

**South Florida Water Management District
Legislative Wrap Up
2011 Regular Legislative Session**

Sine Die -- The 2011 regular session of the Florida Legislature concluded at 3:35 am on Saturday, May 7, 2011. The follow summarizes appropriations and significant legislation that affect the South Florida Water Management District. A more detailed report will be compiled in collaboration with the Office of Counsel.

APPROPRIATIONS:

The budget was approved by the full legislature late Friday. Pending approval of the Governor, we will receive the following appropriations:

FY 2011-12 General Appropriations Act (SB2000)

<u>Everglades Restoration</u> • \$12.1 Cash • \$17.855 Reappropriation	\$29.9555 M
<u>Water Management Land Trust Fund</u>	\$6,900,000
<u>Everglades (Alligator Alley Tolls)</u>	\$2,000,000
<u>Florida Forever</u>	\$305 M

Notes: Water Management Land Trust Fund Statewide Total -- \$15,863,535
Statewide funding of Florida Forever is contingent on the Division of State Lands disposing of surplus state lands in order to provide up to \$305,000,000 for the purchase of conservation lands

LEGISLATION THAT PASSED:

SB 2142 - RELATING TO WATER MANAGEMENT DISTRICTS

The Conference Committee Amendment for SB 2142, relating to the water management districts, provides for the following:

- Requires the Legislature to annually review the preliminary budget for each water management district and set the maximum amount of revenue a district may raise through its ad valorem tax.
- Provides that, if the annual maximum amount of property tax revenue is not set by the Legislature on or before July 1 of each year, the maximum property tax revenue that may be raised reverts to the amount authorized in the prior year.

- Requires each water management district to provide a monthly financial statement to its governing board and make such information available to the public through the district's website.
- Revises provisions relating to the review of district budgets to allow the Executive Office of the Governor and the Legislative Budget Commission to disapprove, in whole or in part, the budget of each water management district.

HB 7207 - RELATING TO GROWTH MANAGEMENT

The Conference Committee Amendment for HB 7207 relating to growth management provides, among other things, for the following:

- Makes concurrency for parks and recreation, schools, and transportation facilities optional for local governments.
- Applies and revises the expedited comprehensive plan amendment process statewide.
- Deletes the requirement that comprehensive plans be financially feasible.
- Deletes the twice a year limitation on comprehensive plan amendments.
- Revises the small scale amendment process.
- Specifies that population projections should be a floor for requisite development except for areas of critical state concern.
- Allows additional planning periods for specific parts of the comprehensive plan.
- Abolishes 9J-5 (DCA's growth management regulations and incorporates certain provisions into the bill).
- Removes many of the state specifications and requirements for optional elements in the comprehensive plan, but allows local governments to continue to include optional elements.
- Expands and revises the optional sector plan process.
- Reduces the requirements of the evaluation and appraisal process.
- Revises the rural land stewardship program.
- Restricts the state's ability to interpret joint planning agreements.
- Clarifies and broadens the window for permit extensions.
- Creates a 4-year development of regional impact permit extension.
- Creates an exemption from the DRI process for mining projects and allows those mines to enter into agreements with the Department of Transportation.
- Adds a new 2-year permit extension, but caps the maximum extension at 4 years.
- Prohibits local governments from having referenda for local comprehensive plan amendments.
- Allows a certain plan amendment to be readopted by a local government without being resubmitted to the state land planning agency.
- Clarifies when a local government can reject a proposed change to a development of regional impact.

SB 2096 - RELATING TO STATE FINANCIAL MATTERS

The Conference Committee Amendment for SB 2096 relating to state financial information provides for, among other things, the following:

- Requires the Auditor General to annually submit to the Legislature a list of any school districts, charter schools, charter technical career centers, colleges, state universities, and water management districts that have failed to comply with the transparency requirements.
- Requires water management districts to post their financial statements on their websites by 9/1/11.

HB 421- RELATING TO AGRICULTURAL-RELATED EXEMPTIONS TO WATER MANAGEMENT REQUIREMENTS

Florida law has afforded an agricultural exemption to bona fide farm operators since the mid-1980s in regard to obtaining a permit from the water management districts for altering the topography of any tract of land as long as the alteration is not for the sole or predominant purpose of impounding or obstructing surface waters

- The bill revises the current agricultural exemption to specify that certain agricultural activities may impede or divert the flow of surface waters or adversely impact wetlands, as long as it is not the sole or predominant purpose of the agricultural activity or alteration.
- The bill also specifies that the exemption applies to lands classified as agricultural and to activities requiring an environmental resource permit. The exemption does not apply to any activities previously authorized by an environmental resource permit, a management and storage of surface water permit, or a dredge and fill permit.
- The bill allows the WMD or a landowner to request a determination from the Department of Agriculture and Consumer Services (department) when a dispute regarding an exemption occurs. The bill further states that the determination by the department is binding. The bill authorizes the department and the WMDs to enter into a new memorandum of understanding (MOU), or amend an existing MOU, to propose procedures by which the department will undertake the review and determination process. The department is given rule-making authority to implement these processes.
- The bill provides that mitigation to offset any adverse effects caused by agricultural activities that occurred before the conversion to a nonagricultural

use is not required if the activities occurred in the last 4 years preceding the conversion.

- And lastly, the bill amends the definition of agricultural activities to include: cultivating, fallowing, and leveling, as well as best management practices adopted by the department or the United States Department of Agriculture's Natural Resources Conservation Service practice standards. The bill specifies that such activities constitute "agricultural activities" provided the activities are not for the sole or predominant purpose of impeding or diverting the flow of surface waters or adversely impacting wetlands.

HB 7001- RELATING TO GROWTH MANAGEMENT

This bill reenacts portions of existing law most closely related to comprehensive planning and land development amended by Chapter 2009-96, Laws of Florida, (Committee Substitute for Committee Substitute for Senate Bill 360) passed by the Legislature in 2009. Since that time, the law has been the subject of ongoing litigation regarding its constitutionality; specifically, regarding allegations that it violated the single subject and mandates provisions of the Florida Constitution. This litigation has created uncertainty among local governments, developers, and private interests regarding the provisions of law amended by CS/CS/SB 360.

- This bill does not change current law, but simply reenacts the portions of existing law most closely related to comprehensive planning and land development amended by CS/CS/SB 360, in an effort to remove uncertainty and address alleged constitutional defects relating to the single subject requirement in Article III, section 6, of the Florida Constitution.
- In an effort to remove uncertainty and address allegations that CS/CS/SB 360 violated the mandates provision of the Florida Constitution found in Article VII, section 18(a), this bill reenacts provisions of existing law that have been challenged in court as an unconstitutional mandate on counties and municipalities. To the extent any of those provisions are held by a court of last resort as unconstitutional, a two-thirds vote of the membership of each house would be necessary to have the legislation binding on counties and municipalities, in the absence of one of the other conditions provided for in Article VII, section 18, of the Florida Constitution.
- The bill states that it fulfills an important state interest. The portions of existing law reenacted by this bill address several areas related to comprehensive planning and land development including:

- Urban Service Areas and Dense Urban Land Areas (DULAs).
- Transportation Concurrency.
- Developments of Regional Impact (DRIs).
- Financial Feasibility Requirements.
- School Concurrency.
- Permit Extensions.
- Impact Fee Notice and Concurrent Zoning.
- Dispute Resolution.

SB 224 - RELATING TO LOCAL GOVERNMENT ACCOUNTABILITY

This bill provides minimum budgeting standards for counties, county officers, municipalities, and special districts.

- The bill requires the budget of each county, municipality, special district, water management district, school district, and certain county officers to be posted on the government entity's website.
- The bill requires counties, municipalities, and special districts to file their annual financial report and annual financial audit report with the Department of Financial Services (DFS) and the annual financial audit report with the Office of the Auditor General (OAG) within nine months of the end of the fiscal year.
- This bill also amends the reporting process used by the Legislative Auditing Committee ("LAC" or "Committee") and the Department of Community Affairs (DCA), to compel special districts to file certain required financial reports.

SB 2100 - RELATING TO RETIREMENT

The Conference Committee Amendment relating to retirement provides for the following:

- Effective July 1, 2011, the bill requires 3% employee contribution for all FRS members. DROP participants are not required to pay employee contributions.
- For employees initially enrolled on or after July 1, 2011, the definition of "average final compensation" means the average of the 8 highest fiscal years of compensation for creditable service prior to retirement, for purposes of calculation of retirement benefits. For employees initially enrolled prior to July 1, 2011, the definition of "average final compensation" continues to be the average of the 5 highest fiscal years of compensation.

- For employees initially enrolled in the pension plan on or after July 1, 2011, such members will vest in 100% of employer contributions upon completion of 8 years of creditable service. For existing employees, vesting will remain at 6 years of creditable service.
- For employees, initially enrolled on or after July 1, 2011, the bill increases the normal retirement age and years of service requirements, as follows:
 - For Special Risk Class: Increases the age from 55 to 60 years of age; and increases the years of creditable service from 25 to 30.
 - For all other classes: Increases the age from 62 to 65 years of age; and increases the years of creditable service from 30 to 33 years.
- The legislation maintains DROP; however, employees entering DROP on or after July 1, 2011 will earn interest at a reduced accrual rate of 1.3%. For employees currently in DROP or entering before July 1, 2011, the interest rate remains 6.5%.
- The bill eliminates the cost-of-living adjustment (COLA) for service earned on or after July 1, 2011. Subject to the availability of funding and the Legislature enacting sufficient employer contributions specifically for the purpose of funding the reinstatement of the COLA, the new COLA formula will expire effective June 30, 2016, and the current 3% cost-of-living adjustment will be reinstated.

LEGISLATION THAT DID NOT PASS:

SB 882 & HB 649 REGARDING WATER MANAGEMENT DISTRICTS

This legislation would have created additional efficiencies for Basin Boards within SWFMD and provide continuity in basin operations. The legislation also clarified that local governments could adopt lawn irrigation ordinances to implement water management district irrigation restrictions. Finally, the bill would have allowed for flexibility in funding for the Suwannee River Water Management District through the Water Protection and Sustainability Trust Fund for springs protection and water resource development when, and if, that trust fund is restored.

The House bill passed the full House. The Senate bill did not get formally withdrawn from the Budget Committee and subsequently did not pass. An amendment was filed to SB934 (Urban Redevelopment) in an attempt to get the bill passed but that bill ended up not being put on the Special Order Calendar the last day.

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