

FLORIDA'S ENVIRONMENT, WATER  
POLICY AND THE 2012 LEGISLATURE  
PLUS A LOOK AHEAD TO 2013

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**MAJOR BUDGET ISSUES**

**Funding for Everglades Restoration**

The Legislature provided \$30 million for Everglades restoration plus \$5 million for the northern Everglades (north of Lake Okeechobee) and estuaries programs.

**Funding for Florida Forever**

Florida Forever, the state's conservation and recreation lands acquisition program, received \$8.377 million in funding for fiscal year 2012-2013.

**Seaport/Intermodal Development**

In 2012, the Governor's Office and the Legislature have continued to support and emphasize Florida's deepwater seaport development and intermodal transportation projects. In support of those initiatives, the Legislature appropriated and the Governor's Office approved:

- \$25,000,000.00 for bond service payment of 1996 and 1999 port bond issues;
- \$115,446,664.00 for Chapter 311 Florida Statutes, Florida Seaport Transportation and Economic Development programs;
- \$91,013,000.06 for intermodal development grants of which over \$46,000,000.00 was appropriated for seaport projects; and,
- \$30,000,000.00 in economic development road funds also for intermodal development.

## BILLS THAT PASSED

### **Agriculture/Beekeeping (CS/HB 1197)**

This legislation is primarily a potpourri of agricultural law changes such as defining a “farm” to include commercial beekeeping, authorizing winemaking operations of 5 acres or more to qualify as a “Certified Florida Farm Winery” (Yummy!) and repealing an awful law that prohibited anyone from painting their animals or fowl day glow orange or any other artificial color. But, the new law also replaces the word “county” with “governmental entity” so as to prohibit a local government (city, county or special district) from charging an assessment or tax for stormwater management on a bona fide farm operation lands. There is an exemption for water control districts and special districts created for water management purposes. *The effective date of this bill was July 1, 2012; Chapter [2012-083](#)*

### **APA/Administrative Authority (CS/HB 7055)**

During the 2012 Regular Session, the Florida Legislature enacted several measures amending the Florida Administrative Procedure Act (APA).

CS/HB 7055 is the legislative response to the Florida Supreme Court's decision in *Whiley v. Scott* that Governor Rick Scott “impermissibly suspended agency rulemaking to the extent that Executive Orders 11-01 and 11-72 include a requirement that the Office of Fiscal Accountability and Regulatory Reform (OFARR) must first permit an agency to engage in the rulemaking which has been delegated by the Florida Legislature.”<sup>1</sup> The bill affirms that Executive Orders 11-01 and 11-72<sup>2</sup> are consistent with state law, and it provides express legislative authorization for the direction and supervision by elected officials over the exercise of administrative authority by appointees of those officials. *The effective date of this bill was July 1, 2012; Chapter [2012-116](#)*

### **APA/Repeal of Unused Rulemaking Authority and Rules (HB 7029)**

*Repeal of Unused Statutory Rulemaking Authority.* CS/HB 7029 repeals or revises over 50 statutory provisions authorizing rulemaking, including statutes that are no longer necessary or for other reasons have never been used. In addition, the bill directs the Office of Statutory Revision to include duplicative, redundant, or unused statutory rulemaking authority among its recommended repeals in revisers bill recommendations. Rulemaking authority is considered unused if the provision has been in effect for more than 5 years and no rule has been promulgated in reliance thereon during that time.

*Nullification and Repeal of Administrative Rules.* HB 7029 also amends the APA to provide that the repeal of a substantive statute also acts to repeal the administrative rules adopted to implement that statute, to the extent the rule implements the repealed statute. A rule is nullified if the only provisions of law it implemented subsequently are repealed. The repeal of one or more provisions of law implemented by a rule, but not all statutes implemented by the rule, requires an agency to publish a notice of rule development, stating which parts of the rule are nullified by the new act. In other instances when the repeal of a statute creates uncertainty about

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<sup>1</sup> 36 Fla. L. Weekly S 451 (Fla. Aug. 16, 2011).

<sup>2</sup> Both of these executive orders have been superseded; Executive Order 11-72 expressly supersedes Executive Order 11-01, and Executive Order 11-211 expressly supersedes Executive Order 11-72.

the continued enforceability of a rule, the Department of State (DOS) is to use the summary removal process described below. In all cases, DOS is directed to remove such rules from the Florida Administrative Code as of the effective date of the law repealing the specific law implemented.

HB 7029 also creates a summary removal process to repeal published rules that DOS identifies, as part of the continuous revision system authorized by s. 120.55, that may be no longer in full force and effect. This process includes notice to and review by the affected agency (or the Governor, where no agency may be identified). If DOS is advised that the rule is no longer in effect or receives no timely response from the agency, DOS is to provide notice of such and that the rule will be repealed summarily and removed from the FAC. An objection to the summary repeal must be filed as a petition challenging a proposed rule within 21 days of publication of notice in the *Florida Administrative Weekly* (renamed the *Florida Administrative Register* by HB 541).

HB 7029 also provides for the nullification and repeal of 270 existing rules that are no longer needed or for which the specific law implemented has been repealed. These include 165 rules of five separate water management districts identified as a result of reviews conducted by the districts and OFFAR that found these rules are outdated or otherwise unnecessary for effective program function.

The repealed rules also include another 105 "orphan rules" for which the adopting agency was abolished, the grant of rulemaking authority repealed, or the specific law implemented was repealed. *The effective date of this bill was May 27, 2012; Chapter [2012-031](#)*

#### **APA/Florida Administrative Register (HB 541)**

HB 541 revises provisions in the APA with respect to the Florida Administrative Code and the Florida Administrative Weekly. The bill provides that the online version of the Florida Administrative Code is the official version for the state, and that DOS is no longer required to publish a printed version. In addition, the bill changes the name of the *Florida Administrative Weekly* to the *Florida Administrative Register*. The online version of the *Florida Administrative Register* is the official version. *The effective date of this bill is October 1, 2012; Chapter [2012-063](#)*

#### **APA/New Duties for Rules Ombudsman (CS/HB 7043)**

CS/HB 7043 amends the APA by transferring to the rules ombudsman in the Executive Office of the Governor certain rulemaking duties previously performed by the Small Business Regulatory Advisory Council and the Department of Economic Opportunity. *The effective date of this bill is July 1, 2012; Chapter [2012-027](#)*

#### **APA/Summary Hearing for Deepwater Ports (SB 1998 and CS/CS/CS/HB 599)**

Section 42 of SB 1998 and Section 80 of HB 599, provide that, notwithstanding s. 120.569 or s. 120.57, a challenge to a consolidated environmental resource permit or any associated variance or any sovereign submerged lands authorization proposed or issued by DEP in connection with the state's deepwater ports shall be conducted pursuant to the summary hearing provisions of s.

120.574. The summary proceeding must be conducted within 30 days after a party files a motion for a summary hearing, regardless of whether the parties agree to the summary proceeding, and the administrative law judge's decision shall be in the form of a recommended order and does not constitute final agency action of the department. DEP must issue the final order within 45 working days after receipt of the administrative law judge's recommended order. The summary hearing provisions apply to pending administrative proceedings.<sup>3</sup> *The effective date of SB 1998 was July 1, 2012; Chapter [2012-128](#); the effective of Section 80 of HB 599 was April 27, 2012; Chapter [2012-174](#)*

### **Beach Management (CS/HB 691)**

HB 691, by Representative Frishe, creates the "Dennis L. Jones Beach and Shore Preservation Act" that proposes to streamline the permitting process for applicants seeking a coastal construction permit or joint coastal permit. The bill allows the Department of Environmental Protection (DEP) to issue coastal construction permits under Chapter 161, Part I, in advance of the issuance of an incidental take authorization as provided under the Endangered Species Act; directs DEP to adopt rules related to turbidity mixing zones to alleviate the need for variances; alleviates the need for a detailed review of a new application for previously constructed projects whose performance met design expectations; provides legislative intent with regard to permitting for periodic maintenance events for beach nourishment and inlet dredging; and exempts from permitting exploratory activities relating to the collection of geotechnical, cultural and biological resources, and for the installation of data collection equipment when associated with beach restoration and nourishment; establishes new reporting requirements of active, state funded beach erosion control projects to increase the transparency of the beach management funding program. *The effective date of this bill was July 1, 2012; Chapter [2012-065](#)*

### **Climate Protection Act Repeal (HB 4001)**

Former Governor Charlie Crist signed a series of executive orders addressing climate change. Executive Order 07-127 established greenhouse gas reduction targets for Florida and mandated that the DEP develop a rule for reducing greenhouse gas emissions from electric utilities to certain target levels over time. DEP initiated rulemaking later in 2007 and requested legislative authority to implement a market-based trading program for the control of greenhouse gas emissions. HB 7135 was enacted in 2008, and provided for the establishment of a cap and trade regulatory program to include greenhouse gas emissions from electric utilities. This legislation provided that the cap and trade rules could not become effective until ratified by the Legislature. HB 4001 repeals the cap and trade program. *The effective date of this bill was July 1, 2012; Chapter [2012-089](#)*

### **Developments of Regional Impact (CS/CS/HB 979)**

CS/CS/HB 979 makes technical changes relating to the Developments of Regional Impact (DRI) law. The bill clarifies that comprehensive plan amendments that are part of a DRI are subject to the state coordinated review process. The bill also restricts comments from the regional planning councils to only the review of statutes, rules and ordinances applicable to the proposed

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<sup>3</sup> It appears there were such pending administrative proceedings at DOAH involving challenges to a consolidated notice of intent to issue certain approvals that would authorize the widening and deepening of several portions of the Miami Harbor channels and turning basins. See DOAH Case Nos. 11-6242, -6243 and -6244.

development. DRIs still must be consistent with an adopted strategic regional policy plan and consistent with standards required by the water management district. The bill exempts certain DRIs for developments defined as "qualified target industry business" under an exemption agreement with the Department of Economic Opportunity (DEO).

CS/CS/HB 979 also contains an "agricultural enclave" provision. An owner of agricultural property over 500 acres but less than 640 acres that is surrounded at least 95 percent by land designated as industrial, commercial or residential may apply for a comprehensive plan amendment and be presumed not to be urban sprawl. The agricultural enclave exemption does not apply to lands within the Everglades Protection Area. *The effective date of this bill was July 1, 2012; Chapter [2012-075](#)*

### **Energy (CS/CS/HB 7117)**

Provisions relevant to an environmental and land use seminar the legislation include:

- a. An amendment to Section 163.08, Florida Statutes that provides that a "separate legal entity" created by cooperating local general purpose governments may qualify to operate a property assessed clean energy (PACE) program.
- b. The provisions of law establishing the local government infrastructure surtax are liberalized to allow loans, grants and rebates to residential and commercial properties for energy efficient improvements.
- c. Finally, tax exemptions are authorized for certain renewable energy technologies and equipment.

*The effective date of this bill was July 1, 2012; Chapter [2012-117](#)*

### **Environmental Regulation (CS/CS/CS/CS/HB 503)**

HB 503, by Representative Patronis, includes a number of statutory changes which streamline the regulatory processes of the Department of Environmental Protection (DEP) and Florida's five Water Management Districts, particularly in environmental resource management and waste management programs, along with several changes directed at local government permitting. The provisions relate to permitting time clocks, permit duration, permit processing requirements, permit streamlining with the federal government, permitting exemptions, online permitting, permit fees, and permit revocation. Other provisions change the eligibility criteria for certain DEP water and waste financial assistance programs and modify the recycling credit calculations associated with the production of renewable energy from solid waste.

Here are some of the key provisions:

*Reduces ERP Processing Time.* The time allowed for environmental resource permit (ERP) application processing is reduced from 90 to 60 days, and is measured from receipt of the application or from the submission of the last item of timely requested additional material.

*Restricts Local Conditions.* Local governments may no longer refuse to issue or process development approvals based on the requirement that other state and federal permits (like ERP or Corps permits) must be first obtained. But they may include a permit condition that all other

applicable state and federal permits must be obtained before commencement of the development. Confusion regarding this provision initially prompted FEMA to raise concerns about this bill.

*Restricts ERP conditions.* Likewise, a state agency may not condition ERP approval on securing a permit from another state, federal or local agency.

*Coastal Construction Permits.* DEP may issue coastal construction permits in advance of receipt of ESA incidental take approvals for the project, assuming construction activities do not occur before incidental take approval is granted.

*Creates New General ERP.* The bill establishes a general ERP for construction and alteration of stormwater management systems serving upland projects less than 10 acres in size. Construction is authorized so long as a self certification is provided to DEP specifying the site meets the prescribed criteria.

*Expands Self Certification.* The bill authorizes expanded DEP and WMD self certification for general permits and certain exemptions, and it encourages the expansion of such programs.

*Expands Expedited Permitting.* The bill extends expedited permitting benefits to include “commercial or industrial development projects that will be occupied by businesses” that collectively or individually create 50 jobs. Similarly, DEP and the water management districts must include intermodal logistic centers within the class of facilities entitled to expedited wetland resource and ERP processing.

*Expanded SPGP or RGPs.* The bill directs DEP to coordinate with the Corps to seek an expanded state programmatic general permit or a series of regional general permits.

*Raises LSSI Score.* The DEP priority ranking score is raised from 10 to 29 for sites eligible for the “low scored site initiative,” a voluntary program enacted in 2010.

*Authorizes Zones of Discharge.* Zones of discharge to groundwater are authorized for “existing installations” to the property boundary and vertically to specifically designated aquifers. Exceedances of certain limits within the zone are not a basis for liability.

*The effective date of this bill was July 1, 2012; Chapter [2012-205](#)*

### **Statewide Environmental Resource Permit (CS/HB 7003)**

HB 7003, by Representative Crisafulli, directs the Florida Department of Environmental Protection (DEP) to adopt statewide environmental resource permit (ERP) rules. The Water Management Districts (WMDs) and delegated local governments would implement the rules without further rulemaking, other than conforming rulemaking. The rules are to be based primarily on the existing rules of DEP and the WMDs. Rulemaking will reconcile differences and conflicts except for those based on geographic differences in physical or natural characteristics. However the WMDs, with DEP oversight, may continue to adopt rules governing design and performance standards for stormwater quality and quantity. “Grandfathering provisions” are included for generally ongoing activities that will not be subject to the new rules. The legislation requires DEP staff oversight and

training to ensure statewide consistency in implementing the rules. The legislation requires local governments seeking delegation to implement the ERP program to use the statewide ERP rules and gives local governments that have already received delegation, one year from adoption of the rules to conform. *The effective date of this bill was July 1, 2012; Chapter [2012-094](#)*

### **Extension of Certain Building Permits and ERPs (CS/CS/CS/CS/HB 503)** (

CS/CS/CS/CS/HB 503 also provides another opportunity to qualify for the additional two-year permit extension enacted in 2011. In particular, the bill provides that any building permit and any ERP that has an expiration date from January 1, 2012, through January 1, 2014, is extended and renewed for a period of two years after its previously-scheduled date of expiration. The holder of the permit or other authorization that is eligible for the two-year extension must notify the authorizing agency in writing by December 31, 2012 (the prior deadline was December 31, 2011), identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

In addition, the holder of a valid permit or other authorization is not required to make a payment to the authorizing agency for use of an extension granted in 2011 or by this bill. This provision applies retroactively and is effective as of June 2, 2011.

### **Growth Policy (HB 4003)**

HB 4003 eliminates the "Urban Infill Redevelopment Assistance Grant Program," a program that has received no legislative appropriations since 2001. Local governments may continue to designate areas as urban infill for purposes of local or federal incentive programs or for tax increment financing options. *The effective date of this bill was July 1, 2012; Chapter [2012-090](#)*

### **Growth Management Glitch (CS/HB 7081)**

HB 7081 provides the following:

- a. It resolves several technical glitches from the 2011 Growth Management Act.
- b. The Yankeetown grandfather provision that allows cities that included referenda in their charter in the event of certain proposed comprehensive plan changes to preserve the grandfather provision.
- c. Military base commander comments on compatible land uses are defined as advisory. However, they must be considered by a local government contemplating comprehensive plan amendments.
- d. Criteria for development of population projections that are realistic for purposes adopting future land use amendments are included.
- e. There is no longer any state oversight of school board interlocal agreements with local governments.
- f. Expedited processing of comprehensive plan amendments rescinding optional concurrency is required. Rescission of optional concurrency is not subject to state review.

- g. Comprehensive plan amendment review by the state is to be expedited; a local government must submit proposed comprehensive plan amendments within ten (10) working days after an initial public hearing.

The legislation contains a procedure for development order rescission for certain DRI development orders. *The effective date of this bill was April 6, 2012; Chapter [2012-099](#)*

#### **Miami-Dade Lake Belt Mitigation (CS/HB 377)**

This bill focuses on the Miami-Dade Lake Belt and the mitigation that is in place as a result of limestone operations. The Lake Belt limestone companies pay a water treatment plant upgrade fee of 15 cents per ton, to be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. The bill expands the authorized uses of the proceeds of the water treatment plant upgrade fee by allowing the proceeds of the fee to be used to pay for seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee. The amount of funds transferred for the seepage projects is capped at \$20 million. *The effective date of this bill was April 13, 2012; Chapter [2012-107](#)*

#### **Numeric Nutrient Criteria (HB 7051)**

Early in the 2012 session, the legislature passed HB 7051, which exempts Rule 62-302.531(9) relating to numeric nutrient criteria from legislative ratification. Any subsequent rule or amendment altering the effect of that rule must be submitted to the President of the Senate and the Speaker of the House of Representatives for legislative ratification prior to taking effect. The rule sets numeric limits on the amount of phosphorus and nitrogen that would be allowed in Florida's lakes, rivers, streams, springs, and estuaries. Numeric standards, rather than narrative ones, provide for much more effective and efficient management of nutrient loading. The rule also prioritizes the use of site specific science where available for a given waterbody. Where those site specific analyses do not exist, this rule provides numeric expectations for nutrients and a waterbody's biological condition. *The effective date of this bill was February 16, 2012; Chapter [2012-003](#)*

#### **Reclaimed Water (CS/HB 639)**

CS/HB 639 addresses the use of reclaimed water and makes it eligible for alternative water supply funding by the state. The bill encourages the use of reclaimed water by prohibiting water management districts from requiring a permit for the use of the water. Utilities that generate reclaimed water will also have more say on the distribution of this water except in the case of emergencies where the Governor's authority remains intact. Water management districts must still factor in reclaimed water in their regional water supply planning and are charged with doing rulemaking to implement a system of credits and offsets that is also included in the bill. *The effective date of this bill was July 1, 2012; Chapter [2012-150](#)*



### **Septic Tank Inspections (CS/CS/CS/HB 1263)**

CS/CS/CS/HB 1263, a lengthy bill dealing with the reorganization of the Department of Health, repeals the onsite sewage treatment and disposal system evaluation program. In its place, the bill authorizes an optional model program that imposes minimal requirements and only mandates repairs where a septic tank completely fails.

The bill requires local governments with a first magnitude spring to adopt by ordinance a local inspection program that cannot be more restrictive than outlined in the bill. It limits the stringency of criteria that may be included in local inspection programs and explicitly prohibits point of sale inspection requirements. The bill grandfathers existing county or municipal septic tank programs established before July 1, 2011, provided that the program does not include a point of sale requirement (except that Duval County's point of sale inspection program is grandfathered).

The measure provides that a permit issued by the Department of Health for the installation, modification or repair of a septic system transfers with title to the property and further provides that title is not encumbered when transferred if new permit requirements are in place at time of transfer. The bill allows system owners to choose the least costly remedial measure to resolve a system failure, and otherwise does not require repairs for problems that do not result in total failure. Finally, the legislation retains the ban on the land application of septage that becomes effective in 2016. *The effective date of this bill was April 27, 2012; Chapter [2012-184](#)*

### **Solid Waste Permitting (CS/CS/CS/CS/HB 503)**

CS/CS/CS/CS/HB 503 also extends the term for certain permits for solid waste management facilities. A permit for a solid waste management facility that is designed with a leachate control system may be issued for a term of 20 years (instead of 10 years), and permits for certain facilities that do not have a leachate control system may be renewed for a term of up to 10 years (instead of five years). *The effective date of this bill was July 1, 2012; Chapter [2012-205](#)*

### **Sovereign Submerged Lands (HB 13)**

HB 13, by Representative Frishe, authorizes the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (BOT) to lease sovereign submerged lands (SSL) for private residential use. This legislation also reduces or eliminates certain fees for leases issued for the use of SSL by both single-family and multi-family facilities; reduces the number of renewals that would be processed by expanding the standard lease term and subsequent renewal terms by five years; provides the same amount of exempted area for multi-family docks as is provided to single-family docks; and reduces the number of compliance inspections to once every 10 years rather than the current 5 year inspections. *The effective date of this bill was July 1, 2012; Chapter [2012-202](#)*

### **Transportation and Mitigation Programs (CS/CS/CS/HB 599)**

HB 599 was initially filed as a simple bill dealing with mitigation banking, but in the final days of the Regular Session became this year's "transportation train."

Current mitigation banking law authorizes both private and public mitigation banks. In additions, public agencies such as the water management districts (WMD) are allowed to sell mitigation

credits off of land that had been purchased by a WMD for environmental preservation purposes. Further, FDOT was basically required to purchase mitigation credits for its project impacts from such public agencies if credits were available. The new law now provides FDOT with the discretion to choose between public and private mitigation banks and levels the playing field so that FDOT can make the most economical use of public funds and private mitigation bankers can compete with public agencies involved in mitigation banking. *The effective date of this bill was July 1, 2012; Chapter [2012-174](#)*

### **Water Management Districts (SB 1986)**

This legislation increases transparency of the Water Management District budget development process by requiring the water management districts to provide additional information to the executive and legislative branches for review. This additional information addresses past, present, and proposed expenditures, a report on district performance metrics and an analysis of the districts' financial ability to meet their long-term core mission goals. Under the bill's provisions, the executive branch will be able to approve or disapprove any part of the district budget and any budget amendment in the excess of \$1 million. This bill also removes the existing revenue caps which will help ensure the long-term fiscal health of the Water Management Districts and their ability to perform their core missions of water supply, flood protection, water quality and water resources protection. *The effective date of this bill was July 1, 2012; Chapter [2012-126](#)*

### **Water Storage and Water Quality Permit (CS/HB 1389)**

HB 1389, by Representative Perman, provides that when public-private partnerships are entered into for water storage or water quality improvements on private agricultural lands, such agreements shall establish the baseline extent of wetlands and other surface waters on the property for purposes of regulation under Part IV of Ch. 373, F.S. The bill also creates a Study Committee on Investor-Owned Water and Wastewater Utility Systems, which is required to provide a report with recommendations to the Governor and Legislature by February 15, 2013. *The effective date of this bill was July 1, 2012; Chapter [2012-187](#)*

### **Sale of Advertising (CS/CS/CS/SB 268)**

SB 268, by Senator Wise, allows the Department of Environmental Protection (DEP) to enter into concession agreements for commercial sponsorship of certain state greenway and trail facilities and properties, and outlines requirements for the location and type of sponsorship signage that would be displayed. Sponsorships through this bill would provide an opportunity for DEP to generate revenue that would be deposited into the trust fund that provides funding for the management and operation of state greenways and trails, and would also provide a portion of funding to be deposited into the trust fund that supports bicycle safety and education programs at the Department of Transportation. *The effective date of this bill was July 1, 2012; Chapter [2012-198](#)*

## **BILLS THAT WERE VETOED**

### **Conservation of Wildlife (CS/HB 1117)**

This bill would have authorized certain zoos & aquariums to apply to the Governor and Cabinet (sitting as the Board of Trustees) or the governing board of a water management district to use state conservation lands for research (and grazing) of exotic hoofed animals such as zebras, giraffes, antelopes, etc. The construction of facilities, utilities and roads would also have been allowed. The bill was vetoed by the Governor on April 6, 2012 on the grounds that the Cabinet already has this authority.

## **BILLS THAT FAILED**

### **Consumptive Use Permitting CS/CS/CS/SB 1178/CS/HB 7045**

The legislation provides:

- a. Water management districts would be required to submit to the Department of Environmental Protection (DEP) an annual priority list and schedule identifying proposed water reservations and listed water bodies that may be affected by activities in an adjacent water management district for which development of a water reservation or minimum flow and level may be appropriate.
- b. A process is created for DEP to adopt a reservation or minimum flow and level for recovery or prevention strategy for application in a water management district; and
- c. Alternative water supply development projects are eligible for consumptive use permits for at least 30 years.

### **Drilling on State Lands CS/SB 1158/CS/CS/CS/HB 695**

This bill was written to allow a public-private partnership to develop oil and gas resources on state lands in general but was later refined to focus on the Panhandle's Blackwater River State Forest. The bill died on the House calendar and was postponed indefinitely by the Senate Environmental Preservation & Conservation Committee at their last meeting.

### **Fertilizer Application CS/SB 604/CS/CS/HB 421**

This bill is a continuation of the 2011 fertilizer bill which sought to pre-empt all local government fertilizer regulations and ultimately grandfathered in those counties with ordinances in place. The 2012 bill would have provided that persons who were licensed urban landscape commercial fertilizer applicators would be exempt from local government ordinances that address the fertilization of urban turfs, lawns, and landscapes, provided they followed prescribed Best Management Practices. The bill died in Committee in both the House (State Affairs) and Senate (Environmental Preservation & Conservation).

### **Public Meetings CS/CS/CS/SB 206/CS/CS/HB 355**

These bills would have established a "right to speak" and would have required local and state boards to provide members of the public a reasonable opportunity to be heard on items of significant interest at or before meetings where official action is taken. The bills appear to be a response to the court's decision in *Keesler v. Community Maritime Park Associates, Inc.*, 32 So. 3d 659 (Fla. 1<sup>st</sup> DCA 2010).

### **Repeal of Septage Ban SB 558/HB 115**

When SB 550 was passed in 2010, it included a prohibition on the land application of septage, the waste material pumped from septic tanks. SB 558/HB 115 sought to repeal this ban which is scheduled to go into effect on January 1, 2016. Land application sites of this nature are currently regulated by both the Department of Health (DOH) and the Department of Environmental Protection. The bill also sought to delete a requirement that DOH provide a report recommending alternative methods to manage this waste by February 1, 2011. The bill died in the Senate Environmental Preservation & Conservation committee and the companion bill died on the House calendar.

### **SLAPP Suits SB 1876/HB 1367**

SB 1876 would have prohibited a governmental entity or an applicant for a plan amendment or development order from filing so-called SLAPP suits ("Strategic Lawsuit Against Public Participation") because such person or entity had participated in the comprehensive planning process. Some have suggested that this bill may have been filed in response to an appellate court decision that assessed fees against certain interest groups that had filed an appeal from the approval of a comprehensive plan amendment, although the bill does not directly prohibit such sanctions..

HB 1367 was not limited to land use matters and would have expanded the current prohibition against the filing of SLAPP suits to private individuals and businesses. Currently, the prohibition applies only to governmental entities.

### **Sovereign Submerged Lands HB 1103/SB 1362**

This bill sought to codify two Florida Supreme Court decisions (*Tilden and Martin*) by establishing criteria that must be applied when determining the location of the ordinary high water mark for navigable, nontidal water bodies. By changing this definition, the bill revived a fight from long ago about where the boundary is between state and privately owned lands along water bodies. The bill stalled after one committee stop in the House and never made it past the first committee in the Senate.

### **Water Management Districts & MFLs (CS/CS/SB 560/CS/CS/CS/HB 157)**

This bill originated as a tool to allow water management districts to apply minimum flows & levels (MFLs), reservations, and recovery/prevention strategies in another district when a given permit impacted the water resources of adjoining districts. The bill was later broadened to only address those permits issued after July 1, 2012 unless the permittee requested a modification or increase in their Consumptive Use Permit. The bill was passed by the House but ran out of time.

in the Senate when sent over. A provision to allow water management districts to share health insurance programs was picked up in SB 1986 and passed.

## **2013 LEGISLATIVE FORECAST**

Budget  
Conservation of Wildlife  
Consumptive Use Permitting  
Contamination Notification  
Drilling on State Lands  
Expanded State Programmatic General Permit  
Expedited Permitting  
FEMA Clarification re HB 503  
Fertilizer Application  
Landfill Siting Restrictions  
Minimum Flows and Levels (MFLs)  
Ocean Outfalls  
Oil Exploration Ban  
Ordinary High Water Mark  
Public Meetings  
Recycling Reporting  
Regulatory Reform  
Repeal of Ban on Land Application of Septage  
Strategic Lawsuits Against Public Participation (SLAPP Suits)  
Stormwater  
Solid Waste (C&D Closure Accounts)  
Trading of Water Quality Credits

## **PROPOSED CONSTITUTIONAL AMENDMENTS 2012**

- Amendment 1: Health Care Services  
Amendment 2: Veterans Disabled Due to Combat Injury; Homestead Property Tax Discount  
Amendment 3: State Government Revenue Limitation  
Amendment 4: Property Tax Limitations; Property Value Decline; Reduction for Non-homestead Assessment Increases; Delay of Scheduled Repeal  
Amendment 5: State Courts  
Amendment 6: Prohibition on Public Funding of Abortions; Construction of Abortion Rights  
Amendment 7: Religious Freedom

### **Added by 2012 Legislature**

- Amendment 8: Homestead Property Tax Exemption for Surviving Spouse of Military Veteran or First Responder  
Amendment 9: Tangible Personal Property Tax Exemption  
Amendment 10: Additional Homestead Exemption; Low-Income Seniors Who Maintain Long-Term Residency on Property; Equal to Assessed Value  
Amendment 11: Appointment of Student Body President to Board of Governors of The State University System