located in Columbia and Suwannee counties are not.

This bill creates a new section of law, providing that any catalyst site that is not located currently in a rural EZ must be designated as a rural EZ by OTTED, upon request from the site's host county. That request must include the catalyst site's legal description and the contact information for its host economic development entity. These new rural EZs will offer the same business incentives as those designated pursuant to ch. 290, F.S., and must adhere to the same reporting requirements to the state.

An amendment was adopted which provides that host county development authorities may enter into memoranda of agreement, as necessary, to coordinate their efforts to implement this section. The bill as amended was recommended favorably by the Senate Commerce Committee and now moves on to Community Affairs.

### **CS/SB 1754 – Enterprise Zones / Palm Bay / Martin County**

A combination of state and local tax exemptions or tax credits is intended to incentivize economic activity in Florida's 57 Enterprise Zones. This bill creates opportunities for the City of Palm Bay and Martin County to apply for and receive an enterprise zone designation. Palm Bay's proposed enterprise zone may be located in the city's northeast end and be up to 5 square miles in size. Martin County's proposed enterprise zone may consist of land within the county urban services boundary, with a focus on Indiantown, and be up to 10 square miles in area.

Bay and Martin County are directed to file enterprise zone applications with the Governor's Office of Tourism, Trade and Economic Development (OTTED) by December 31, 2011, and December 31, 2010 respectively. The bill allows the expansion of an enterprise zone that includes a rural area of critical economic concern by up to 3 square miles.

The bill was recommended favorably by the Senate Finance and Tax Committee and now moves on to the Transportation and Economic Development Appropriations Committee.

### **SB 1844 - Rulemaking**

With the exception of emergency rules, this bill would require each agency, before adopting, amending, or repealing certain rules, to prepare a statement of estimated regulatory costs of the proposed rule if there are certain adverse impacts on small business or the private sector (if an adverse economic impact exceeds \$200,000). The bill, pursuant to a strike-all amendment, specifies the conditions under which a challenged rule may not be declared invalid and requires an economic analysis on proposed rules or rule changes. The bill also prohibits a rule from taking effect until it is submitted to the Legislature for review under certain circumstances, and provides a time certain for a rule to take effect if the Legislature takes no action.

The bill as amended was reported favorably by the Senate Commerce Committee and now moves on to Governmental Oversight and Accountability.

### **SB 1992 / HB 1169 – Florida Ports Investments**

Florida has 14 public seaports that are considered significant economic drivers for Florida. The individual seaports receive a combination of public funding and private revenues to finance their operations and capital improvements. Florida seaport officials have cited a financial disadvantage, compared to other states, in making massive infrastructure improvements needed to participate in new international business opportunities arising from the resurgence of the Panama Canal.

This bill creates the “Florida Ports Investment Act” intended to encourage investment by eligible insurance companies into the development of seaport infrastructure by granting insurance premium tax credits in amounts equal to their investment. This return is in addition to any interest earnings the insurers may make on successful investments in seaport projects. In summary, the bill:

- Creates an incentive for insurers to make investments with entities known as “certified capital companies” (CCCs), which are certified and regulated by the Department of Financial Services (DFS). The CCCs, in turn, will invest in major port projects that have been approved by OTTED
- OTTED allocates the state premium insurance tax credits to the CCCs, up to a maximum of \$500 million over the life of this program.
- An insurer that makes an investment is entitled to claim no more than 10 percent of its credits annually, including any carry-forward credits, beginning calendar year 2012.
- Participating insurers may claim no more than a total of \$25 million in the aggregate annually in premium tax credits earned under this program.

With support of testimony by Governor Crist, the bill (as technically amended) was recommended favorably by the Senate Commerce Committee, and now moves on to Banking and Insurance.

A similar bill in the House, **HB 1169**, passed unanimously on third reading on the House Floor on Tuesday. The bill was immediately certified and is now in Senate Messages.

### **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 bill 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 bill 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.

Amendments adopted by the Senate Finance and Tax Committee inserted the following changes:

- Revising legislative intent regarding the state’s renewable energy policy;
- Deleting provisions requiring that the Public Service Commission adopt rules for a renewable portfolio standard;
- Requiring that the commission provide for full cost recovery, including a return on equity, for certain renewable energy projects;
- Requiring excess customer-owned renewable generation delivered to the provider’s electric grid to be credited to the customer’s energy consumption;
- Requiring such energy credits produced to accumulate and be used to offset the customer’s energy usage; requiring the provider to pay the customer for 63 any unused energy credits at an average annual rate;
- Requiring the commission to approve certain renewable energy projects;
- Requiring that a petition filed by a provider for approval of a facility producing a Florida renewable energy resource comply with certain criteria;
- Specifying the criteria to be considered by the commission in approving a petition for such facility;
- Requiring that the commission’s final order approving a facility include authorization for annual cost recovery;
- Requiring providers to file a report with commission;
- Providing report requirements;
- Providing penalties for failure to file the report;
- Providing exemptions from determination-of-need requirements;
- Providing that certain legislative determinations constitute a public need and necessity and fulfill certain determination-of-need requirements;
- Providing for applicants meeting certain criteria to obtain a final order of certification;
- Redefining the term “electrical power plant” for purposes of the Florida Electrical Power Plant Siting Act to exclude solar electrical generating facilities

The bill as amended was recommended favorably by the Senate Finance and Tax Committee, and now moves on to the Policy & Steering Committee on Ways and Means, its final committee of reference.

### **SB 2362 - Relating to Transportation**

This bill makes a number of statutory changes related to transportation. More specifically, the bill:

- clarifies the notification requirements to be used when a citation is issued for toll violations;
- effectively increases the maximum gross vehicle weight limit for vehicles operating on non-interstate highways;
- provides a 400-pound weight allowance for trucks using anti-idling devices;
- removes obsolete definitions and department functions related to the classification and jurisdictional assignment of public roads;
- clarifies the application process used by contractors seeking qualification to bid on transportation construction jobs;
- clarifies authorization to allow placement of certain electric transmission lines applies only to limited access highways;
- authorizes LYNX to borrow up to \$10 million annually for refinancing purposes;
- revises bonding provisions available to the Tampa Hillsborough County Expressway Authority to allow the issuance of bonds without going through the State Board of Administration's Division of Bond Finance;
- creates the Osceola County Expressway Authority;
- provides for sign owners, advertisers, or property owners to be held liable for the removal of improperly permitted signs; and
- provides explicit authority for public-use airports to dispose of or remove personal property, derelict or abandoned aircraft and motor vehicles from the airport's premises.

Several amendments sponsored by the Transportation Committee Chairman were adopted by the Senate Community Affairs Committee on Wednesday including the following revisions:

The scale tolerance applies to all weight limitations except when a vehicle exceeds the posted weight limit on a road or bridge. The scale tolerance does not apply to cranes. Any vehicle or combination of vehicles which exceeds the gross or external bridge weight limits over and beyond 6,000 pounds shall be unloaded, and all material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator.

The implementation of fare collection systems must be interoperable and compatible with multiple public transportation systems throughout the state.

The Department of Transportation or local authority may issue permits which authorize commercial vehicles with weights not exceeding the limits to operate off the Interstate Highway System on a designated route specified in the permit.

Concerning toll violations, a person may elect to pay \$30 to the clerk of the court, plus the amount of the unpaid toll that is shown on the citation, in which case adjudication is withheld and no points may be assessed.

Each county that is within a regional transportation or transit authority may levy a discretionary sales surtax (in addition to charter counties, and counties consolidated with one or more municipalities).

The bill, as amended, was recommended favorably by the Senate Community Affairs Committee and a committee substitute now moves on to Transportation and Economic Development Appropriations, its final committee of reference.

### **SB 2452 – Growth Management**

This bill is intended to resolve issues raised by the pending constitutional challenges to SB 360, passed last session. The bill creates an undesignated section of law designed to protect parties that have relied on Senate Bill 360, notwithstanding any final declaration by a Florida court.

Pursuant to a strike-all amendment, the bill protects:

- the exemption of any development of regional impact in an area designated as exempt under Senate Bill 360 if: i) a development application has been approved; or ii) a complete application or rescission request is continuing in good faith;
- any 2-year extension granted pursuant to Senate Bill 360; and
- any amendment to a local comprehensive plan or any land development regulation designed to implement a transportation concurrency exception area.

The bill provides that it is intended to be remedial in nature and to reenact provisions of existing law. As such, the law shall apply retroactively to all actions addressed in the bill, and to any such actions pending as of the effective date (upon becoming law).

The bill as amended was recommended favorably by the Senate Judiciary Committee and now will be calendared for the Senate floor.

### **SB 2592 / HB 1385 - Relating to 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 Transportation committee adopted an amendment *prohibiting a local government from denying any development permit based solely on the presence of petroleum contamination for any construction, repairs, or renovations performed in conjunction with tank upgrade activity in an existing retail fuel facility - provided that facility is fully operational before the request for the building permit and that the construction, repairs, or renovations be performed by a licensed contractor.* An additional amendment was approved which would prohibit the sweeping of the trust fund in the future.

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

The companion bill in the House, **HB 1385**, was passed by the General Government Policy Council on Friday with one amendment. The amendment provides that for fuel service station facilities that have orders issued by DEP which grant an extension to the deadline, the deadline shall be extended to September 30, 2011. The bill as amended was recommended favorably by the General Government Policy Council, and will now be available for Special Order calendar.

### **SB 2644 – Energy Economic Zones**

This bill, pursuant to a strike-all amendment, requires the Department of Community Affairs (DCA) to include in its report on the Energy Economic Zone Pilot Program information relating to incentives available under the program, and requires a community within an energy economic zone pilot program to adopt an ordinance to authorize certain tax incentives.

The bill limits the amount of tax incentives available and requires the local government having jurisdiction over the energy economic zone to track the use of incentives under the program. The bill exempts certain building materials used in the construction or rehabilitation of energy-efficient structures from the tax on sales, use, and other transactions, and authorizes the Department of Revenue to adopt rules. The bill also exempts clean technology and

manufacturing products used in energy economic zones from the tax on sales, use and other transactions.

The bill provides limits on the amount of tax credits that may be granted, application requirements, and criminal penalties for fraudulent or grossly exaggerated tax credit claims.

Despite opposition from the DCA, the bill as amended was recorded favorably by the Senate Commerce Committee and now moves on to Communications, Energy, and Public Utilities.

### **HB 7147 / SB 1408 – Working Waterfront Property**

On Friday, the House Finance and Tax Council approved this bill which provides guidelines to be used by property appraisers in determining the assessment of property classified as working waterfront property. In so doing, the bill implements Article VII, section 4, and Article XII, section 30 of the Florida Constitution, and creates s. 193.704, F.S.

The bill provides definitions and eligibility criteria for property that may be classified as “working waterfront” for purposes of an exception from just valuation assessments. According to the bill, working waterfront properties consist of: land used predominantly for commercial fishing; land that is accessible to the public and used for vessel launches into waters that are navigable; marinas and drystacks that are open to the public; water-dependent marine manufacturing facilities; water-dependent commercial fishing facilities; water-dependent marine vessel construction and repair facilities and their support facilities; and water-dependent facilities located in a county defined in s. 125.011(1), F.S., used for the commercial transportation of goods and people to and from foreign ports or used to provide towing, storage and salvage in support of such facilities.

The bill provides that property classified as working waterfront must be assessed on the basis of current use. The portion of any working waterfront property that is not entitled to be classified as working waterfront must be assessed separately as provided under s. 193.011, F.S. The bill provides application procedures and provides penalties for failure to report a change in the use of property to other than as a working waterfront property.

The Council amended the bill to limit the eligibility to counties and municipalities. This resulted in a late filed amendment being approved which authorized non-for-profit organizations to apply for and receive grants through this program. The other amendment set forth new objectives for the Stan Mayfield Working Waterfronts Program and the Florida Forever Program which are to be considered in selecting projects. Grants will now be awarded to projects that:

- (a) Demonstrate a strong contribution to the preservation of Florida's commercial fishing, marine, or aquaculture industries;
- (b) Are located in areas being converted or threatened with conversion to uses that are incompatible with working waterfront uses or are not marine or fishing uses;

- (c) Provide a demonstrable benefit to the local or state economy leading to employment opportunities in the commercial fishing, marine, or aquaculture and related industries; and
- (d) Have been utilized for commercial fishing, marine uses, or aquaculture uses or would create an opportunity for commercial fishing, marine, or aquaculture uses.

The Council grandfathered projects which have already received prior funding, and the bill was passed in its final committee. It will now be available for Special Order calendar.

With regard to the Senate Companion, **SB 1408**, a strike-all amendment was adopted (with one amendment to that amendment) by the Senate Community Affairs Committee on Wednesday. The bill now adds that under The Stan Mayfield Working Waterfronts in the Florida Forever program (§ 380.5105), only cities or counties may apply for working waterfront acquisition projects, and weighted criteria for ranking was replaced by general objectives including: (a) a strong contribution to the preservation of Florida's commercial fishing, marine or aquaculture industries; (b) projects are located in areas being converted or threatened with conversion to incompatible uses; (c) projects provide a demonstrable benefit to the local or state economy leading to employment opportunities in the commercial fishing, marine or aquaculture and related industries; and (d) projects have been utilized for commercial fishing, marine uses or aquaculture uses or would create an opportunity for commercial fishing, marine or aquaculture uses.

The bill as amended was recorded favorably by the Community Affairs Committee and now moves on to Finance and Tax.

### **SB 7201 - Economic Development**

This bill amends, refines, creates and funds an assortment of economic development measures. The bill amends s. 212.031, F.S., providing a partial exemption from sales tax for renting, leasing, letting, or the granting a license for the use of real property to a person providing telecommunications, data systems management, or Internet services at a publically or privately owned convention hall, civic center, or meeting space at a public lodging establishment. The amendment is intended to be clarifying and remedial, and will apply retroactively.

The bill enhances the current sales tax exemption for machinery and equipment purchases by expanding spaceport and manufacturing businesses found in s. 212.08(5)(b)6.b., F.S., by redefining the word "productive output" to include units produced in a single product line, and allows greater flexibility in choosing the time periods used to assess whether or not productive output has actually expanded, thereby making it easier to qualify for the exemption. The bill also amends s. 212.08(5)(g), F.S., to exclude condominium parcels or condominium property from the definition of "real property" for purposes of qualifying for refunds of sales taxes paid on building materials used in the construction and rehabilitation of real property located within in an enterprise zone. The bill creates s. 288.0659, F.S., providing for a Local Government Distressed Area Matching Grant Program. These grants, which will be administered by the Office of

Tourism, Trade, and Economic Development within the Governor's Office (Office), will match expenditures by local governments to attract and retain business in Florida.

The bill was passed unanimously on the House Floor, and is now in Senate Messages.