

# PBC Legislative Update



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## **Legislative Update —April 2017**

### ***FEDERAL ISSUES***

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### ***STATE ISSUES***

#### **Florida House, Senate Split on University Funding**

*By The News Service of Florida*

TALLAHASSEE — The House wants to cut university funding, while the Senate wants to dramatically increase it. That's the opening posture of the two chambers as they head into the final three weeks of the 2017 legislative session with the most important task ahead of them: negotiating a budget for the fiscal year that begins July 1. Despite the diametrically opposed positions on the university system budget, there seems to be plenty of room for lawmakers to maneuver toward an agreement in the give-and-take of the negotiations.

But as they passed their budget proposal (HB 5001) this week, House Republican leaders again made a case as to why spending for the 12 state universities should be cut. "The higher education budget has grown at a faster rate than any other area of the budget with the exception of Medicaid," said House Higher Education Appropriations Chairman Larry Ahern, R-Seminole. Since the 2012-13 academic year, Ahern said, state spending on universities has climbed from \$3.4 billion to \$4.7 billion this year, or a \$1.3 billion increase. But it may not be a coincidence that the House sought to contrast current spending with 2012-13, when the main source of state funding, known as general revenue, was at a post-recession low.

Another way to look at the spending is to go back to 2008-09, when the universities received \$3.4 billion in state funding, including \$2.1 billion in general revenue and \$960 million in tuition and fees from students. Since then, state spending on universities has grown by \$1.3 billion, but includes an \$813 million increase in tuition and fees and a more modest \$310 million increase in general revenue.

During a four-year period ending in 2012-13, tuition and fees increased annually by double-digit figures. The increased tuition and fees also reflect an 11 percent growth in the student population, which is now the equivalent of 289,000 full-time students. General revenue support for the universities is at \$6,828 per student this year, according to data from the university system's Board of Governors. It is below the peak \$7,659 reached in the pre-recession 2006-07 academic year. Tuition and fees are at \$6,224 per student, reflecting 45 percent of the per-student spending, which is currently \$14,046. The House and Senate budget proposals do not call for a tuition increase next year. And Florida university tuition remains cheap, pegged at second to the lowest in the nation by the College Board in its fall survey.

Aside from the debate on the overall numbers, the House has made a more-detailed case for cutting universities by targeting more than \$800 million in reserve funds held by the schools.

House Speaker Richard Corcoran, R-Land O'Lakes, a former budget chairman, remembers the universities coming to his committee in the past to make a funding plea, citing critical maintenance needs. But in an interview on the Florida Channel's "Florida Face to Face" program this week, Corcoran said the unspent university money puts those needs in a different context. "They're pummeling tons and tons of money into reserves," he said. "How do you hold on to hundreds of millions in reserves, 800-some million dollars, and not fix those things?"

The House budget plan factors in a 5 percent reserve and then requires the universities to make a one-time cut representing 25 percent of the reserve funds. The budget has a similar cut provision for state colleges, which have more than \$300 million in reserve funds.

The second major element of the House university cuts is focused on university foundations, known as "direct support organizations," which raise private donations for the schools. The House wants to prohibit universities and state colleges from using public employees in the foundations, which would amount to a \$53 million cut to the universities under the House plan.

As part of the budget negotiations, the House also wants to make public most of the activities of the foundations, with the exception of identifying private donors.

Yet while calling for university cuts, Corcoran has also said he is open to ideas like expanding Bright Futures merit scholarships and other financial aid, a key part of the Senate's proposed spending increase. Higher university spending is part of Senate President Joe Negron's initiative to elevate the national status of the schools through a combination of targeted performance funding and increased student financial support. The issue was important enough for Negron, R-Stuart, to make a tour of all 12 university campuses last spring as he gathered information for his proposal.

The House has had more of an emphasis on the K-12 education system, with Corcoran making a special effort to elevate low-performing schools, which he calls "failure factories." The House has a "schools of hope" initiative, which would direct \$200 million toward charter schools in communities with low-performing public schools. Negron, a former budget chairman in the House and Senate, said he sees a path where the House and Senate education initiatives can be accommodated in the new budget. "When you look at the agendas in education of the House and the Senate, there is a natural alignment of some university and higher education proposals that the Senate has and also some K-12 proposals that the House has made a priority," Negron said. "I think there is broad support for both of those in both chambers," he said. "So I think we can get there on the education issues."

### **Florida Senate Agrees to Give Everglades a 78 Billion Dollar Drink of Cleaner Water**

*By The Miami Herald*

#### **TALLAHASSEE**

After more than 20 years of mapping the need for a deep-water storage reservoir south of Lake Okeechobee, the Florida Senate voted 36-3 Wednesday for an ambitious proposal that will set in motion the \$1.5 billion project.

The proposal, SB 10, is a top priority of Senate President Joe Negron, R-Stuart, and will use state and federal money to build a deep-water reservoir to store and clean water before it is released into the Everglades and to avoid toxic discharges into the St. Lucie and Caloosahatchee rivers. The proposal now moves to the House, where it will be woven into negotiations over the budget.

The plan will create at least 240,000 acre feet of storage — that's about 78 billion gallons — south of the lake by converting 14,000 acres of state land now used as a

shallow reservoir to build a deep-water reservoir. It accelerates the timeline for the reservoir and requires congressional approval. Half of the cost will be shared by the federal government because it is already on the list of projects intended to repair the ailing Everglades.

“Southern storage is necessary to stop the toxic discharges and save the Everglades by giving it the clean water it so desperately needs,” said Sen. Rob Bradley, R-Fleming Island, the Senate sponsor of the bill, adding it took 20 years to reach this point “because it’s hard to do but anything that’s hard to do is worthwhile.”

The vote is a defeat for the sugar industry, which has vigorously opposed the measure and used the threat of lost jobs for the economically challenged Glades community as a way to lineup initial opposition to the measure among legislators. The industry has worked for 20 years opposing efforts to remove vast tracts of land from the Everglades Agricultural Area and reduce the supply of sugar cane to their profitable mills.

Between 1994 and 2016, sugar companies steered \$57.8 million in direct and in-kind contributions to state and local political campaigns, according to an analysis by the Miami Herald/Tampa Bay Times Tallahassee bureau.

Despite that, all but three senators backed Negron’s priority bill. Voting no were Sen. Jeff Clemens, D-Lake Worth, Sen. Victor Torres, D-Kissimmee and Sen. Jeff Brandes, R-St. Petersburg.

In an email on Wednesday, the EAA Farmers said they oppose the bill because it is a “farmland grab” that “ignores science and real solutions.”

But proponents say those solutions have also failed to solve the problem and led to polluted discharges in 2016 that caused toxic algae blooms in the St. Lucie and Caloosahatchee estuaries and prompted the governor to declare a state of emergency.

“Now is the time because we have the political will,” Bradley said. “The science is there. The science demands it, and that science matches the heart and desire to get something done.”

Sen. Jack Latvala, R-Clearwater, noted the Everglades Forever Act, which was passed in 1994, first identified the need to build a southern storage reservoir.

“Here we are 23 years later and we’re still working on it,” he said. “There’s been a lot of plans, a lot of false starts. It’s ironic that the bill today is once again recommending the thing we started down the path for in 1998 and 1999.”

In the last 15 years, regulators, legislators and governors supported repeated delays of strict water quality standards sought by the industry. They agreed to provisions that watered down attempts to use constitutional Amendment 1 to be used to buy farmland for Everglades cleanup. And legislators, as well as water management district officials, pushed clean-up projects on the periphery of the Everglades, not in the heart of the region where working farmland can be displaced.

But after the algae outbreaks led to a public health scare and prompted Florida comparisons to Flint, Michigan, Negron declared that he would use the force of his presidency to end the discharges and build the storage reservoir as his “No. 1 personal priority.”

Latvala commended Negron for showing leadership, “kicking us in the butt, getting us going” and urged the Senate to send it to the House “with a nice, positive vote.”

It was not an easy lift.

Negron's initial proposal was to buy 60,000 acres of active farmland in the heart of the Everglades Agricultural Area and would have cost \$2.4 billion to build the reservoir and purchase the land. But, amid opposition from the sugar industry and the Glades community, the Senate replaced it with a plan that would cost much less and use land the state already owns. The Senate also inserted a prohibition on the state's using eminent domain to acquire any private lands for the project.

Sen. Linda Stewart, D-Orlando, said she supported the bill because "there's been a big transformation from the first day we sat down until today."

Sen. Bobby Powell, D-West Palm Beach, also commended the changes to the bill and wanted to see additional modifications, particularly as it relates to providing economic stimulus programs to the Glades community.

Sen. Kevin Radar, D-Boca Raton, said the problem was created by Martin County elected officials' "lack of vision," which allowed septic systems to pollute the lake but gave "lukewarm support for the bill."

He added: "I don't think this is the final version of the bill."

### **Constitutional Panel Plans Five More Hearings**

*By The News Service of Florida*

The Florida Constitution Revision Commission on Tuesday announced that it plans to continue holding a series of public hearings across the state during the coming month. The commission, which will recommend proposed constitutional amendments for the November 2018 ballot, will hold a hearing April 26 in Alachua County; April 27 in Duval County; May 3 in Bay County; May 10 in Lee County; and May 17 in Hillsborough County. The times and locations of the hearings were not immediately released Tuesday. The 37-member commission has held hearings during the past two weeks in Orange, Miami-Dade and Palm Beach counties and will hold another hearing at 5 p.m. Wednesday at Florida A&M University in Tallahassee.

### **Anfield Session Report Week of April 10<sup>th</sup>**

*By Anfield Consultants*

### **Water Resources (E1/SB 10 & HB 761)**

Background: In 2000, Congress, as part of the Clean Water Act, approved implementation of the Comprehensive Everglades Restoration Plan (CERP) as a means of bringing all major water projects tied to Everglades restoration under one state-federal umbrella. Many of the current reservoirs, the Aquifer Storage & Recovery (ASR) systems, Stormwater Treatment Areas (STAs) and other projects that have been built or are under construction are integrated parts of CERP. In 2008, then Gov. Charlie Crist signed the River of Grass agreement with the US Sugar Corporation, which contained options to buy more than 187,000 acres in the Everglades Agricultural Area (EAA) for purposes of constructing a more historical "flow-way" from the lake to the Everglades. Because of the magnitude of this acquisition, many CERP projects were put on indefinite hold to re-evaluate their design aspects to account for this prospective purchase. Eventually the SFWMD, citing lack of available funding, opted to buy only 26,800 acres of land. Under an amended agreement with US Sugar that same year, the SFWMD retained the right under three different options to purchase the remaining 153,200 acres. The first two options have since expired. The remaining third option allows the SFWMD to purchase the land at "fair market value" in competition with other buyers.

Proposed Changes: This PCS would require the SFWMD to implement one of three options:

- Option A requires the SFWMD to seek out proposals from willing sellers within the Everglades Agricultural Area to purchase enough land to build one or two reservoirs equaling 360,000 acre-feet of water storage. The SFWMD may not exercise its powers of eminent domain under this option.
- Option B requires the SFWMD, if they are unable to purchase the necessary land from independent sellers under Option A, to purchase the land from US Sugar under the terms of the 2010 River of Grass Agreement.
- Option C, to be exercised if the SFWMD is unable to purchase any land under Options A or B, requires funds from the Land Acquisition Trust Fund for CERP to be increased by \$50 million per year, with a portion of those funds going towards future land acquisitions in the EAA for reservoir construction purposes.

Under each option the SFWMD, unless other funding is available, is required to begin the planning study under CERP for the Everglades Agricultural Area Reservoir project component by certain dates. If land is acquired under Options A or B, the bill authorizes the distribution of \$1.2 billion in Florida Forever bonds and provides contingent appropriations for the debt service payments on such bonds. The bill requires that the SFWMD seek any applicable federal credits towards the reservoir project.

The PCS also:

- Creates the Coast-to-Coast Comprehensive Water Resource Program and transfers \$3.3 billion of bonding authority from the Florida Forever Trust Fund to this newly created program. The duration of each series of bonds issued cannot exceed 20 annual maturities, and the amount of documentary stamp tax that may be pledged to service these bonds is also limited;
- Requires the SFWMD to give preferential consideration to hiring agricultural workers displaced as a result of the reservoir project, consistent with their qualifications and abilities, for the construction and operation of the reservoir project;
- Reduces the amount that can be bonded by Florida Forever for land acquisition and improvement from \$5.3 billion to \$2 billion;
- Requests the Army Corps of Engineers, in re-evaluating its Lake Okeechobee Regulation Schedule, to consider the effect of repairs made to the Herbert Hoover Dike as well as the construction of any new storage south of the lake;
- Creates the Water Protection and Sustainability Program Trust Fund, a new water storage facility revolving loan fund. The DEP would be authorized to award loan amounts for up to 75 percent of the cost of planning, designing, constructing, upgrading, or replacing water resource infrastructure or purchasing land for water storage facilities. Alternative water supply and water sustainability projects would be given priority under this program;
- Makes the payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts payable to water resource protection and development bonds issued under this bill's provisions a 1st priority for LATF funding; Designates the EAA Reservoir Project, C-34 West Basin Storage Reservoir, C-44 Reservoir, Western Everglades Restoration Project, C-111 South-Dade Project, and Picayune Strand Restoration Project as priority projects for LATF funding under CERP;
- Appropriates \$35 million LATF funds annually to the St. Johns WMD for St. Johns River and Keystone Heights' restoration projects, and \$2 million for projects in the Florida Keys relating to water supply, storm water collection, sewage treatment and disposal, and canal restoration & muck removal;
- Appropriates \$20 million to offset costs to property owners incurred due to retrofitting onsite sewage treatment and disposal systems in order to cleanup Indian River Lagoon, and the St. Lucie and Caloosahatchee estuaries;
- Creates a water reuse grant program. The DEP would be authorized to grant up to 100 percent of the cost for planning, designing, constructing, upgrading, or replacing infrastructure designed to expand a facility's capacity to make reclaimed water available for reuse;

- Requires the SFWMD to develop a plan to provide a minimum of 240,000 acrefeet of storage through a deep storage reservoir and water quality treatment features, using the A-2 parcel, land swaps, and purchases (In the bill, this plan is referred to as the “post-authorization change report”). The district may consider alternate configurations using the A-1 parcel if a minimum of 360,000 acre-feet of additional storage can be achieved (60,000 acre-feet currently provided by A-1 FEB); Requires the SFWMD to use DMSTA2 modeling to determine the amount of acreage needed in order to meet water quality standards;
- Directs the SFWMD to negotiate modifications of lease terms on state and district owned lands to make land available for the reservoir project;
- Directs SFWMD to negotiate for the acquisition of privately owned property if needed for the reservoir project through purchase or land swap;
- Moves up the date for the EAA reservoir project planning study to commence if Congressional approval of the post-authorization change report has not occurred;
- Clarifies that ongoing Comprehensive Everglades Restoration Plan (CERP) projects will continue to receive funding;
- Authorizes the district to begin planning and discussion with the owners of the C-51 Reservoir project to determine if the state should acquire or enter into a public private partnership for this water storage facility that will add approximately 60,000 acre-feet of storage south of the Lake;
- Establishes the Everglades Restoration Agricultural Community Training Program in DEO for the purpose of stimulating and supporting training and employment programs, to match state and local training programs with identified job skills associated with non-agricultural employment opportunities in areas of high agricultural unemployment.

The bill expresses the Legislature’s intent to promote the implementation of the Air Glades Airport in Hendry County and an inland port in Palm Beach County to create job opportunities in areas of high agricultural unemployment;

- Establishes a revolving loan fund to provide funding assistance to local governments and water supply entities for the development and construction of water storage facilities;
- Revises the uses of the Water Protection and Sustainability Program Trust Fund to include the water storage facility revolving loan program;
- Provides funding for the reservoir projects, including an authorization to bond funds from the Land Acquisition Trust Fund (LATF). The total cost is reduced from \$2.4 billion to approximately \$1.5 billion, half of which could be paid by the federal government. The amendment includes an appropriation of \$64 million from the LATF for the 2017-18 Fiscal Year; and
- Allows for funds not spent on the reservoir projects to be used for other Everglades Restoration projects as provided in Legacy Florida.

Update: On Wednesday, the Senate took up CS/SB 10 on Second Reading and adopted two amendments. The first amendment, by Sen. Bradley, provides that if the Corps has not approved and submitted the SFWMD’s post-authorization change report to Congress for alternative storage in the A-2 by Oct. 1, 2018, or if Congress has not approved the report by Dec. 31, 2019, the SFWMD must, unless granted an extension by the Legislature, request the Corps initiate a post-implementation change report for the EAA reservoir project and proceed with implementation of CEPP project components in accordance with the final project implementation report.

The second amendment, by Sen. Grimsley, makes changes to the Everglades Restoration Agricultural Community Employment Training Program. In short, it:

- Requires the DEO, in granting funds to job training programs for unemployed agricultural workers, to consider the location of a potential job-training program to the chief program’s intended participants;
- Authorizes more than 50% of the total program funds to be expended on a single grant if the training program funded is located within a rural area of opportunity;

- Requires every program grant applicant to enter into a grant agreement with the DEO and provides the information that must be provided in the agreement;
- Revises the employment-based application requirements for training program participants to residency-based requirements; and
- Expands the list of EAA projects that job training programs must be geared towards qualifying its participants for.

Debate on the bill took up little more than two hours, with arguments for and against the measure predicated on whether the proposed storage would actually address the root cause of coastal algae blooms, the surety of federal matching funds for the project, how effective the proposed employment program would be in mitigating the economic impact to EAA residents should a reservoir be built, as well as the possibility that current CERP projects will be further delayed while additional southern storage remains in the planning stages. The bill as amended was then order engrossed and subsequently passed on Third Reading. E1/SB 10 is now in Messages. The House is expected to take up the bill or a companion measure in the coming weeks.

#### **Land Acquisition Trust Fund (E1/SB 234 & HB 847)**

Background: In 2014, Florida voters approved Amendment 1, a constitutional amendment to provide a dedicated funding source for water and land conservation & restoration. The amendment required that starting on July 1, 2015, and for 20 years thereafter, 33 percent of net revenues derived from documentary stamp taxes be deposited into the Land Acquisition Trust Fund (LATF). The General Revenue Estimating Conference in December of 2016 estimated that for the 2017-2018 Fiscal Year a total of \$2.48 billion would be collected in documentary stamp taxes. Thirty-three percent of the net revenues collected or approximately \$814.1 million must be deposited into the LATF in accordance with s. 28, Art. X of Florida's Constitution.

Proposed Changes: CS/CS/SB 234 requires that \$45 million be appropriated to the St. Johns River Water Management District for projects dedicated to the restoration of the St. Johns River and its tributaries, or to the Keystone Heights Lake Region. It authorizes such funds to be used for land management and land acquisition, and for increasing recreational opportunities associated with, and improving public access to, the St. Johns River and its tributaries or the Keystone Heights Lake Region. The bill also requires the distribution to be reduced by an amount equal to the debt service paid on bonds issued for such restoration purposes after July 1, 2017.

Update: On Wednesday, the Senate took up CS/CS/SB 234 on Second Reading and adopted one amendment. The amendment reduces the amount appropriated in the bill for the St. John's River WMD from \$45 million to \$20 million. This change conforms to what is provided for in the current appropriations act. E1/SB 234 was order engrossed and rolled to Third Reading. It was passed out of the Senate on Thursday.

#### **Renewable Energy Source Devices (CS/CS/HB 1351 & CS/SB 90, HB 1411)**

Background: Under s. 193.624, F.S., the cost and value of renewable energy devices are exempt from real estate property tax assessments. A "renewable energy device," as currently defined in statute, generally encompasses the power plant components of the device, but does not encompass auxiliary components such as wiring, structural supports, and other integral systems, or conditioning and power storage devices used in conjunction with solar and geothermal energy. Also, the prohibition only applies to devices installed on or after January 1, 2013, and is limited to devices installed on real property classified as "residential" for tax purposes. During the 2016 primary election, voters approved a constitutional amendment, Amendment 4, to expand the exemption beyond its current limits.

Proposed Changes: There are actually three bills which deal with this subject matter, however only two of them are currently identical: CS/SB 90 and HB 1411. Those two bills simply expand the current prohibition on taxation of renewable energy devices to all real property, not just those used for residential purposes, and does not limit it to devices installed after 2013. It expands the definition of “renewable energy device” to include auxiliary components “integral” to solar and geothermal devices (including wiring, structural supports, power conditioning & storage devices) and extend it to include all such devices regardless of installation date. It does not include “any equipment that is on the distribution or transmission side” where the renewable energy source device is interconnected with the electric utility’s distribution grid or transmission lines. The bills also create a new section of law that prohibits personal property taxes from being levied on renewable energy devices. With a few exceptions, all the changes to statute made by these bills would sunset on December 31, 2037. HB 1351, which applies only to electric utilities and is modeled after a similar Arizona law, expands the tax exemptions in a manner similar to CS/SB 90 and HB 1411, albeit the exemption for devices installed on real property other than residential would be limited to devices installed after Jan. 1, 2018 while the current exemptions on residential property would remain limited to those installed after 2013. The exemption from personal property tax is also limited to devices installed after Jan. 2018. Devices installed as part of a “utility scale renewable energy project” planned for a location in a fiscally constrained county are not exempt under certain circumstances.

The House bill also goes further in regulating the renewable energy industry. It creates a new section of law that governs the sale, finance, or lease of distributed energy generation systems, requiring those systems to meet the safety standards of various regulatory organizations. Agreements made between a buyer/lessee and a merchant who sells, finances, or leases a distributed energy generation system must also meet certain requirements under the House bill, including a detailed, accurate projection of what rates the consumer will pay should they purchase the system and whether, and the extent to which, the estimate is based upon the buyer’s or lessee’s participation in a utility net metering program (if so, the estimate must identify any conditions or requirements for participation in the program). A buyer or lessee who installs a distributed energy generation system and wishes to receive the benefit of an electric utility’s net metering program must comply with the applicable interconnection tariffs and rules of the electric utility and any applicable interconnection rules and standards established by the PSC. Otherwise, a buyer or lessee of a distributed energy generation system is not required to interconnect with an electric utility unless the buyer or lessee wishes to receive the benefit of a metering program. These provisions would not apply to any person or company that markets, sells, solicits, negotiates, or enters into an agreement for a distributed energy generation system as part of a transaction involving the sale or transfer of real property to which the system is affixed. Thus, these provisions do not appear to apply to home sellers, including real estate brokers and agents.

The bill also provides penalties for non-compliance. Lastly HB 1351 requires that any financing agreement entered into between a local government and a property owner for the financing of a qualifying improvement under a PACE program must comply with the disclosure requirements described above for the sale, finance, or lease of a distributed energy generation system.

Update: On Thursday, the (S) Appropriations Subcommittee on Finance and Tax passed CS/SB 90 without amendment and broad support from environmental groups and solar industry representatives. The Senate bill will next be taken up in the (S) Appropriations Committee, its last committee of reference.



### **Contaminated Site Clean-Up Program (CS/CS/SB 1018 & CS/CS/HB 753)**

Background: Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur as a result of accidental spills, storage tank system leaks, or poor maintenance practices. Since 1983, the DEP has been in charge of regulating storage tanks for petroleum products. Of particular concern are tanks that have been abandoned or are out of service. These tanks sometimes leak into the ground and pose a risk to groundwater. In 1986, the Legislature passed the State Underground Petroleum Environmental Response (SUPER) Act. One program created under SUPER was the Early Detection Incentive Program (EDI), which allowed owners of abandoned tank sites the option of either performing site cleanup themselves and then receiving reimbursement from the DEP's Inland Protection Trust Fund (IPTF), or of having the state perform the cleanup themselves in priority order. The financial costs attached to this program quickly skyrocketed past what had been originally projected. In response, the Legislature has shifted emphasis towards funding pre-approved cleanups, with priority placed on those contaminated sites identified before 1995, and with spending limited to what is within the confines of the program's funding. The Preapproved Advanced Cleanup Program (ACP) was also created, allowing owners of critically contaminated sites who did not take advantage of the EDI program before 1995 to bypass the priority ranking list and receive funding in order to facilitate a timely rehabilitation. Participants in this program are required to share at least 25% of the cost of rehabilitation and prepare limited scope assessments at their own expense. Applications are submitted to the DEP twice a year (between May 1 and June 30 and between November 1 and December 31). The applications are ranked based on the percentage of cost-sharing commitment proposed by the applicant, with the highest ranking given to the applicant that proposes the highest percentage of its share of costs. Different projects at different sites may also be bundled for greater cost effectiveness. Two other programs affected by this bill are the Abandoned Tanks Restoration Program (ATRP) and the Petroleum Cleanup Participation Program (PCPP).

The Abandoned Tanks Restoration Program (ATRP) was created in 1990. In order to be eligible for the ATRP, applicants must certify that the petroleum system has not stored petroleum products for consumption, use, or sale since March 1, 1990. They must also have filed a claim before June 1, 1996. The Petroleum Cleanup Participation Program (PCPP) was created in 1996 for sites that had missed the opportunity for state funding assistance but had reported contamination before 1995. Responsible parties in the PCPP cost share the cleanup and prepare a limited scope assessment at their expense. Sites that qualify for this program are eligible for \$400,000 in rehabilitation funding and the owner, operator, or responsible party is required to pay 25% of the costs. Somewhat related to the family of petroleum cleanup programs is the Dry cleaning Solvent Cleanup Program, which focuses on cleaning up the former sites of Laundromats or wholesale supply facilities where massive amounts of cleaning chemicals were used and have leached into the soil. The program limits the liability of site owners who participate in the cleanup so long as the parties meet the conditions stated in the law. The application period for entry into the program ended December 31, 1998; applications are no longer being accepted. That same year, the Florida Legislature established the Voluntary Cleanup Tax Credit (VCTC) program to provide an incentive for the voluntary cleanup of dry-cleaning solvent contaminated sites and brownfield sites in designated brownfield areas. DEP rules establish criteria for the purpose of determining, on a site-specific basis, a site rehabilitation program and the level at which a site rehabilitation program may be deemed completed. These rules incorporate, to the maximum extent feasible, risk-based corrective action principles to achieve protection of human health and safety and the environment in a cost-effective manner. For site rehabilitation to reach a status of site closure or "no further action," appropriate institutional controls must be agreed to by the owner and applicant and implemented for the site

Proposed Changes: This bill makes the following changes:

- Provides a legislative finding regarding the necessity to advance site rehabilitation on a limited basis to encourage property redevelopment;
- Creates a separate procedure and criteria for the advancement ahead of its priority ranking of an individual contamination site slated for property redevelopment;
- Increases the dollar amount of the contracts for advance cleanup work into which DEP is authorized to enter from \$25 million to a total of \$30 million in each fiscal year. DEP is authorized to designate up to \$10 million of those funds for the advance cleanup of individual contaminated sites that meet the criteria in the bill for redevelopment. A single facility or applicant for advance cleanup of an individual contaminated site slated for redevelopment may not be approved for more than \$1 million of cleanup activity per fiscal year;
- Makes a legislative finding that it is in the public interest for the state to conduct site assessments on a limited basis at sites contaminated with dry-cleaning solvents in advance of the priority ranking of contaminated sites;
- Provides that a property owner who is eligible for site rehabilitation under the dry cleaning solvent cleanup program may request, and DEP may authorize, an advanced site assessment so long as they meet certain requirements;
- Requires an advanced site assessment under the dry-cleaning solvent cleanup program to incorporate risk-based corrective action principles to achieve protection of human health & safety and the environment in a cost-effective manner and in accordance with DEP rules for site rehabilitation. The advanced site assessment must also be sufficient to estimate the cost of cleanup, the proposed course of action for site cleanup, and that the site is appropriate for one of the following:
  - Remedial action at the site to mitigate risks that, in the judgment of DEP, are threats to human health or where failure to prevent migration of dry-cleaning solvents would cause irreversible damage to the environment;
  - Additional groundwater monitoring at the site to support natural attenuation monitoring or long-term groundwater monitoring; or
  - A recommendation of “no further action,” with or without institutional controls or institutional and engineering controls, if the site meets the “no further action” criteria in accordance with DEP rules for site rehabilitation.
- If the site is not appropriate for one of these actions, it is not eligible for advanced site assessment;
- Requires that the dry-cleaning solvent cleanup program assign advanced site assessment program tasks;
- Limits available funding for advanced site assessments to 10% of the annual Water Quality Assurance Trust Fund appropriation for the dry-cleaning solvent cleanup program. The total funds that may be committed to any one site are capped at \$70,000. DEP must prioritize requests for advanced site assessment at sites under the dry-cleaning solvent cleanup program based on the date of receipt and the environmental and economic value to the state until the available funding for advanced site assessments has been obligated.
- Increases the annual cap for the VCTC from \$5 to \$10 million

Update: On Wednesday, the (S) Appropriations Subcommittee on the Environment and Natural Resources took up CS/SB 1018 and adopted one amendment. The amendment makes the same changes that were made to the House companion at its last committee stop. Specifically, the amendment:

- Provides an exception to payment requirements for subcontractors and suppliers, allowing contaminated site contractors to pay their sub-contractors within 30 days instead of the statutory 7 days required of other works;
- Revises the application requirements for the advanced clean-up program by removing the 25% cost share requirement and the ranking requirement (allowing the sites to apply on a first come, first served basis), and imposing a number of inspection and documentation criteria for such sites;

- Imposes an administrative review fee of \$250;
- Provides that an applicant applying to clean-up an individual site may not be approved for more than \$1 million in clean-up funds for any given fiscal year; and
- Removes the provision authorizing the DEP to allocate up to \$5 million in tax credits under the program for the 2016-2017 fiscal year and \$10 million for every year thereafter. CS/CS/SB 1018 will next be heard in the (S) Appropriations Committee. CS/CS/HB 753 is currently in the (H) Government Accountability Committee.

### **Water Protection & Sustainability (CS/HB 573 & CS/SB 928)**

Background: Counties, municipalities, or special districts may enter into an inter-local agreement to create a regional water supply authority (RWSA) for the purpose of developing, recovering, storing, and supplying water for county or municipal purposes. Priority in an RWSA is given to reducing the adverse environmental effects of excessive or improper withdrawals of water from concentrated areas. In June 2016, Polk County and 15 municipalities entered into an inter-local agreement to create an RWSA known as the Polk County Regional Water Cooperative (cooperative). Proposed Changes: This bill creates the “Heartland Headwaters Protection and Sustainability Act,” which does the following:

- Recognizes the 1979 designation of the Green Swamp area as a critical state concern for its regional and statewide importance in maintaining the quality and quantity of water supply and resources of the Floridian aquifer system;
- Designates the headwaters of the Alafia, the Hillsborough, the Ocklawaha, the Peace, and the Withlacoochee rivers as being in the Green Swamp area and Polk County;
- Designates the surface water and groundwater resources in the heartland counties of Hardee, Highlands, and Polk as integral to the health, public safety, and economic future of those regions;
- Designates the Green Swamp and surrounding areas to be economically, environmentally, and socially defined by some of the most important and vulnerable water resources of the state;
- Recognizes that the surface water and groundwater resources in the heartland counties of Hardee, Highlands, and Polk are integral to the health, public safety, and economic future of those regions;
- Declares an important state interest in partnering with RWSAs and local governments to protect the water resources of the headwaters and surrounding areas;
- Declares that priority-funding consideration must be given to solutions to manage the water resources of these headwaters and the local Floridian aquifer system;
- Finds that the cooperative was formed to protect the water resources of the headwaters and surrounding areas, is in the public interest, and complies with the intent and purposes of water supply policy.
- Requires the cooperative to prepare an annual report identifying water resource projects within its jurisdiction for priority state funding, identify information to be included for each listed project, and requires the cooperative to coordinate with the appropriate water management district (WMD) to ensure the annual report is included in the WMD consolidated annual report; and
- Expands the list of entities authorized to expend local government infrastructure surtaxes to include an RWSA, whose purpose is to develop, recover, store, and supply water, if the county is a member of the entity. The Senate Version also:
  - Requires the cooperative to submit its comprehensive annual report by December 1, 2017, and each year thereafter, to the Governor, Legislature, DEP, and the appropriate water management districts
  - Authorizes local governments to transfer proceeds from their local government infrastructure discretionary sales surtax to an RWSA for purposes of developing, recovering, storing, and supplying water.

Update: On Thursday, the (S) Appropriations Subcommittee on the Environment and Natural Resources passed CS/SB 928 without amendment. The City of Winter Haven and Polk County waived in support of the bill. CS/SB 928 will next be taken up in the (S) Appropriations Committee, its last committee of reference. CS/HB 573 is currently in the (H) Agriculture & Natural Resources Appropriations Subcommittee.

### **Resource Recovery & Management (CS/HB 335 & CS/CS/SB 1104)**

Background: The DEP is charged with implementing and enforcing the state's solid waste management program. This program oversees the direct disposal of many different forms of industrial, agricultural, and residential waste. However, under s. 403.7045(1), F.S., certain wastes and activities are exempt from solid waste regulation. These generally consist of recoverable materials and the processes by which they are recycled and reused. Currently, to qualify for an exemption, a solid waste facility must meet the following requirements:

- A majority of the recovered materials at the facility are demonstrated to be sold, used, or reused within one year;
- The recovered materials handled by the facility or the products or byproducts of operations that process recovered materials are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water by the owner or operator of such facility so that such recovered materials, products or byproducts, or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including groundwater, or otherwise enter the environment such that a threat of contamination in excess of applicable DEP standards and criteria is caused;
- The recovered materials handled by the facility are not hazardous wastes; and
- The facility is registered with the DEP. Furthermore, the DEP does not require solid waste combustors to obtain a solid waste permit if the facility operates under a current valid permit for a stationary source of air pollution, open burning, or electrical power plant and transmission line siting. In recent years, more and more solid waste management facilities have begun employing gasification and pyrolysis as means of converting solid waste into fuel. Neither process uses combustion, instead relying on the application of heat within an oxygen-starved environment to synthesize fuel from the resulting chemical reactions. The two processes are comparatively cleaner than traditional combustion methods.

Proposed Changes: This bill expands the current exemption from the DEP's solid waste management program to include non-combustion gasification and pyrolysis facilities. The bill provides the following definitions:

- "Gasification" is a process through which recovered materials are heated and converted to synthesis gas in an oxygen-deficient atmosphere, and then converted to crude oil, fuel, or chemical feedstock."
- "Post-use polymer" is a plastic polymer derived from any domestic, commercial, or municipal activity and recycled in commercial markets that might otherwise become waste if not converted to manufacture fuels or other raw materials or intermediate or final products using gasification, pyrolysis. A post-use polymer may contain incidental contaminants or impurities such as paper labels or metal rings.
- "Pyrolysis" is a process through which recovered materials are heated in the absence of oxygen until melted and thermally decomposed, and then cooled, condensed, and converted to crude oil, diesel, gasoline, home heating oil, or other fuel, feed-stocks, diesel and gasoline blend stocks, chemicals, waxes, or lubricants, or other raw materials, intermediate, or final products.
- "Pyrolysis facility" is a facility that receives, separates, stores, and converts recovered materials using gasification, pyrolysis. A pyrolysis facility is not a waste management facility. In the House version, the current statutory definitions for "recovered materials" and "recovered materials processing facility" are also expanded to include post-use

polymers, while the Senate version adds post-use polymers and pyrolysis facilities, alongside recovered materials and recover processing facilities, to the list of activities and materials exempt from the solid waste management program. The terms “used” and “re-used”, as applied in that section, are also expanded to include the conversion of post-use polymers into crude oil, fuels, feed-stocks, or other raw or intermediate materials and final products (Both Sen. & House Ver.)

Update: On Thursday, the (S) Appropriations Subcommittee on the Environment and Natural Resources adopted a strike-all to CS/SB 1104. The strike all conforms the bill’s definition of “post-polymer” to that contained in House version. It also makes technical changes. CS/CS/SB 1104 will next be heard in the (S) Appropriations committee, its last committee of reference. CS/HB 335 is currently in Senate Messages.

### **Vessels (CS/SB 1338 & CS/HB 7043)**

Background: In 2009, the Legislature directed the FWC to establish a pilot program to explore potential policy options for regulating the anchoring and mooring of vessels outside public mooring fields. A select number of local governments were allowed to enact their own policies and ordinances during the pilot program period, all of which are set to expire on the date the program period itself expires: July 1, 2017. With the exception of those participating in the pilot program, local governments are prohibited from enacting or enforcing regulations on the anchoring or mooring of vessels, other than a live-aboard vessel, outside the marked boundaries of mooring fields. The FWC has since submitted its report on the program to the relevant legislative committees, including the (H) Natural Resources & Public Lands Subcommittee, which is the sponsor of the House bill.

Proposed Changes: This bill incorporates many of the findings and recommendations from the pilot program. The bill:

- Revises the definition of “live-aboard vessel” and defines “effective means of propulsion for safe navigation.” Barges and commercial vessels are exempt from this definition;
- Provides that a vessel is at risk of becoming derelict if an owner or operator of the vessel cannot demonstrate, after 72 hours of notification by a law enforcement officer, that the vessel has an effective means of propulsion for safe navigation. Notice must be provided electronically;
- Provides noncriminal penalties for leaving derelict vessels;
- Removes the expiration of anchoring limitation areas;
- Prohibits a vessel or floating structure from anchoring or mooring within 150 feet of any marina, boat ramp, or other vessel launching or loading facility to protect maritime infrastructure, or within 300 feet of mooring field boundaries or superyacht repair facilities to protect legally moored vessels.
- Provides time-limited exemptions for mechanical failure and for imminent and existing weather conditions.
- Provides blanket exemptions for government owned or operated vessels, construction or dredging vessels on an active job site, and vessels actively engaged in commercial or recreational fishing;
- Provides the following penalties for violation of the minimum distance requirements:
  - o For a first violation, a noncriminal infraction.
- Prohibits a vessel or floating structure from anchoring, mooring, tying, or otherwise affixing to an unpermitted or unauthorized object that is on or affixed to the bottom of waters of the state and provides the following penalties:
  - o For a first violation, a noncriminal infraction.
- Authorizes local governments to enact and enforce regulations requiring owners or operators of vessels/floating structures subject to marine sanitation requirements to provide proof of proper sewage disposal within marked boundaries of a permitted mooring field or federally designated no discharge zones for more than 10 days, provided the local

government has adequate pumpout services and FWC has verified such before any ordinance is effective;

- Clarifies that local governments may enact and enforce pump-out requirements for live-aboard vessels;
- Elevates the penalty for a vessel with an expired registration of more than 6 months, upon a second or subsequent offense, from a noncriminal infraction to a misdemeanor of the second degree.
- Prohibits the issuance of a certificate of title to any applicant for any vessel deemed derelict by a law enforcement officer;
- Clarifies that private residential multifamily docks grandfathered to use sovereignty submerged lands after Jan. 1, 1998, may continue to exceed the amount of moored boats as authorized under that grandfathering statute;
- Adds the protection of sea-grasses on privately owned submerged lands to the list of reasons a boating-restricted area may be established in state waters. Provides a process and requirements for sub-riparian owners to apply to the FWC for such area restrictions. This provision only applies to sovereignty submerged lands that are adjacent to an area designated as an aquatic preserve or as Outstanding Florida Waters;

Update: On Thursday, the (S) Appropriations Subcommittee on the Environment and Natural Resources passed CS/SB 1338 without amendment. Representatives for the boating industry waived their time in support of the bill. The bill's next and last committee of reference is the (S) Appropriations Committee. CS/HB 7043 is currently in the (H) Government Accountability Committee.

### **Coastal Management (CS/CS/HB 1213 & CS/CS/SB 1590)**

Background: Due to a combination of storm events, man-made coastal constructions, and incremental sea-level rise, an estimated 411 miles of Florida's beaches are critically eroded. The Beach Management Assistance Program is a program within the DEP that is geared towards developing comprehensive beach and inlet management planning strategies and working with local partners to implement them. In 2014, OPPAGA issued its report on the DEP's current process for selecting and prioritizing local beach management and inlet management projects.

The report made several findings, including:

1. Certain criteria account for the majority of the points awarded;
2. Certain criteria only apply to a limited number of projects;
3. The criteria do not adequately take into account the economic impact of beach projects;
4. The criteria do not adequately account for a project's cost effectiveness or performance;
5. The criteria do not take into account the impacts of recent storms or current conditions of the shoreline;
6. Stakeholders found the application requirements for funding to be too complicated and time consuming; and
7. Stakeholders perceived a bias for projects that received federal funding.

This bill would enact the following changes as it relates to beach and inlet management projects. For beach management, this bill:

- Revises the criteria the DEP must consider when ranking beach management projects for funding consideration to be more detailed;
  - Requires the DEP to divide the revised criteria into four tiers and assign each tier a percentage of overall point value;
  - Requires the DEP weigh the criteria equally within each tier; and
  - Revises the uses and procedures for expenditure of surplus funds.

For inlet management, this bill:

- Revises and updates the criteria the DEP must consider when ranking inlet management projects for funding consideration. The DEP must weigh each criterion equally;
- Authorizes the DEP to pay up to 75 percent of the construction costs of an initial major inlet management project component. The DEP may share the costs of the other components of inlet management projects equally with the local sponsor;
- Requires the DEP to rank inlet monitoring activities for inlet management projects as one overall subcategory request for funding separate from the beach management project funding requests; and
- Eliminates a current requirement that the Legislature designate one of the three highest ranked inlet management projects on the priority list as the Inlet of the Year. The bill also requires the DEP to update and maintain its comprehensive long-term beach management plan, and sets forth an extensive list of new requirements for the plan. The plan must also, at minimum, include a strategic beach management plan (SBMP), a critically eroded beaches report, and a statewide long-range budget plan.

Update: On Thursday, the (S) Appropriations Subcommittee on the Environment and Natural Resources passed CS/SB 1590 with one amendment. The amendment further clarifies that the 3-year work plan should also cover beach restoration, not just beach nourishment.

CS/CS/SB 1590 will next be heard in the (S) Appropriations Committee, its last committee of reference. CS/CS/HB 1213 is currently in the (H) Government Accountability Committee. CS/HB 493 is currently on the House Calendar on Second Reading.

#### **Public Notification of Pollution (CS/SB 532 & HB 1065)**

Background: Many commercial, industrial, agricultural, and utility operations & entities are required to report various releases, discharges, or emissions, either as a condition of permitted operations or pursuant to law or rule. Under state law, to the extent notification is required, it typically must be made to the DEP. In 2016, the DEP initiated rulemaking to establish a requirement for public notification of pollution release from installations throughout the state. This rulemaking was challenged in administrative court by several commercial associations, who argued that the DEP had over-stepped the authority granted to it in statute. In November of last year, an administrative law judge ruled in favor of the petitioners, holding that the DEP lacked the rulemaking authority for its proposed rules. The final order concluded that the authorities cited by the DEP as providing it with the statutory authority to adopt the rule were only general grants of authority and not specific enough to authorize the DEP to require that owners and operators of installations provide notices to local governments, the general public, and broadcast media.

Proposed Changes: This bill creates the Public Notice of Pollution Act. The Act requires the DEP to publish a list of substances at specified quantities that pose an immediate and substantial risk to the public health, safety, or welfare. Releases of these substances at the quantities specified are “reportable releases.” The owner or operator of any installation where a reportable release occurs and who has knowledge of it must provide a notice of the release to the DEP. The notice must be submitted to the DEP within 24 hours after discovery of the reportable release and must contain the detailed information described in the bill about the installation, the substance, and the circumstances surrounding the release. The DEP would be required to publish each notice on the Internet within 24 hours after it receives the notice. It must also create a system for electronic mailing that allows interested parties to subscribe to and receive direct announcements of notices received by the DEP. The bill provides that submitting a notice of a reportable release does not constitute an admission of liability or harm. Finally, the bill provides for \$10,000 per day in civil penalties for violations of these notice requirements and authorizes the DEP to adopt rules to administer said penalties.

Update: On Thursday, the Senate took up CS/SB 532 on Second Reading and rolled it to Third Reading without amendment. HB 1065 is still in the (H) Natural Resources & Public Lands Subcommittee, where it has yet to be considered. Sharks (CS/CS/HB 823 & CS/CS/SB 884) Background: Shark finning is the process of catching a shark, removing its fins, and discarding the rest of the shark. Shark fins command a high price on the black market, where they are often sold as a key ingredient in shark fin soup. A single fin from some large species can command prices as high as \$20,000. Fins command a far higher value per pound than the rest of the fish. Shark-fanners often throw the shark back into the ocean alive once they have removed the fins. Unable to swim properly, sharks either bleed to death or suffocate. This practice has decimated shark populations around the world, removing a vital apex predator from the food chain and disrupting other fish stocks as the result of by-catch from shark fishing methods. Congress banned shark finning in U.S. waters in 2000 under the Shark Conservation Act.

In Florida, fisherman may only catch one shark per day and a maximum of two sharks per vessel per day even if more than two fishermen are on board. Fishermen may only take sharks by hook-and-line gear. All sharks harvested in Florida waters must be landed in whole condition. Individuals may not possess a shark that has had the head removed, been divided, filleted, ground, skinned, finned, or had the caudal (tail) fin removed while in or on the waters of the state, on any public or private fishing pier, or on a bridge or catwalk attached to a bridge from which fishing is allowed. Fishermen may eviscerate or gut the shark or slice the base of the caudal fin to bleed the carcass as long as the caudal fin remains attached before landing.

This bill further tightens current restrictions on shark fishing in the state. It defines “landing” as the act of bringing the harvested organism, or any part thereof, ashore. It prohibits the possession of a fin separated from a shark on the waters of the state or landing said fin ashore, unless such possession is authorized by FWC rule or the fin is lawfully obtained on land for taxidermy purposes.

It provides penalties for 1st, 2nd, and 3rd time offenders with a commercial fishing license according to the following schedule:

- 1st time offense – 2nd degree misdemeanor, punishable as provided in s.775.082 or s. 775.083, with the addition of an administrative fine of \$5,000 and suspension of the harvester’s saltwater license privileges for 180 days;
- 2nd time offense – 2nd degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, with the addition of an administrative fine of \$10,000 and suspension of the harvester’s saltwater license privileges for 180 days; and
- 3rd and subsequent offenses – 1st degree misdemeanor, punishable as provided in s. 775.082 or s. 775.083, with the addition of an administrative fine of \$10,000 and permanent suspension of the harvester’s saltwater license privileges.

Violators suspended under this chapter will not be permitted to engage in saltwater fishing or even step foot on a vessel where fishing occurs. For non-commercial violators, the penalties are similar, except that third and subsequent violations only merit administrative fines between \$5,000 and \$10,000. The House version is similar to the Senate version, except that it provides slightly lighter penalties for possession of a shark fin. It provides the following penalties:

- On the 1st offense (chargeable as a 2nd degree misdemeanor), a \$4,500 administrative fine and suspension of all license privileges under the chapter for 180 days.
- On the 2nd offense (chargeable as a 2nd degree misdemeanor), a \$9,500 administrative fine and suspension of all license privileges under the chapter for 365 days.
- On the 3rd and subsequent offenses (chargeable as 1st degree misdemeanors), a \$9,500 administrative fine and permanent revocation of all license privileges under the chapter.

Update: On Thursday, the Senate took up CS/CS/SB 884 on Second Reading and rolled it



to Third Reading without amendment. CS/CS/HB 823 is currently in the (H) Government Accountability Committee.

## **Ericks Consultants Week of April 10<sup>th</sup>**

*By Ericks Consultants*

### **FY 2017-18 State Budget**

#### **Chambers Assume Conference Positions**

The Senate and the House each passed its own budget (the Senate budget passed unanimously and the House budget passed 89-26) and several related implementing bills and formally agreed to “conference,” where the two chambers negotiate a compromise on their many differences spanning from citrus greening settlements to displaced homemakers to pesticides. The House and Senate budgets are nearly \$4 billion apart and at different positions on a number of critical issues. Below is a brief snapshot of relevant issues the two houses must negotiate on within the coming weeks, whether within the budget or within an accompanying/substantive bill.

(Note that this list is not all-inclusive and contains issues that have either been formally agreed upon or are a top priority for the budget. It does not contain all of the legislative disagreements between the chambers, such as Workers Compensation, Medical Marijuana, Juvenile Civil Citations, Amendment 4 and Personal Injury Protection)

-- **Gaming:** The House and Senate each announced their conferees on gaming, including the usual suspects. We expect them to start conferencing on gaming next week. To recap: The House wants a 20 year extension of the current Seminole Compact without even the appearance of an expansion. The Senate wants to expand gaming significantly, including slots in more counties and decoupling. The Seminole Tribe is not happy with either proposal.

-- **Florida Retirement System :** The House tied an annual actuarial adjustment bill, which must be passed in order to keep the FRS system on sound actuarial footing, to its reform package that would default new hires to the investment plan and block some from the pension plan. The annual increase employer contributions adds \$149.5 million with an estimated impact of \$39.3 million to counties and \$7.7 million to other local governments. The House reform package is estimated to have a negative fiscal impact of \$17.3 million (which includes \$8.4 million for counties and \$0.9 million for other local governments) for this fiscal year, rising to a projected \$21.4 million fiscal impact in FY 19-20.

-- **State Employee Raises:** The Senate Appropriations Chairman’s top priority is a salary raise for state employees working in the correctional system and in law enforcement. The more conservative House did not include the raises in its budget. Along the same lines, the House is pursuing changes to the State Employee Group Insurance.

-- **Tax Cuts:** The House passed an aggressive, bipartisan tax cut package, while the Senate has not yet shown a cohesive package although a patchwork of bills have been advancing in the Senate.

-- **Charter School Capital Outlay:** The House passed a bill along party lines that would require school districts to share a portion of their local millage revenue with charter schools in situations where the state does not appropriate enough funding. The Senate originally had the same idea, but amended its proposal on the floor this week to take the sharing requirement out of the bill and increase restrictions on which charter schools are eligible for funding. The House, in what was its longest floor debate this week, also passed a bill that gives \$200 million in incentive money to entice out-of-state charter school management companies to turn around “failure factories.”

-- **Everglades and the Environment:** The Senate officially passed (36-3) a pared down version of the Senate President's priority to address harmful discharges from Lake Okeechobee by storing water South of the Lake. The plan includes looking into a partnership with the C-51 Reservoir. It also includes bonding, which the House Speaker continues to criticize although he commended the Senate on the compromise language.

For the overall environmental picture, the Senate allocated significantly more than the House for Everglades Restoration, Springs Restoration, Florida Forever and land acquisition, and local water projects. Both chambers have been accused of not staying true to voter wishes in the passage of Amendment 1.

-- **Higher Education:** The Senate is pursuing an overhaul of State Colleges that the House is not completely behind: creating a new oversight board, requiring agreements with universities, placing a 15% cap on baccalaureate degree enrollment and streamlining the ability to offer new programs to respond to workforce needs. The House is pursuing more aggressive budget cuts than the Senate and taking a more skeptical approach of taxpayer funding for the state's college and university system.

-- **Incentives:** The House is notoriously opposed to incentive funding through Enterprise Florida, while the Senate has allocated nearly \$80 million towards incentives and funded a list of local economic development requests.

-- **Housing:** The Senate allocated \$124.9 million to SHIP funds and the House has only allocated \$34 million.

-- **Beaches:** The Senate allocated \$50 million to beach re-nourishment plus another \$50 to address beach erosion due to damage from Hurricane Matthew. The House has allocated \$30 million to beach re-nourishment.

### **Hospital Funding**

The Legislature received unexpected news this week that Florida would be receiving \$1.5 billion in Low Income Pool (LIP) funding for hospitals that provide indigent care. The amount is much higher than anticipated and is being credited to Governor Scott's relationship with the Trump administration. The Senate had assumed \$600 million in Federal LIP funding within its budget while the House assumed nothing and called the Senate's budget irresponsible for doing so. The announcement will ease some concerns over proposed hospital cuts. However, United States Senator Bill Nelson told legislators this week that the LIP deal was the wrong direction for the state to take. He urged the state to expand Medicaid to nearly 900,000 low income Floridians rather than continue to fund charity care at hospitals, which requires local county funding and Democrats contend is more expensive than Medicaid coverage. Details on how the funding is distributed are still forthcoming.

### **Intergovernmental Relations**

#### **Small Cell Wireless**

Senate Rules Temporarily Postponed SB 596, the preemption of local governments in setting up infrastructure for the creation of a "5g" network, this week due to time running out in the committee. A Delete-All amendment was filed this week that advances a compromise, raising the fee cap from \$15 to \$100 and allowing local authority over issues such as requiring a new pole and determining color, etc. An amendment to the delete-all filed by a former Senate President would remove the fee cap and require a "reasonable" rate that reflects market value for government property. It has not been officially

rescheduled but will still likely be heard next week. This is the Senate bill's final committee of reference. The House bill also has one more committee.

### **Towing and Wrecker Fees**

Senate Appropriations Subcommittee on Finance & Tax voted unanimously to approve a bill that would prohibit counties and municipalities from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The bill doesn't prevent local governments from charging local business taxes or charging the owner of the vehicle a reasonable fee for towing and storage at a facility owned by the local government. The bill has an insignificant fiscal impact according to committee staff. Public testimony and discussion was limited due to time constraints. The Senate bill has one more committee of reference in the Senate. The House bill is on the House floor.

## **Finance & Tax**

### **Workers Compensation**

Senate Appropriations voted unanimously to address the workers compensation system that businesses have been panicking over since a Supreme Court decision on attorney's fee caps led to a 14.5 rate increase. The committee bill focuses on allowing judges to award hourly rather than percentage based attorneys fees in certain circumstances. The hourly rate is capped at \$250/hr, subject to annual adjustment based upon average wages, and injured workers would be on the hook for the remainder. Retainer agreements between injured workers and attorneys must be filed with the judge. It would also extend benefits. The committee adopted an amendment that would include language classifying multiple myeloma and non-Hodgkin's lymphoma as occupational diseases for full-time firefighters, which Senate Leadership expressed frustration that a bill to do the same is being held up in the committee process. The bill is opposed by both business organizations for its lack of lowering rates and workers organizations for its focus on attorneys fees rather than injured workers. The Senate bill has one more committee of reference. Meanwhile, the House bill has a \$150/hr cap, if an hourly cap is triggered by the fee falling out of a certain percentage range of hourly rates charged by defense attorneys in the same location. The bill also changes from charged-based reimbursement for hospitals to 200% of Medicaid rate for unscheduled surgery and 160% of Medicaid rate for scheduled surgery and requires authorization or denial of medical procedures. The Senate sponsor also argues the House bill places too much burden on hospitals. The House bill is ready to be heard on the House floor.

### **Local Business Tax**

Senate Appropriations Subcommittee on Finance & Tax voted unanimously to pass a local business tax bill. Both the House and Senate proposals were amended to remove the financial cap on Local Business Taxes levied by local governments, however the House bill would still prohibit county levies adopted after January 1, 2017. The bills now only include exemptions for veterans and active duty spouses and low income individuals (those who receive public assistance or whose household income is less than 130% of the Federal Poverty Level.) The Senate bill and the House bill each have one committee left before going to the floor.

### **Property Taxes**

Senate Appropriations Subcommittee on Finance & Tax unanimously voted to pass a property tax package that, among other things, requires property appraisers to waive penalties for persons who receive but were not entitled to homestead exemptions after adopting a strike-all amendment. The Senate sponsor called the legislation a "work in

progress” with all three Property Appraisers from the Tri-County area as the bill mainly applies to Palm Beach, Broward and Miami-Dade Counties. The amendment removed many of the fiscal impact concerns in the bill but still leaves a requirement “delinquent” rather than “outstanding” taxes be paid before establishing a title by adverse possession. The bill has one more committee left in the Senate and the House.

### **Limitations on Property Tax Assessments**

Senate Rules unanimously voted to place a constitutional amendment on the 2018 ballot to permanently maintain the 10 percent cap on annual non-homestead parcel assessment increases currently in the Constitution that is set to expire in January 2019. The creation of this 2018 amendment is specified in the current constitutional language for renewal. The Senate bill is now ready to go before the full Senate. The House already voted 110-3 to pass the bill.

### **Local Financial Emergencies**

Senate Appropriations voted 14-4 to expand oversight of local governments, charter schools, school districts and technical career schools to include the House, Senate, and Joint Legislative Audition Committee in cases of financial emergencies. Members in opposition were concerned over political motivations of using oversight authority, even in financial emergencies, such as punishing sanctuary policies. The legislation has one more committee of reference in the Senate and the House.

### **Ad Valorem Exemption for First Responders**

Senate Appropriations Subcommittee on Finance & Tax unanimously voted to pass the implementation legislation for Amendment 3, passed by the voters in November 2016. It would provide an homestead ad valorem taxation exemption for first responders totally or permanently disabled in the line of duty and to surviving spouses. In order to qualify, first responders must supply certificates of disability from two different physicians and a certificate from the employer verifying the disability occurred in the line of duty. The bill defines “disability” and “line of duty.” It would also allow for a cardiac event to qualify if it is within 24 hours of a nonroutine strenuous physical activity. The legislation has one more committee in the Senate and the House.

### **Transportation**

#### **South Florida Regional Transportation Authority (SFRTA) Indemnification Bill**

Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development unanimously voted to approve language to address SFRTA liability and insurance concerns for All Aboard Florida and the Florida East Coast Railway. The initiative is supported by all three counties and other local governments served by Tri-Rail. The committee adopted an amendment that reflects a compromise with the Governor’s office and the Department of Transportation on state funding mechanics for SFRTA operations in general. The bill now has one more committee in each the House and the Senate.

#### **Department of Transportation Package**

Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development unanimously voted to approve the DOT package after adopting a strike-all amendment sponsored by the Chairman that added in language relating to autonomous vehicles and transportation disadvantaged coordination with TNCs. The committee also removed language that would have forced the South Florida Regional Transportation

Authority (SFRTA) to rebid an operations contract awarded earlier this year in favor of compromise language with the Governor's office that addresses the state funding mechanics of the Authority. The bill has one more committee in the Senate. It is scheduled to be heard in its second of three House committees next week, where a similar SFRTA amendment is anticipated.

### **Anchoring and Mooring**

Senate Appropriations Subcommittee on Environment and Natural Resources voted unanimously to establish statewide standards of anchoring and mooring and derelict vessels after adopting non-identical strike-all amendments. The bill incorporates many recommendations from the FWC Anchoring and Mooring pilot program. It establishes 150 ft. setback from marinas, ramps, and other vessel launching structures and a 300 ft. setback from mooring fields with some exemptions. It also prohibits a vessel or floating structure from anchoring, mooring, tying, or otherwise affixing to an unpermitted or unauthorized object that is on or affixed to the bottom of waters of the state. It removes an expiration on anchoring prohibitions passed last year. It authorizes local governments to enact pump-out requirements for live-aboards. It would also allow local governments to establish boating restricted zones in specific circumstances. The boating industry, local governments, and waterfront property owners all support the bill. The Senate has one more committee of reference in the Senate. Its House companion was not considered due to time constraints in its second of three committees last week and will likely be heard next week.

### **Environment**

#### **Amendment 4 Implementation**

Senate Appropriations Subcommittee on Finance & Tax unanimously passed a bill to implement Amendment 4 to provide exemptions on ad valorem assessments for renewable energy devices. The Senate sponsor stated that disagreements with the House have yet to be worked out but he hopes to have a compromise before the bill is heard in the full Senate Appropriations committee and asked that members support the bill to allow negotiations to continue. The environmental community and solar industry supports the Senate bill but oppose consumer protections in the House bill, claiming that it decreases competition and poses barriers for businesses in the industry. The bill has one more committee in the Senate and the House.

#### **Beaches**

Senate Appropriations Subcommittee on Environment and Natural Resources unanimously passed bills that would revise DEP's ranking system for beach re-nourishment projects. The state currently has 411 miles of critically eroded beaches. Among other funding changes, the bill creates four tiers with various criteria that must be weighed equally by the department. The bills also authorize DEP to pay up to 75% of construction costs for an initial major inlet management project but can equally share costs with local sponsors for other components. It also updates how DEP develops its comprehensive long-term beach management plan. The committee adopted an amendment that makes some changes to language regarding 3-year plans, longterm planning, dunes and critically eroded beaches. Palm Beach, Broward and Miami-Dade Counties along with beach associations support the bill as it will help streamline and fund critical projects. The bill has one more committee stop in the Senate and two more committees in the House.

#### **Contaminated Site Cleanup**

Senate Appropriations Subcommittee on Environment and Natural Resources voted unanimously to pass a bill that would increase funding to DEP for petroleum rehabilitation advance cleanup, remove the 25% cost share required for advanced cleanup and allow for priority cleanup of sites proposed for redevelopment. The bill has one more committees of reference in the Senate and two more in the House.

## **Health Care**

### **Personal Injury Protection**

Senate Banking and Insurance voted 8-1 and House Commerce voted 22-5 to repeal personal injury protection and replace it with bodily injury insurance and insurance against deaths caused by accidents. The House bill would require motorists to have \$20,000 in bodily injury insurance (BI) per person and \$50,000 per incident, \$10,000 in property insurance. The Senate bill begins with \$20,000 for BI or death of one person in any one crash or \$40,000 for two or more BI or death. It phases in an increase of \$30,000 for one and \$60,000 for two or more by 2022. The Senate bill also includes \$5,000 in Medical payments and provides for reimbursement of 100% of medical losses. The Senate sponsor stated that he could not accept any change in the PIP laws that does not provide security and stability for medical providers. Members in opposition of the proposals expressed concern with rates going up for motorists. The House has indicated the opposite. The House bill is now ready to go before the full House. The Senate bill has two more committees of reference.

## **Law Enforcement**

### **Juvenile Civil Citation**

Senate Appropriations voted 16-1 to pass the Senate President's priority of requiring counties to establish civil citation programs for first-time offender juveniles to avoid "justice by geography" wherein a juvenile is treated differently depending on which county the offense occurs in. The committee adopted the amendment to accumulate data on various programs and on recidivism rates. The Senate committee markedly did not adopt the same changes that the House bill has undergone, which is to move away from civil citation and focus on expungement for first time juvenile offenders instead. The Florida Sheriffs Association opposes the Senate bill for its mandate, but supports the House bill and also supports diversion programs in general. The Senate bill is now ready for the full Senate. The House bill has one more committee of reference.

### **Adult Civil Citation**

The Senate revived the adult civil citation bill this week after weeks of inactivity in both the House and Senate. Senate Appropriations Subcommittee Civil and Criminal Justice voted unanimously to approve a bill that would encourage local communities and public and private educational institutions to provide a program that would offer pre-arrest diversion to adults that admit to committing a qualifying offense. The bill is not mandatory and also allows the details of the program, including what constitutes a qualifying offense, to be developed at the local level. The bill is to provide Legislative intent, or legal "cover" to pre-arrest diversion programs, rather than create a mandatory new law enforcement model. The committee adopted an amendment in response to concerns from the Florida Retail Federation that would add a centralized data collection component. The Florida Sheriffs Association and Florida Association of Counties both support the bill. The Senate bill has one more committee of reference in the Senate. The House bill has two more committees of reference in the House.

## **Human Trafficking**

House Judiciary Committee voted unanimously to create a civil cause of action with no statute of limitations for human trafficking victims against persons who knowingly participate in a human trafficking ring. The bill also provides for contraband forfeitures to go to a trust fund specifically for human trafficking victims. The bill is now ready to go

before the full House. Its Senate companion was temporarily postponed in its first committee of reference and has been placed on the agenda for next week.

### **LATF Update**

*By County Staff*

In 2014, voters approved the Florida Water and Land Conservation Initiative (Amendment 1) to finance the acquisition and improvement of land, water and related property interests, the management and restoration of natural systems, and the enhancement of conservation lands. Revenues from the existing excise tax on documents were required to be placed annually into the Land Acquisition Trust Fund (LATF) to implement Amendment 1. The utilization of funds for a variety of purposes has been legally challenged, and those court actions continue to work their way through the judicial system. The Senate budget takes steps towards addressing certain objections raised regarding the expenditure of LATF funds by transferring \$111 million of agency salaries from the LATF to General Revenue, freeing up funds for other conservation programs. The House has not taken the same steps in its budget, creating an additional funding gap between the two chambers. Overall, the Senate budget contains approximately \$693.5 million in LATF funding, while the House budget contains approximately \$737 million in LATF funding.

The proposed budgets contain \$166 million (House) and \$275 million (Senate) in Everglades funding, split between LATF and General Revenue funds. The House Appropriations bill (HB 5001) contains no money for the Rural and Family Lands program as well as no funding for Florida Forever land purchases. HB 5001 does contain \$10 million in funding for the Florida Communities Trust program, which provides for partnerships with local governments for the protection of important natural resources. The Senate Appropriations bill (SB 2500) contains \$20,517,112 from the Florida Forever Trust Fund for land acquisition for projects on the approved Acquisition and Restoration Council's priority list, the funding of Water Management District water resource development projects intended to ensure that sufficient quantities of water are available to meet current and future needs of natural systems and the citizens of Florida, and for land acquisition through the Florida Communities Trust program (\$5 million). However, SB 2500 also does not provide for any funding for the Rural and Family Lands program. Both chambers additionally provide funding for agricultural best management practices and land management. The proposed Senate budget provides funding for projects in the Florida Keys and Keystone Lakes region that are not included in the House budget.

#### **LATF/Environmental Budget Highlights:**

Everglades (a combination of General Revenue and LATF):

- \$166 million (House)
- \$275 million (Senate)

Rural and Family Lands:

- \$0 funding in both the House and Senate

Florida Forever and Florida Communities Trust (Land Acquisition)

- \$10 million (House – only for Florida Communities Trust)
- \$20,517,112 (Senate - \$15,156,206 for Florida Forever and \$5,360,906 for Florida Communities Trust)

Beaches:

- \$30,060,495 (House - \$10,060,495 from LATF)
- \$100 million (Senate - \$50 million from LATF for statewide beach projects and \$50 million from general revenue for beach recovery funds)

Florida Recreation Development Assistance Program (FRDAP):

- \$3,052,500 (House)
- \$5,350,000 (Senate)

Petroleum Tank Clean Up:

- \$100 million (House)
- \$110 million (Senate)

The Chambers passed their respective budgets and are now entering into conference, where these issues will be resolved.

### **Corporate Income Tax**

CS/SB 1156 (Stargel) passed the Senate Appropriations Committee on April 13 by a unanimous 18-0 vote. The bill:

- Updates the Florida corporate Income Tax Code by adopting the Internal Revenue Code in effect on January 1, 2017.
- Increases the filing extension period for certain corporate income taxpayers from 5 months to 6 months.
- Requires that payments of estimated tax for corporate income tax that are due on the last Saturday or Sunday of June be paid by the last Friday in June.

Governor Scott had proposed exempting over 20 percent of businesses from having to pay income taxes by increasing the corporate income tax exemption from \$50,000 to 75,000. The exemption has previously been increased from \$5,000 to \$25,000 in 2011 and to \$50,000 in 2012. Neither Chamber has adopted this exemption increase as of yet in their budget proposals. Sen. Hukill filed SB 486 to increase the corporate income tax exemption at the levels desired by the Governor, but the bill did not receive a hearing in committee.

HB 7109 contains the House tax cut package. The bill contains a number of sales tax provisions, including a reduction on sales tax rates for business rents from 6% to 4.5% for two years, then a permanent reduction to 5.5%, new sales tax exemptions for a number of products, and several sales tax holidays. The bill provides property tax relief for certain property used to provide affordable housing, amends the definition of inventory to include certain construction and agricultural equipment, and clarifies the documentation required to obtain an exemption for certain nonprofit homes for the aged. For corporate income tax, the bill increases the annual tax credits available for voluntary brownfields cleanup, extends the Community Contribution Tax Credit program by one year while maintaining the current level of tax credits, and changes the filing dates for certain income tax returns and estimated tax payments.

PCS/SB 378 reduces the sales tax rate on commercial rentals from 6% to 5% and deletes the salary tax credit associated with the insurance premium tax for premiums received after December 31, 2016. This bill has passed the Appropriations Subcommittee on Finance and Tax and is awaiting a hearing in the Appropriations Committee.

### ***LOCAL ISSUES***

#### **West Palm Beach Police Pension Fund**

*By County Staff*

On Thursday, HB 1135 a local bill by Representative Matt Willhite passed out of the House Government Accountability Committee. HB 1135 incorporates agreed upon changes to the police pension plan between the City of West Palm Beach and the Palm Beach County Police Benevolent Association.



HB 1135 has been placed on the House Calendar.

**Building Code Advisory Board of Palm Beach County**

*By County Staff*

HB 1297 by Representative Joseph Abruzzo is a local bill that revises the nomination process for appointees to the Building Code Advisory Board of Palm Beach County. HB 1297 passed out of the House Government Accountability Committee on Thursday. The proposed changes to the law are intended allow the seven industry representatives to be nominated by existing local chapters of national or regional construction industry trade associations.

HB 1297 has been placed on the House Calendar.

**CS/SB 282 - Towing and Storage Fees**

*By County Staff*

CS/SB 282 by Senator Frank Artiles is a general bill prohibiting counties and municipalities from imposing additional charges, costs, expenses, fines, fees, or penalties on a registered owner or lienholder of a vehicle, etc. CS/SB 282 passed out of the Senate Committee on Finance and Tax on Thursday.

**CS/SB 168 – Salaries of Specified Officers and Firefighters**

*By County Staff*

CS/SB by Senator Jack Latvala is a general bill requiring each state agency that employs law enforcement officers, correctional officers, correctional probation officers, and firefighters to provide a monthly salary adjustment, etc. The bill passed out of the Senate Committee on General Government on Thursday, and is now in Appropriations.

**CS/SB 1086 - Transportation Disadvantaged**

*By County Staff*

CS/SB 1086 by Senator Rene Garcia requires community transportation coordinators, in cooperation with their respective coordinating boards, to plan and use regional fare

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Dave Kerner

Steven L. Abrams

Mary Lou Berger

Mack Bernard

**County Administrator**

Verdenia Baker



payment systems when available and cost effective that enhance cross-county mobility for the transportation disadvantaged to access employment, health care, education, shopping, or other life -sustaining services across one or more county lines. The bill also requires coordinating boards to include in their evaluations of multicounty or regional transportation opportunities regional fare payment systems, when available, that enhance cross-county mobility for the transportation disadvantaged for the specified access purposes.

The bill passed out of the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development on Thursday. It is now in the Senate Appropriations Committee.

**SB 10 - Relating to Water Resources**

*By County Staff*

On Wednesday, the Senate voted 36-3 to approve SB 10 by Senator Rob Bradley. The bill establishes options for additional water storage south of Lake Okeechobee to reduce the damaging discharges to the St. Lucie and Caloosahatchee estuaries. The cost of the project and size of the lands needed have been reduced and an economic package added to the latest version of the bill that was passed.

SB 10 has been sent to the House for consideration.