



## **Legislative Report Week Eight of Regular Session April 19 - 23, 2010**

### **BUDGET**

Conference committees have been convened, but a conference report has not been finalized as of this writing. The final budget and conforming bills will be available next week.

### **SUBSTANTIVE ISSUES**

#### **State Revolving Loan Program**

We continue to work with representatives of the DEP to address the issue of making State Revolving Loan (SRL) funds available to more communities for drinking water, wastewater and stormwater treatment facilities. Currently in statute, grants are available only to “small disadvantaged communities” (defined as less than 7,500 persons, with income levels less than the state average) while low interest loans are made available to the remainder of Florida communities, awarded based on priorities established in rule.

This week, we have reached agreement with Secretary Sole to convene a working group to review the present administration of the SRL programs, and to discuss alternatives that would make grant funding available to more communities. The working group would include representatives from the Florida League of Cities and Florida Association of Counties as well as other interested parties. It is hoped that the meetings will commence shortly after the end of regular session, so that recommendations may be added to the Department’s priorities for next session.

#### **SB 0126 - Community Redevelopment**

Senate Bill 126 addresses land previously used as a military facility which is undeveloped and which the Federal government has declared surplus within the preceding 20 years in the definition of “blighted area” for purposes of the Community Redevelopment Act.

The bill passed the full Senate on Wednesday and is now in House messages. The House companion has never been heard in committee.

### **CS/CS SB 0282 - Review/DCA/Florida Government Accountability**

This bill reenacts the Department of Community Affairs, including the Division of Community Planning, the Division of Housing and Community Development, and the Division of Emergency Management. The bill also reenacts the Florida Housing Finance Corporation. The bill reenacts sections 20.18 and 420.504 of the Florida Statutes and repeals section 14.31 (8), Florida Statutes.

The bill was passed by the full Senate on Thursday and goes to the House. The House companions, HB 7105 and 7107, are in the House Economic Development and Community Affairs Policy Council.

### **CS/CS/CS SB 382 - Department of Agriculture and Consumer Services**

This committee substitute is a 74-page bill addressing numerous issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). With regard to growth management and environmental issues, 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;
- 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;
- Amends open burning laws to add “certified pile burner” as a new classification and provides guidelines for certified pile burning and certification procedures;
- Amends the Florida Farm Winery program to recognize the wine produced from agricultural products other than grapes;
- Exempts tropical foliage from the provisions of the License and Bond law;
- Requires the department and representatives of the Florida pest control industry to prepare a report that includes recommendations for changes in the law to provide for disciplinary action against licensees of the pest control industry who violate laws or rules.

The bill was heard on Monday in the Senate Health Regulation Committee where amendments were adopted. One amendment struck from the bill provisions that would have established that local governments would be required to meet if they want to establish more stringent fertilizer regulations than a state model ordinance. Another amendment added provisions requiring a permit for applying pesticide to the waters of the state; requiring the Department of Environmental Protection to enter into agreements with the Department of Agriculture and

Consumer Services and the Fish and Wildlife Conservation Commission relating to the uniform application of pesticides to the waters of the state; providing a temporary deviation from the acute toxicity provisions provided by rule for pesticide application under certain circumstances; and regarding the control of aquatic weeds and pesticides. Those amendments have now been incorporated into the CS/CS/CS for the bill, and the bill is in the Senate General Government Appropriations Committee.

On the House side, **HB 1445** still contains the fertilizer provisions. See below for the update on progress of that bill, which also was considered this week.

### **HB 431 - Peace Creek Drainage District**

This bill dissolves the Peace Creek Drainage District (PCDD) and transfers all assets and indebtedness of the district, if any, to the Southwest Florida Water Management District effective July 1, 2010.

The bill passed on second and third reading in the full House this week and will now be placed in Senate Messages.

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

This is a lengthy bill dealing with a wide-ranging series of issues related to water and environmental protection. The bill was heard on the Senate floor on Friday, and a number of amendments were adopted. The bill, as amended, among other provisions, now:

- Reorganizes various provisions of Ch. 373, F.S., into a new part VII.
- Allows water management districts to fund projects that result in quantifiable water savings.
- Contains provisions regarding life-of-the-mine permits and Lake Belt mining.
- 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.
- Bans the land application of septage after January 1, 2016, and requires a report to be prepared by DOH and DEP by February 2011 recommending alternative methods to establish enhanced treatment levels for the land application of septage from onsite sewage and disposal systems. The report shall include, but is not limited to, a schedule

for the reduction in land application, appropriate treatment levels, alternative methods for treatment and disposal, enhanced application site permitting requirements including any requirements for nutrient management plans, and the range of costs to local governments, affected businesses and individuals for alternative treatment and disposal methods. The report shall also include any recommendations for legislation or rule authority needed to reduce land application of septage.

- Requires DOH, beginning January 1, 2011, to administer an onsite sewage treatment and disposal system evaluation program for the purpose of assessing the fundamental operational condition of systems and identifying any failures within the systems. The department shall adopt rules implementing the program standards, procedures, and requirements, including, but not limited to, a schedule for a 5-year evaluation cycle, requirements for the pump-out of a system or repair of a failing system, enforcement procedures for failure of a system owner to obtain an evaluation of the system.
- Requires owners of an onsite sewage treatment and disposal system, excluding a system that is required to obtain an operating permit, shall have the system evaluated at least once every 5 years to assess the fundamental operational condition of the system, and identify any failure within the system.
- Establishes a grant program effective January 1, 2012 to assist owners of onsite sewage treatment and disposal systems identified pursuant to s. 381.0065 or the rules adopted thereunder. A grant under the program may be awarded to an owner only for the purpose of inspecting, pumping, repairing, or replacing a system serving a single-family residence occupied by an owner with a family income of less than or equal to 133 percent of the federal poverty level at the time of application. The grant program will be funded by a fee a fee not less than \$15, or more than \$30 for a required five-year evaluation report of onsite systems. At least \$1 and no more than \$5 collected pursuant to this paragraph shall be used to fund a grant program established under s. 381.00656.
- 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.
- Directs the DEP to submit a report to the Governor and Legislature on the effects of reclaimed water use by February 1, 2012.
- Clarifies the duties of the Florida Water Pollution Control Financing Corporation.
- Amends the mitigation restrictions contained in section 369.317, Florida Statutes, to provide that, if certain lands within the Wekiva Study Area or the Wekiva Parkway alignment corridor are used as environmental mitigation to offset certain impacts, then the activity is considered to meet the cumulative impact surface water and wetlands requirements contained in section 373.414(8)(a), Florida Statutes.
- Permits funding for alternative water supply projects through the State Board of Administration (SBA).
- Requires the lining of all construction and demolition debris landfills constructed after July 1, 2010 unless the owner or operator shows that the facility is not expected to violate groundwater standards and criteria if built without a liner.
- Reinforces the WMDs duty to negotiate disputes in good faith before proceeding to litigation against other governmental entities.

- Clarifies penalties for damaging or destroying any drainage works constructed in any WMD.

The amendments have now been incorporated into a new draft of the bill. The bill was rolled over to third reading.

### **SB 570 - Relating to Environmental Protection – Recycling**

This ever-changing bill amends section 403.7032, F. S., to require all cities, county, state entities, and public schools to report to their county their recycling rates on all recyclable materials. Private sector businesses are “encouraged” to report. The bill directs the Department of Management Services (DMS) to modify their procurement system to track the state’s purchases of green and recycled materials. The bill directs the Department of Environmental Protection (DEP) to create the Recycling Business Assistance Center to coordinate between state agencies and the private sector to develop new markets for recyclable materials, and to report to the Legislature the state’s recycling rates every two years.

The bill outlines the state’s incremental recycling goals and specific benchmarks that must be reached by 2020. The bill also outlines state recycling goals for construction and demolition debris and commercial and multi-family dwellings. If the state does not reach its recycling benchmarks by specified dates, the bill tasks the DEP with investigating and reporting to the Legislature programmatic changes that could assist in achieving the recycling goal.

The bill details that solid waste for the production of renewable energy can count toward the recycling goals if the county in which a waste to energy facility is located has a program that is designed to recycle at least forty percent of the municipal solid waste by means other than gasification or combustion. The bill specifies that local governments may enact ordinances to require multi-family dwellings and apartment complexes to allot space and receptacles for the separation of recyclable materials.

The bill revises section 403.7145, Florida Statutes, to replace the terms “aluminum” and “cans” with “beverage containers.” The Capitol building must report its recycling rates to Leon County and those rates will be posted on the DEP’s website. The bill requires all public airports to collect recyclables from airlines and businesses operating at the airport. The bill establishes recycling benchmarks in addition to the requirement that all construction and demolition debris be processed prior to disposal.

The bill was considered and recommended by the General Government Appropriations Committee this week. In that committee, an amendment that would have deleted the liner requirement for C&D landfills was withdrawn after the sponsor and the DEP agreed to work on language that would allow liner decisions to be made on a case-by-case basis, allowing for consideration of geology, waste streams and water bodies. Another amendment was adopted which allows the deposit of yard waste in Class I landfills, if the facility utilizes a gas-collection system and provides or arranges for a beneficial reuse of the collected gas.

On Friday, the bill was considered on the Senate floor and was temporarily postponed, with amendments pending.

### **HB 617 - Mining and Extraction Activities**

The bill replaces outdated mitigation ratio language, specific to limestone, with the use of the uniform wetland mitigation assessment method when determining the amount of wetland mitigation. The bill proposes that for limestone mines, the amount of the financial responsibility mechanism for the construction of wetland mitigation be reduced from the amount required for the impacts during the entire life of the project to the amount required for three years of impacts. The initial amount of financial responsibility for permitted activities will be provided for 110% of the estimated mitigation costs affected in the first three years of operations. Each year thereafter, the amount of the financial responsibility will be updated.

The bill would authorize limestone mine operators, or the operator of an existing mine, to apply for a life-of-the-mine permit. The bill would require DEP to coordinate and integrate the processing of the application with the application for other permits, such as industrial wastewater discharge permits and National Pollution Discharge and Elimination System (NPDES) permits. The bill also states that nothing in the bill shall restrict or limit the authority of a local government to approve, approve with conditions, deny, or impose a permit duration different than the permit duration issued by the DEP.

The bill was passed on Second Reading by the full House on Friday and now rolls over for Third reading.

### **HB 665 – Affordable Housing**

This bill revises statutes which govern the implementation of affordable housing practices and procedures statewide by the Florida Housing Finance Corporation (FHFC), the state entity primarily responsible for encouraging the construction of affordable housing in Florida. The bill addresses a number of different areas relating to affordable housing. The bill removes the statutory limitations on the amount of documentary stamp revenue that goes into the State Housing Trust Fund and the Local Government Housing Trust Fund.

The bill revises the state housing strategy to provide targeted assistance for persons with special needs. It includes an analysis of persons with special needs in the strategy's periodic review and report. The bill creates two new definitions to enact the newly established state housing strategies. Those new definitions are aimed to serve populations defined as suffering from a “disabling condition” and those defined as a “person with special needs.”

The bill removes domicile of the developer and general contractor, as provided in s. 420.507(47) as criteria to be considered by FHFC in its scoring and competitive evaluation of applications for funding under the SAIL program and replaces it with developers and general contractors who demonstrate the highest rate of Florida job creation in the development and construction of

affordable housing. The bill requires certain local comprehensive plans to include affordable housing for seniors as a part of their housing element.

The bill empowers the FHFC with specified powers necessary or convenient to carry out the purposes of affordable housing relating to: a) the investment of surplus funds, and b) the administration of programs receiving federal funding for which no corresponding program has been previously created by statute. The bill provides that funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for use in the State Apartment Incentive Loan (SAIL) Program, Florida Homeownership Assistance Program (FHAP), Community Workforce Housing Innovation Pilot (CWHIP) Program, or the State Housing Initiatives Partnership (SHIP) Program may not be used to finance or otherwise assist new construction until July 1, 2011.

An amendment was adopted on second reading that provides that a comprehensive plan housing element “may include provisions that specifically address affordable housing for persons 60 years of age or older.” The bill as amended was passed on Third Reading on Friday and now will be placed in Senate Messages.

#### **SB 0776 - Wekiva River Protection Act**

This bill amends the mitigation restrictions contained in section 369.317, Florida Statutes, to provide that, if certain lands within the Wekiva Study Area or the Wekiva Parkway alignment corridor are used as environmental mitigation to offset certain impacts, then the activity is considered to meet the cumulative impact surface water and wetlands requirements contained in section 373.414(8)(a), Florida Statutes.

The bill was on the Senate Special Order Calendar and was read a second time on Friday.

#### **HB 0843 - Rural Enterprise Zones**

This bill provides that any catalyst site that was approved prior to January 1, 2010 which 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. “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. Suwannee County and Columbia County are not currently located in a Rural Enterprise Zone. The bill provides that upon request from the host county of a catalyst site that is not located in an enterprise zone for rural enterprise zone designation, OTTED must provide such designation. The two catalyst sites will be granted access to the incentives provided by the Florida Enterprise Zone Program, once they acquire the Rural Enterprise Zone designation.

The bill as amended was passed on second reading by the full House on Friday and now rolls over to third reading.

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

This is a repeal bill. In 2003, the Strategic Intermodal System was established to serve the state's mobility needs, help the state become a worldwide economic leader, enhance economic prosperity and competitiveness, enrich quality of life and reflect responsible environmental stewardship. The 2003 law also created a Statewide Intermodal Transportation Advisory Council to advise and make recommendations to the Legislature and DOT on the policies, planning, and funding of intermodal transportation projects.

The Statewide Intermodal Transportation Advisory Council is no longer active, and held its last meeting in December 2004. This bill eliminates the Council. The bill was passed on second reading by the full House on Thursday, and will now be rolled over to third reading.

### **HB 963 / SB 2000 – Ports**

These bills, which are very similar substantively, provide several revisions to state law related to seaports. Florida has 14 public seaports that are considered significant economic drivers for the regions in which they are located and for the state in general. The individual seaports receive a combination of public funding and private revenues to finance their operations and capital improvements.

As work to widen and modernize the Panama Canal begins, ports on the entire U.S. coastline are considering their options on how to best position themselves to participate in what is expected to be an economic boon in maritime transit of oil, foodstuffs, consumer goods, and other cargo. States such as California, Maryland, South Carolina, and Texas are exploring options to finance major port improvements to attract the increased international shipping activities and to handle the larger tankers and cargo ships that will be traversing the Panama Canal.

The bills:

- 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.
- Allows seaport projects for rehabilitation of certain structures to only need a 25 percent match.
- Requires the Florida Seaport Transportation and Economic Development (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 and allows transfer of unexpended balances for seaport projects through adopted work program amendments.
- 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, with three technical amendments, was passed on second reading by the full House on Thursday, and will now be rolled over to third reading.

The Senate Companion, **SB 2000**, was heard in the Senate Policy and Steering Committee on Ways and Means on Tuesday and is now on the Senate Calendar.

### **HB 981 - Relating to Agriculture**

The bill provides that land which is classified as bona fide agricultural land will retain that classification when offered for sale, if the land continues to be used primarily for bona fide agricultural purposes. The bill also provides 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 structures or improvements used for horticultural production that provide shade and shelter and improve the quality or conservation of water, as designated by the Department of Agriculture and Consumers Services' (DACS) interim measures or best management practices shall be assessed by the methodology required for the assessment of land used for agricultural purposes.

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 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. (Foundation), a direct support organization of the University of Florida, shall serve as the advisory council for a citrus research marketing order. 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 expands the types of research that may be conducted by the DACS.

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 that the rate not exceed the rate established by the marketing order.

Along with a technical amendment, a second amendment was adopted by the full House this week which provides:

The Department of Agriculture and Consumer Services shall meet with duly authorized representatives of established organizations representing the state's pest control industry and shall prepare and submit a report to the President of the Senate, the Speaker of the House of Representatives, the chair of the Senate Committee on Agriculture, and the chair of the House Committee on Agribusiness by January 1, 2011. The report shall include recommended amendments to chapter 482, Florida Statutes, that provide for disciplinary action to be taken against licensees who violate laws or rules pertaining to the pretreatment of soil to protect newly constructed homes, pest control at sensitive facilities such as schools and nursing homes, and the fumigation of existing homes for protection against termite damage, thereby providing additional safeguards for consumers. The report may also address other issues of concern to the department and to members of the industry, such as changes to requirements for professional liability insurance coverage or the amount of bond required, duties and responsibilities of a certified operator, issuance of a centralized pest control service center license, and limited certification for commercial wildlife management personnel.

The bill as amended was passed on Second Reading by the full House on Friday and now rolls over for Third reading.

### **SB 1052 - Solid Waste Disposal**

This bill amends s. 403.708, F. S., to allow the disposal of yard trash in Class I landfills that use an active landfill gas collection system and provide or arrange for beneficial reuse of the gas.

An amendment was adopted this week which provides:

A qualifying permitted Class I landfill must obtain a minor permit modification to its operating permit which describes the beneficial use being made of the landfill gas and modifies the facility's operation plan before receiving yard trash as authorized by this paragraph. The permittee must certify that gas collection and beneficial use will continue after closure of the disposal unit that is accepting yard trash.

After being temporarily postponed in each of the last two committee meetings, the bill as amended was recommended favorably (with a committee substitute) by the Senate Environmental Preservation and Conservation Committee, and now moves on to Community Affairs, its final committee of reference.

## **HB 1109 - Water Supply**

This bill re-organizes the statutes relating to water supply development. Specifically, 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 a new Part VII of Chapter 373, F.S. Numerous conforming cross-reference changes are provided.

The bill was passed on second reading by the full House on Friday and now rolls over to third reading.

## **HB 1271 - Relating to Transportation**

This bill addresses numerous issues related to transportation. Specifically, the bill:

- Codifies the \$75 per pay period pay additive for Motor Carrier Compliance Officers who maintain certification by the Commercial Vehicle Safety Alliance.
- Allows the Charter County Transportation Surtax to be used for on-demand transportation service.
- Revises the membership of the Board of Pilot Commissioners.
- Replaces the Pilotage Rate Review Board with the Pilotage Rate Review Committee as part of the Board of Pilot Commissioners, provides for membership, and provides that its rate decisions are not appealable to the Board of Pilot Commissioners.
- Requires the Governor to appoint certain members of the Board of Pilot Commissioners by October 31, 2010.
- Provides that certain hold harmless provisions in motor carrier transportation contracts are against public policy and are void and unenforceable.
- Provides for permits to exceed the maximum weight for vehicles transporting agriculture on non-interstate highways and allows for additional weight due to idle reduction devices.
- Requires citations for toll violations to be mailed by first-class mail, return receipt requested.
- Addresses drivers license issues related to toll violations.
- Revises the license tax fees for wreckers to clarify the amounts based on function.
- Revises provisions relating to applications for contractor prequalification to clarify when interim financial statements are needed for contractor qualification applications.
- Provides express authority with regard to DOT's rulemaking related to video billing and the associated post-payment of tolls by toll road users.

- Requires any new public rail system to utilize a universal fare system compatible with certain standards, and any existing public rail system that upgrades or changes fare systems to utilize a universal fare system compatible with certain standards.
- Authorizes the Central Florida Regional Transportation Authority to bond capital leases.
- Authorizes the Tampa-Hillsborough County Expressway Authority to issue its own bonds. Creates the Osceola County Expressway Authority.
- Addresses mitigation issues related to the Wekiva Parkway.
- Increases the mitigation fee for mining within the Miami-Dade Lake Belt and adds a sunset date for the annual mitigation fee increase.
- Revises and creates definitions related to outdoor advertising.
- Revises an outdoor advertising pilot program.
- Removes the 3-year rotation and reduces the maximum annual fees related to the logo sign program.
- Provides a method for DOT to collect the cost of removing unpermitted and illegal signs.
- Provides a mechanism for public-use airports to dispose of or remove personal property, derelict or abandoned aircraft or abandoned motor vehicles from the airport's premises.

There were a number of amendments that were adopted by the full House on Second reading on Friday. Among these amendments included the following:

- 1) The DOT or local authority may issue permits that authorize commercial vehicles having weights not exceeding the limits of s. 316.535(5), plus the scale tolerance provided in s. 316.545(2), to operate off the interstate highway system on a designated route specified in the permit.
- 2) Any public transit system which connects directly with a new public rail system and which is adding a new fare media system or is upgrading its existing system shall use a universally accepted contactless fare media that is compatible with the American Public Transportation Association's System Standard or the applicable bankcard contactless media standards, and allows users to purchase fares at a single point of sale with coin, cash, or credit card.
- 3) Adds regional transportation authorities to those charter counties that may levy a discretionary sales surtax.
- 4) Creates the Osceola County Expressway Authority and provides for a governing body, membership, terms, organization, personnel, and administration; directs the authority to cooperate with and participate in any efforts to establish a regional expressway authority and declares that the authority is not eligible for voting membership in certain metropolitan planning organizations.

The bill as amended was passed on second reading by the full House on Friday and now rolls over for third reading.

## **HB 1385 - Petroleum Contamination Site Cleanup**

This bill allows the DEP to establish a long-term “natural attenuation” monitoring category for sites in the Petroleum Cleanup Program. 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. Lastly, the bill prohibits the sweeping of the Inland Protection Trust Fund in the future.

The bill was passed on Second Reading by the full House on Friday and now rolls over for Third reading.

## **HB 1445 - Relating to Agriculture**

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

- gives DEP rule-making authority to 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;

- specifies the quantity of antifreeze to be submitted to DACS for testing;
- authorizes the department 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;
- 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;
- grants DACS authority to delegate to local governments the issuance of authorizations for open burning and establishes a certified pile burner program;
- amends the Florida Farm Winery program to recognize wine produced from agricultural products other than grapes;
- 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;
- authorizes DACS and DEP to develop and implement a general permit for pesticide application; and
- grants DACS authority over the sale of commercial stock feed and commercial fertilizer in the state.

A number of amendments, technical and substantive, were adopted on Second Reading by the full House on Friday, including the following:

- 1) The Florida Agricultural Museum in Flagler County is designated as the official state agricultural museum.
- 2) The Department of Agriculture and Consumer Services shall meet with duly authorized representatives of established organizations representing the state's pest control industry and shall prepare and submit a report to the President of the Senate, the Speaker of the House, the chair of the Senate Committee on Agriculture, and the chair of the House Agriculture and Natural Resources Policy Committee.
- 3) An applicant for a Class "C," Class "CC," Class "D," Class "DI," Class "E," Class "EE," Class "M," Class "MA," Class "MB," Class "MR," or Class "RI" license who is not a United States citizen must submit proof of current employment authorization issued by the United States Citizenship and Immigration Services or proof that she or he is deemed a permanent legal resident alien by the United States Citizenship and Immigration Services.
- 4) Class "CC" license must have completed a minimum of 40 hours (from the current 24) of professional training.

The bill as amended now rolls over to third reading.

The Senate bill, **SB 382**, also was considered this week; see above for a description of that bill.

### **HM 1589 - Relating to Numeric Nutrient Water Quality Standards**

This House Memorial urges the United States Congress to require the United States Environmental Protection Agency (EPA) to subject its proposed numeric nutrient criteria rule to peer review by the Agency's Science Advisory Board, and to review by a third party such as the Government Accountability Office or the Congressional Budget Office to assess the economic impact of the proposed rule on Florida.

The Memorial was adopted on second reading by the full House on Wednesday.

### **SB 1952 – Water Management Districts**

This bill makes technical revisions and clarifications to the Basin Board section of chapter 373, Florida Statutes, related to board constitution and voting conditions for chairpersons. Section 1 amends s. 373.0693, F.S. to provide that a member of the governing board serving as chair of a basin board be a regular, voting member 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. The bill also provides for the appointment of more than one basin board chair from among the members of the governing board, and deletes obsolete language.

The bill creates a new subsection in s. 373.171, F.S., to provide that all districts' cooperative funding programs are not subject to the rule making requirements of chapter 120, F.S. However, they are subject to the provisions of s. 120.569, F.S., which allows affected individuals to challenge district decisions.

A strike-all amendment, offered as a courtesy, incorporates travelling amendments including a provision that funds deposited in the Water Protection and Sustainability Program Trust Fund to the credit of the Northwest Florida Water Management District and the Suwannee River Water Management District may also be used for regional water supply planning, water resource development, and water resource projects, including, but not limited to, springs protection.

The bill as amended was recommended favorably by the General Government Appropriations Committee and is now available for the Special Order Calendar.

### **CS/SB 1992 - Florida Ports Investments**

This bill creates the "Florida Ports Investment Act," which incentivizes private investors who invest in seaport infrastructure projects by offering \$100 million in insurance premium tax credits. The tax credits will be awarded to individual investors in an amount equal to their

investments. The bill creates an incentive for any person or entity subject to the U.S. Internal Revenue Code to invest with the new 9-member Florida Ports Investment Corporation (corporation).

The corporation, in turn, will invest in projects that are consistent with their host seaport's master plan; are consistent with various federal criteria; can provide a minimum 25 percent match to these investment funds; and meet other requirements.

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) will allocate up to \$100 million in state premium tax credits to investors over the life of the program.

An investor (or transferee) that is an insurance company is entitled to claim against its insurance premium tax liabilities no more than 10 percentage points of its total credits annually, including any carryforward credits, beginning in calendar year 2013. Credits may be carried forward and applied against tax liability until 2029.

The tax credits also may be transferred, one time only, to a third party.

The Florida Department of Revenue (DOR) has the authority to audit individual tax claims, and enforce provisions to protect against fraudulent claiming of credits.

OTTED is required to submit an annual report on the seaports investment program to the Governor, the President of the Senate, and the Speaker of the House of Representatives, beginning February 1, 2013.

The bill was heard in the Senate on Monday and is now in the Senate Finance and Tax Committee. The House Companion, HB 973, has passed the full House and is in the Senate in messages.

### **SB 2074 / HB 7103 – Agriculture**

This committee substitute provides comprehensive revisions to existing law related to agriculture. Specifically, the bill:

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

- Creates the Agricultural Land Acknowledgement Act to ensure that agricultural practices will not be subject to interference by residential use of land contiguous to agricultural land;
- Requires an applicant for certain development permits to sign and submit an acknowledgement of certain contiguous agricultural lands as a condition of the political subdivision issuing the permits;
- Expands eligibility for exemption from a local business tax for persons who sell farm, aquacultural, grove, horticultural, floricultural, or tropical fish farm products;
- Expands the definition of “farm tractor” to include any motor vehicle that is operated principally on a farm, grove, or orchard in agricultural or horticultural pursuits and that is operated incidentally;
- Reverses 2005 legislation to return tropical foliage to exempt status from the provisions of the License and Bond law;
- Exempts farm fences from the Florida Building Code and expands the definition of nonresidential farm buildings that are exempt from county or municipal codes and fees;
- Allows additional fiscally sound multi-peril crop insurers to sell crop insurance in Florida; and
- Makes section 823.145, Florida Statutes, consistent with section 403.707, Florida Statutes, relating to the disposal of certain materials used in agricultural operations.

Technical and conforming amendments were adopted this week by the General Government Appropriations Committee and the bill, as amended, was reported favorably. The bill will now be available for Special Order Calendar.

A companion bill in the House, **HB 7103**, was amended to conform to the Senate bill, and was passed on Second Reading by the full House. It now rolls over for Third Reading.

### **SB 2182 - Agriculture**

This bill prohibits the denial of an agricultural classification on land if the only changed circumstance is that the land has been offered for sale, and applies this prohibition retroactively to all parcels for which a final court order has not been entered. The bill specifies an assessment methodology for structures or improvements used for horticulture production which provide shade and shelter and improve water quality or water conservation as designated by interim measures or best management practices.

The bill authorizes the Department of Environmental Protection (DEP) to enter into agreements with the Department of Agriculture and Consumer Services (DACCS) and the Fish and Wildlife Conservation Commission (FWC) to develop a permitting process that allows the DEP to regulate pesticides applied to waters of the state in a way that satisfies the requirements of the National Pollutant Discharge Eliminations (NPDES) Program in accordance with the federal Clean Water Act.

The bill provides that the Citrus and Research Development Foundation, Inc., serve as the advisory council for a citrus research marketing order. The box assessment for citrus fruit shall not exceed the amount included in the order.

The bill requires the assessment placed on agricultural commodities be deposited into the appropriate trust fund rather than the General Inspection Trust Fund within the DACS.

The bill will have a positive impact on revenue available to the DACS to defray the costs incurred in the formulation, issuance, administration, and enforcement of citrus marketing orders. This bill will have a negative but indeterminate impact on local tax revenue.

This bill requires the DACS and representatives of the state pest control industry to prepare a report for the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of the Senate Committee on Agriculture and the House Committee on Agribusiness by January 1, 2011. The report must include recommended changes pertaining to disciplinary action against licensees of the pest control industry. The report may also address additional issues of concern to the DACS and members of the industry.

The bill was on the Senate Special Order calendar for Friday but the Senate didn't take it up and it is back on the Special Order Calendar for Monday, with three amendments pending.

### **SB 2220 - Relating to Strategic Intermodal System Plan**

This bill removes the statutory provisions that created the 12-member Strategic Intermodal Transportation Advisory Council (SITAC). The SITAC was created to assist the Florida Department of Transportation with developing a statewide strategy to develop intermodal connectivity of state highways, airports, seaports, spaceports and rail lines. It has not met since December 2004 and is currently inactive. The terms of office for all original appointees have lapsed and no reappointments of members were made by the Governor or Legislature.

The bill was recommended favorably this week by the Senate Governmental Oversight and Accountability Committee and now moves on to Transportation and Economic Development Appropriations, its final committee of reference.

### **SB 2470 - Northeast Florida Regional Transportation**

This bill creates the Northeast Florida Regional Transportation Study Commission comprising representatives of Baker, Clay, Duval, Flagler, Nassau, Putnam, and St. Johns counties to make specific legislative recommendations relating to regional transportation. Such recommendations may include an implementation plan for the establishment of a regional transportation authority and draft legislation.

The bill was amended on Wednesday and passed by the full Senate on Thursday. The companion bill, **HB 1297**, is on the House Calendar.

## HB 7099 - Legislative Reauthorizations

HB 7099, which was referred to by many as the “bridge” bill, was taken up this week and passed by the full Senate. This bill is intended to provide some degree of certainty for certain actions taken by developers and local governments under the provisions of SB 360, passed last session, should last year’s bill be found unconstitutional. Specifically, the bill:

- Provides that any properly noticed two year permit extension as provided for pursuant to section 14 of chapter 2009-96, Laws of Florida, is valid and shall remain in effect.
- Provides that any amendments legally in effect to a local government's comprehensive plan to authorize and implement a transportation concurrency exception area pursuant to section 4, chapter 2009-96, Laws of Florida, shall remain in effect.
- Provides specified protections for any project or portion of a project in a dense urban area that qualifies for a DRI exemption. Large developments in these areas may proceed without having to undergo full DRI review if:
  - a development application has been filed or approved, or
  - a complete development application or rescission request has been approved or is pending and continuing in good faith.

The Senate also attached two amendments, one of which deals clarifies that permit extensions granted by SB 360 remain in force; *and also reauthorizes DCA and the Florida Housing Finance Corporation.*

The other amendment included this language:

163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions. — As used in this act:

(29) “Urban service area” means built-up areas where public facilities and services, including, but not limited to, central water and sewer capacity and roads, are already in place or are committed in the first 3 years of the capital improvement schedule. In addition, for counties that qualify as dense urban land areas under subsection (34), the nonrural area of a county which has adopted into the county charter a rural area designation or any areas identified in the comprehensive plan as urban service areas, regardless of any local government limitation, or urban growth boundaries on or before July 1, 2009, are also urban service areas under this definition.

The language is intended to override a limitation in the Palm Beach County comprehensive plan which contains a designation of a “limited service area” which has fewer public services than other urbanized areas in the county, and which constrains the development of a 3,800-acre parcel which has been seeking to develop.

The bill passed 36-2, and now goes back to House because of the amendments.

### **HB 7127 - Working Waterfront Property**

This bill implements Article VII, section 4, and Article XII, section 30 of the Florida Constitution, and creates s. 193.704, F.S., providing guidelines to be used by property appraisers in determining the assessment of property classified as working waterfront property.

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. 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 property appraiser is directed to use the income approach to valuation, with a specified capitalization rate calculation, if that approach is appropriate and adequate information is available to the property appraiser. If the income approach is not appropriate or if the information needed is not available to the property appraiser, the property appraiser is directed to value the property at its present cash value as if it were required to remain in its current use for the foreseeable future. In no event will the assessed value of the property exceed just value. 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 property appraiser is required to retain at his or her office a list by ownership of all applications for classification as working waterfront property the office has received, showing the acreage of the property; the full valuation under s. 193.011, F.S.; the value of the land under the provisions of this act; and whether or not the classification was granted.

The Revenue Estimating Conference estimated that the provisions of this bill would reduce local government revenues (including schools) by \$42.3 million in FY 2010-11 and by \$42.8 million in FY 2011-12. The bill has an effective date of “upon becoming law,” and applies retroactively to January 1, 2010.

The bill was brought up on the House floor on Monday and was temporarily postponed. It is unclear at this point whether there will be another special order calendar in the House before the

end of session. The Senate companion, SB 346, is currently in the Senate Policy and Steering Committee on Ways and Means.

## **HB 7177 – Water Resources**

The bill amends various sections of Florida Statutes that relate to water supply, conservation, and governance, generally. More specifically, the bill:

- Codifies the name of the currently existing state-wide water conservation program and the attendant guide, the Conserve Florida Clearinghouse, and the Conserve Florida Clearinghouse Guide (the Guide), respectively. Use of the guide is not mandatory but the bill encourages utilities to use the guide, and requires that any water conservation plan must be designed to achieve the water conservation goal or goals in a cost effective manner, considering the utility's customers, service area, and other individual circumstances of the utility.
- The bill incorporates those entities that produce and offer reclaimed water for beneficial uses into regional water supply planning.
- Extends the duration for a Consumptive Use Permit (CUP) compliance report to the WMD by a 20 year CUP holder, from every five years to every 10 years. One water management district (WMD), the Suwannee River WMD, may require a five-year compliance schedule until July 1, 2015, and thereafter every ten years during the term of the permit.
- Restricts a WMD governing board from delegating authority for issues relating to part II, Chapter 373, F.S., and directs WMD governing boards that have delegated authority to executive directors to take final action on permit applications under part IV of Chapter 373, F.S., or petitions for variances, waivers, or general permits, to provide a process for referring a denial of a petition to the governing board for the purpose to taking final action. In addition, the bill encourages WMDs and other governmental agencies to promote public-private partnerships when procuring materials for infrastructure and restoration work projects.
- Directs the DEP and/or WMDs to promulgate rules relating to the reuse of reclaimed water by consumptive use permit holders, and rules providing a preference for mitigation banks and offsite regional mitigation over onsite mitigation.
- Prohibits actions destroying, damaging or obstructing drainage canals maintained by water control districts.

The bill was heard on the floor of the House on Friday, and a number of amendments were offered and adopted. One amendment clarified and sunsets on June 1, 2011 an existing provision of law prohibiting individual board members from intervening in the processing of permit applications for wetlands permits, but does not limit the board's ability to act as a collegial body to supervise or oversee the work at the district or district staff. Another amendment removed the mitigation provisions referred to above. Another amendment deletes language in current law regarding certification by water management districts of landscape architects, engineers, geologists, and surveyors.

The amendments have now been rolled into an engrossed version of the bill.

### **HB 7203 - Relating to Community Development Districts**

This bill allows Community Development Districts (CDDs) without qualified electors to levy an optional tax of up to one percent (1%) on all commercial rental transactions occurring in the district that are subject to sales tax under s. 212.031, F.S. Approval to levy such a tax requires the approval of four of the five members of the elected Board of Supervisors (Board) of the CDD and at least two-thirds of the landowners within the CDD. The bill provides that the proceeds of the tax may only be used to promote and support commercial activity within the district, including those festivals, special events, and other activities within the district that enhance commercial activity.

This bill requires approval from the CDD's Board prior to expenditure of the tax proceeds and requires local administration of the tax. The bill also provides that if the Board determines that a CDD has qualified electors, the CDD's authority to levy the tax authorized by this bill expires. Also, all transactions that are exempt from the state sales tax imposed under s. 212.031, F.S., are exempt from the tax authorized by this bill.

The bill was passed on Second Reading by the full House on Friday, and now rolls over to third reading.

### **HB 7213 – Capital Formation for Infrastructure Projects**

This bill creates the Florida Infrastructure Fund Partnership (“Partnership”), a contingent tax credit program designed to leverage investment and private funding for state infrastructure projects. The Partnership is authorized to raise \$350 million in private funds for direct investment in infrastructure projects, including water or wastewater systems, communication systems, power systems, transportation systems, renewable energy systems, ancillary or support systems, or other strategic infrastructure needs.

Tax credits would be available for redemption no earlier than 2023 and are to be used only as a guarantee on an investment partner's principal investment. The amount of tax credits that may be applied or claimed against state taxes in anyone state fiscal year may not exceed an amount equal to \$87.5 million multiplied by a fraction the numerator of which is the amount of credits issued to such owner by the Department of Revenue (DOR) and the denominator of which is the amount of all credits issued by the DOR to all tax credit owners.

The Florida Opportunity Fund will serve as the general partner of the program. A separate entity, the Florida Infrastructure Investment Trust, will administer the tax credit program.

The bill was adopted on third reading by the full House on Thursday, and will now be placed in Senate messages.

### **HB 7243 – Relating to Environmental Control / Recycling**

The bill deletes a duplicative reporting requirement in the Florida Climate Protection Act. The bill strengthens provisions related to the statewide comprehensive recycling program, requiring state agencies, K-12 public schools, public institutions of higher learning, community colleges, and state universities, including all buildings that are occupied by municipal, county, or state employees and entities occupying buildings managed by the Department of Management Services (DMS), to report recycling rates to their county. Exceptions to such requirements are provided for local governments meeting specific criteria. The bill directs DMS to modify its procurement system to track the state's purchases of green and recycled materials. The DEP is directed to create the Recycling Business Assistance Center to develop new markets for recyclable materials and to seek technical assistance from Enterprise Florida, Inc. (EFI).

The bill requires all Materials Recovery Facilities to report to DEP and the counties. The DEP is to report to the Legislature the state's recycling rates every two years. The bill outlines incremental recycling goals and specific benchmarks for the state, counties, and cities that must be reached by December 31, 2020. To attain such goals, counties must include a program to recycle construction and demolition debris. New commercial and multifamily construction projects, where counties provide containment vessels, must provide for recycling. DEP is to investigate and report to the Legislature programmatic changes that could assist in achieving the recycling goals. The DEP is authorized to direct counties that have not met the recycling goals to expand recycling programs to existing commercial and multifamily dwellings. The bill also, authorizes local governments to require multi-family dwellings and apartment complexes to offer recycling programs. The bill also deletes a county composting requirement.

The bill allows renewable energy facilities to count a certain amount of the megawatts they produce towards the state recycling goal and incentivizes renewable energy producing counties that maintain a program to recycle at least 50% of municipal solid waste by means other than creating renewable energy. The bill requires all newly permitted and lateral expansions of construction and demolition (C&D) disposal units, to be lined, and provides an exemption upon demonstration by DEP that a liner is not necessary. The bill requires the reporting of processed C&D debris, and if economically feasible, all construction and demolition debris to be processed prior to disposal, at a permitted waste processing or disposal facility. Materials that have already been processed for recycling exempted from the C&D processing requirement.

The bill reduces the scope of the solid waste management grant program, eliminating the competitive innovative grant program. The bill requires DEP to create a recycling pilot program for the Capitol recycling area, requires the Capitol buildings to report recycling rates to Leon County, to post these rates on DEP's website, and requires public airports to recycle and to retain associated economic benefits to offset related costs. The bill requires the Florida Building

Commission to develop recycling recommendations and repeals the outdated Recycling Markets Advisory Committee.

A number of amendments were adopted, including:

- Application for Tax Credit. A site rehabilitation application must be received by the Division of Waste Management of DEP by January 31 of the year after that for which rehabilitation costs are claimed in a tax credit application.
- Adds limestone life-of-the-mine permit language also in HB 617.

The bill as amended was passed on second reading by the full House on Friday, and now rolls over for third reading.