

**South Florida Water Management District
Legislative Update as of April 5, 2010**
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HOUSE AND SENATE PASS BUDGETS -- The news that a new gaming deal has been reached could help smooth negotiations over rival spending plans passed last week by the House and Senate. The Senate budget, SB 2700 is nearly \$70 billion or almost \$3 billion more than the House budget, HB 5001. The Senate plan is higher because that chamber counted on more than \$400 million from gambling as well as money from a higher matching rate for Medicaid that has yet to be adopted by Congress. It will be difficult for both sides to sit down and negotiate on the budget until lawmakers get a clearer idea of what Congress will do. Last year's federal stimulus authorized a higher matching rate for Medicaid until the end of 2010. Congress has been considering extending that higher rate until the summer of 2011. That would bring about \$880 million in extra money for the state. Other significant differences between the two chambers include how they treat the state's road-building fund, the \$19 billion Medicaid program and different approaches with state worker benefits. The House eliminates a health insurance subsidy for retired state workers and cuts state worker salaries by three percent. The Senate proposal calls for state workers to pay .25 of 1 percent of their pension costs and to require roughly 27,000 state workers to start paying health insurance premiums. The Senate budget includes \$15 million for Florida Forever and \$10 million for Everglades restoration. District share of Florida Forever would be \$1.575 million. Both Chambers have funds to cover our existing debt service from the Water Management Lands Trust Fund and \$2 million for Everglades and Florida Bay from Alligator Alley Tolls.

JOB'S BILL -- The Florida Senate in week three passed SB 1752, a job bill that includes tax credits and incentives meant to help with economic development. It now heads to the House, which has not come up with one comprehensive bill, but instead is moving along several separate pieces that contain similar incentives. After much debate, a number of amendments that would have been harmful to environmental regulation in the state were removed. This included language that required environmental resource permits to be issued within 30 days regardless of whether the application was complete and disregarding the RAI process. Language that would have granted a general permit for construction, maintenance or alteration of surface water management systems of up to 40 acres if the project was signed and sealed by a professional engineer was also deleted. Language promoting self-certification is still in the bill along with a provision enabling local governments to request delegation of permitting activities for air, water, wetlands, and natural habitats directly from DEP. The bill now moves to the House.

SOVEREIGN IMMUNITY -- The Senate passed and sent to the House SB 2080 which will raise the sovereign immunity caps for state and local governments. The was passed despite our concerns and concerns from some counties and hospitals that enjoy sovereign immunity the bill raises the caps from \$100,000 per individual claim and \$200,000 in the aggregate to \$200,000/\$300,000, respectively. If passed by the House, it will be the first time the caps are raised since 1981.

CHAPTER 373 RE-WRITE -- The House bill (HB 1109) has passed all of its committees and is ready to be heard on the floor. The bill in its current form does not propose any problems for the water management districts. The Senate companion is rolled up in a comprehensive water bill (SB 550) which passed out of the Senate Environmental Preservation and Conservation Committee.

MARKETABLE RECORD TITLE ACT -- District drafted legislation to revise the exceptions to marketability for interests in lands held by the Board of Trustees of the Internal Improvement Trust Fund, any water management district, or the United States has passed all of the committees in the House and should be heard in the Senate Environmental Preservation and Conservation during the six week of session. This bill will prevent the district's interest in lands from being extinguished by MARTA.

SENATE LEGISLATION REVERSING DELEGATION OF PERMITS -- Senator Bakers bill (SB 142) to delete the requirement that district governing board delegate its authority to take final actions passed through its first stop, the Senate Environmental Preservation and Conservation Committee. The house bill (HB 659) sponsored by Representative Van Zant has not been heard.

SENATE OMNIBUS WATER BILL -- Senate Environmental Preservation and Conservation Committee passed their water legislation (SB 550) in week three. This bill includes a variety of the concepts discussed during the Inland Water hearings along with other legislation filed this year. Some of the components include the Chapter 373 re-write legislation, springs protection language, adding conservation as an alternative water supply, statewide stormwater provisions and the reversal of delegation of permits to the Executive Director. There is no House companion to this legislation however it is anticipated that some provisions of the legislation will be blended with current House bills prior to the end of Session.

PERMITTING -- SB 1126 transfers certain responsibilities for the expedited permitting of economic development projects from the Office of Tourism, Trade, and Economic Development (OTTED) in the Executive Office of the Governor to the DEP. The bill expands expedited permit review eligibility to biofuel production criteria, and to proceed without obtaining a DEP or WMD permit as long as the agency is notified within 10 days

after the project has begun. The activities may commence without any DEP or a WMD action if certain criteria are met. The House bill passed the bill was favorably recommended by the Economic Development Policy Committee and now moves on to the Agriculture and Natural Resources Policy Committee.

CONSUMPTIVE USE PERMITS - HB 7175 that would allow water permit holders to keep water allocations even if they are not using them was approved by the House Natural Resources Appropriations Committee Friday despite opposition from the governor's office, the Florida Department of Environmental Protection and the water-management districts. The bill also would allow water-management districts to review consumptive use permits only every 10 years rather than every five years as is now allowed. DEP, the governor's office and districts contend that the bill would allow water "banking" and represents a fundamental shift in state water policy. The next step is the House General Government Policy Council.

WATER CONSERVATION -- HB 7177 specifies the creation of the Florida-specific Conserve Florida Clearinghouse and authorizes the preparation of a Guide to be used to assist public water supply utilities in the design and implementation of goal-based conservation plans. The bill provides that water management districts and public water supply utilities are "encouraged" to use the guide in developing conservation plans, reporting on the implementation practices and measures included in consumptive use permits, evaluating proposals for financial cost sharing, and assessing effectiveness. The bill provides that as part CUP applications, a utility may propose a goal-based conservation plan tailored to its individual circumstances "as a partial or entire alternative to the water conservation requirements adopted by the appropriate water management district." The plan must include a means for measuring progress towards the water conservation goal(s). The bill also provides that the water management district "shall approve the plan" if the utility provides reasonable assurance that the plan will provide cost-effective water conservation to achieve a reasonable demand for water considering the customers, service area, and other individual circumstances of the utility. This language deletes the requirement that goal-based plans must be at least as effective as water conservation requirements adopted by the appropriate water management district. The next step is the House General Government Policy Council. The Senate companion has not been heard in committee.

STORMWATER -- The House Agriculture and Natural Resources Committee also passed this proposed committee bill (HB 7171) regarding stormwater quality treatment. The bill creates s. 373.4131 F.S. and requires the DEP, in coordination with the Water Management Districts (WMDs), to develop a uniform statewide stormwater quality treatment rule providing for exemptions for specified stormwater management systems and permitted activities. The bill requires the DEP to adopt the rule by July 1, 2011, and

provides for an exemption from the rulemaking provisions of ch. 120, F.S., for implementation of the rule by WMDs and delegated local programs. There are several more committees of reference.

DEMAND MANAGEMENT -- ANR 10-13 -- A problematic proposed committee bill that would drastically change the three-prong test used in consumptive use permitting was withdrawn from committee after we requested the chair to not move the bill this session.

LAWN IRRIGATION JOINT ADMINISTRATIVE PROCEDURES AMENDMENT --

Language to clarify that local governments are authorized to issue ordinance which implement our year-round irrigation rules and emergency orders was amended onto both House and Senate bills this week. The Senate version of SWFWMDs basin board bill (SB 1952) sponsored by Senator Detert passed through the Governmental Oversight and Accountability Committee this week with two amendments. The first amendment adds language clarifying that local governments may adopt ordinances to implement landscape irrigation ordinances. This language is in response to a ruling by the Joint Administrative Policy Committee relating to water management district rules. The second amendment adds legislation that gives both the Suwannee River Water Management District and Northwest Florida Water Management District additional flexibilities in dispersing funds received through the Water Protection and Sustainability Program Trust Fund. The House bill (1367) was combined with two other pieces of legislation in the Agriculture and Natural Resources Policy Committee. The bill is now HB 1407 by Representative Hays. In addition to the basin board language, this bill contains the same preemption language enabling local governments to implement landscape irrigation ordinances. It also sets up a nominating committee structure (similar to the Public Service Commission process) for water management district governing boards. Language in the original Hays bill that would have required legislative approval for water management district land acquisition in excess of \$50 million and procurement services in excess of \$5 million, along with a provision that stated that water management districts could not issue Certificates of Participation (in response to the pending U.S. Sugar purchase) for financing was amended out by Representative Glorioso.