

M E M O R A N D U M

TO: Governing Board

THROUGH: Henry Dean, Executive Director
Kathy Copeland, Director – Office of Policy and Legislation

FROM: Frank Bernardino, Legislative Affairs Representative
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DATE: May 11, 2005

SUBJECT: 2005 Legislative Session – Final Report

The 2005 Legislative Session will likely be remembered as the most significant session, as it relates to water management, since 1972 when the Water Management Districts (WMDs) were established and most of Chapter 373 was enacted. It will also stand out as the year when the Florida legislature took a major step towards preserving the quality of life of the citizens of the State, by dedicating \$1.5 Billion dollars (\$750 Million of which will be on a recurring basis) to enhance the state's transportation and education infrastructure, as well as to protect the state's water resources.

In the area of water policy, the legislature culminated a 10 month effort coordinated by Senator Paula Dockery (Lakeland) and Representative Donna Clarke (Sarasota) involving input from homebuilders, the environmental community, WMDs, Department of Environmental Protection (DEP), the Governor's office, local governments, and agriculture, with passage of **SB 444**. Part of the growth management initiative, the bill includes provisions relating to water supply planning, development of Total Maximum Daily Loads (TMDLs) and alternative water supply development. The state dedicated \$200 Million in the coming budget year, and further committed to provide \$100 Million on a re-curing basis, for the implementation of the newly created Water Protection and Sustainability Program.

With regard to our own legislative agenda, the legislative team secured passage of three bills relating to the consolidation of WMD plans and reports, the protection of the agencies critical infrastructure, and the establishment of a small business program.

Below are summaries of the bills that were addressed during the regular session and which will most significantly impact the South Florida Water Management District (SFWMD). Included is a summary of the portions of the General Appropriations Act (SB 2600) that relate directly to the district. The end of the memorandum contains summaries of bills or issues that failed to pass but which are likely to be filed again next year.

A copy of each of the substantive pieces of legislation is provided in numeric order behind the appropriate tabs in the notebook. In addition, a copy of the relevant sections of the appropriations budget is also provided. For additional information on any of these bills, please contact the Office of Policy and Legislation at 561-682-6262.

APPROPRIATIONS

FY 05/06 General Appropriations Act **SB 2600**

Florida Forever Funding: The Legislature appropriated \$300 M from the sale of general obligation bonds for the implementation of the Florida Forever program. Of that, the WMDs will receive a total of \$105 M, with the SFWMD's share totaling \$36.75 M.

Water Management Lands Trust Fund: The WMDs collectively received \$59 M from this source. Although the WMDs by general law are to receive 4.2% of the documentary stamp revenues, the Legislature has only appropriated \$59 M from that account for the last several years. The remaining amount (including interest totaling over \$57.3 M) was swept into the General Revenue fund to be used for other purposes. The SFWMD's share of the WMLTF totals \$17.7 M. These funds can be used for land management and related purposes, as well as for implementation of the SWIM, Everglades Forever Act, Florida Bay, and Lake Okeechobee Protection programs.

Comprehensive Everglades Restoration Plan (CERP): The Legislature appropriated \$100 M from the sale of general obligation bonds to the Save Our Everglades Trust Fund for the purposes of implementing the CERP. Additionally, in proviso, the DEP was authorized to expend those funds necessary for the implementation of the CERP Water Quality Feasibility Study.

Invasive Exotics: The Legislature appropriated \$39.2 M statewide for invasive exotic plant eradication. This money will be distributed statewide by the DEP to eradicate aquatic weeds in sovereign water bodies as well as for upland exotics. Historically, the SFWMD has received approximately 1/3 - 1/2 of these funds to protect water bodies within the district.

Water Protection and Sustainability Program: Newly established by the legislature this year (see SB 444), this comprehensive water resource protection and development program was provided an allocation of \$200 M for FY 05/06. From these moneys the SFWMD will receive for:

Alternative Water Supply Development	\$30 Million
Lake Okeechobee Restoration	\$25 Million
SWIM Impl. / Priority Water Body Restoration	\$8.75 Million

Water Restoration Projects: The Legislature appropriated a total of \$131 M for restoration projects including wastewater and surface water restoration projects. A summary of the amounts appropriated to the water projects requested by the SFWMD is provided below. See the “Appropriations” section in the notebook for a complete listing of specific projects funded.

Loxahatchee River Preservation Initiative	\$ 3,573,200
Lake Okeechobee Restoration	\$ 5,000,000
Kissimmee Upper Basin Restoration	\$ 500,000
Naples Bay Restoration	\$ 1,000,000
Indian River Lagoon South	\$ 2,401,300
St. Lucie Estuary Issues Team	\$ 3,123,500
Charlotte Harbor Initiative	\$ 450,000
Lake Region Water Treatment Plant	\$ 200,000
North Palm Beach Water Supply	\$ 450,000
C-139 Basin Initiative	\$ 250,000
	\$16,948,000

Other projects of regional significance include:

Lake Worth Lagoon Restoration	\$ 1,000,000
Municipal Flood Control Projects in Miami Dade	\$15,275,519
Miami River Dredging	\$ 3,000,000
St. Cloud Grid Stormwater	\$ 550,000

SUBSTANTIVE LEGISLATION

LAKE OKEECHOBEE PROTECTION PROGRAM **HB 155, 2nd Engrossed**

The bill amends section 373.4595(1), F.S., to incorporate the following legislative findings into the Lake Okeechobee Protection Act:

- In order to achieve the goals and objectives of the Lake Okeechobee Protection Act, and to effectively implement the Lake Okeechobee Watershed Phosphorous Control Program, the state must expeditiously implement the Lake Okeechobee Protection Plan;
- A continuing source of funding is needed to effectively implement a phosphorus control program that initially targets the most significant sources contributing to phosphorous loads within the watershed and continues to address other sources as needed to achieve the phased phosphorus load reductions; and

The bill further amends section 373.4595(3), F.S., to impose specific requirements regarding implementation of the Plan as follows:

- Requires the SFWMD, FDEP, and the FDACS to jointly establish annual funding priorities and to implement the Plan in a manner consistent with each agency's statutory authority and responsibility;
- Requires assignment of the highest priority for annual funding to programs that address phosphorous sources with the highest relative contribution to phosphorus loading and the greatest potential for phosphorus reduction;
- Requires the agencies, when establishing annual funding priorities, to also consider the need for regulatory compliance, the extent to which the program or project is ready to proceed, and the availability of federal matching funds or other nonstate funding; and
- Requires maximization of federal and other nonstate funding to the greatest extent practicable.

In addition, the bill revises the definition of the Lake Okeechobee watershed to reference the Plan instead of the 1997 SWIM plan update, and removes obsolete references to past dates.

This bill was signed into Law on May 10, 2005.

INLAND LAKES AND CANALS

HB 331

This bill exempts counties, municipalities, and other governmental entities (not private citizens) from all statutory permitting requirements applicable to placement of informational waterway markers only on inland lakes and their associated canals. If an inland lake and its associated waterways are considered to be "navigable waters of the United States," waters under the jurisdiction of the United States, or waters under the concurrent jurisdiction of the United States and the State of Florida, then federal waterway marker requirements will apply regardless of the exemption from state permitting requirements created by this bill. Under the bill "informational markers" include, but are not limited to markers indicating end of boat ramp, no swimming, swimming area, lake name, trash receptacle, public health notice, or underwater hazard or canal, regulatory, emergency, and special event markers. Informational markers may be no more than 50' from the normal shoreline, unless such markers are swimming area and special event markers.

Nothing in the bill impacts WMD authority to regulate the placement of signs upon or within "works of the district."

This bill takes effect upon becoming law.

WATER SUPPLIES

CS/CS/CS SB 444, 1st Engrossed

I. The Florida Water Protection and Sustainability Program

The bill creates a new Water Protection and Sustainability Program within the Department of Environmental Protection (DEP) with the purpose of providing a source of funding for four programs, specifically:

- Alternative Water Supply Development
- Total Maximum Daily Loads (TMDLs)
- Surface Water Improvement and Management (SWIM)
- DEP's Disadvantaged Small Community Wastewater Grant programs

Funding for the Water Protection and Sustainability Program is made available from recurring and non-recurring general revenue (GR). For FY 05/06 the legislature committed \$100 M in what will be recurring GR, and, \$100 M in non-recurring GR for the implementation of the program.

Revenue Distribution

In FY 05/06 the revenues for the Water Protection and Sustainability Program will be distributed as follows:

1. Alternative Water Supply Development: 50% or \$100 million to DEP, which must in turn be passed through to the water management districts for the purpose of funding the development of alternative water supplies in the following percentages:
 - SFWMD 30% (\$30 million)
 - SWFWMD 25% (\$25 million)
 - SJRWMD 25% (\$25 million)
 - SRWMD 10% (\$10 million)
 - NFWWMD 10% (\$10 million)
2. Total Maximum Daily Loads (TMDLs): 25% or \$50 million divided as follows:
 - DEP – 85% (\$42.50 million) to address water quality impacts from nonagricultural nonpoint sources through funding capital projects and best management practices.
 - DACS – 15% (\$7.50 million) to address water quality impacts from agricultural nonpoint sources through funding best management practices.

In addition, DACS still receives doc stamp revenues directly under the provision in s. 201.15(8), but DEP's distribution of direct doc stamp funding has been deleted.

3. Surface Water Improvement and Management (SWIM): 12.5% or \$25 million divided as shown below. The bill also requires a 50% cash or in-kind match for all entities receiving SWIM funding.
 - SFWMD 35% (\$8.75 million)
 - SWFWMD 25% (\$6.25 million)
 - SJRWMD 25% (\$6.25 million)

- SRWMD 7.5% (\$1.875 million)
- NFWWMD 7.5% (\$1.875 million)

4. DEP Disadvantage Small Community Wastewater Program: 12.5% or \$25 million.

In future years, funds deposited into the Water Protection and Sustainability Program Trust Fund shall be allocated as follows:

- 60% to Alternative Water Supply Development
- 20% to Total Maximum Daily Loads (TMDLs) Implementation
- 10% to Surface Water Improvement and Management (SWIM), and
- 10% to the Disadvantaged Small Community Wastewater Grant Program

II. **Alternative Water Supply Development**

The bill promotes the development of alternative water supplies through legislative findings, intent, and direction to the water management districts. Specifically the bill:

- Provides that the funding for development of alternative water supplies shall be a shared responsibility of the local water provider and users, the WMDs and the State, with the local governments and users having the primary responsibility. The role of the WMDs and State is to provide limited water supply funding assistance.
- Provides that each WMD provide support and funding for alternative water supply development *from their non-state revenues* that is at least equal to 100% of the amount of state funds made available each year to that WMD. WMDs must report the amount allocated in their tentative and final budget submittals, and if the goal cannot be met, they must explain why.
- The state and WMD funds are to be distributed through an alternative water supply grants program (a requirement for this program already exists in statute –the bill provides additional direction and criteria for the grant program). To be eligible for funding, the project must be included in the regional water supply plan, or, at its discretion, the Governing Board may allocate up to 20% of the funds to projects that are not in the plan but which are consistent with the goals of the plan.
- Provides that the local water suppliers provide a minimum of 60% of the capital costs of a project. Provides that the Governing Board may partially or fully waive this match requirement for financially disadvantaged small local government per s. 403.885, F.S.

III. **Regional Water Supply Planning**

The bill adds new requirements for the *water supply* development component of the WMD's regional water supply plan to make the plans more specific. Currently, this level

of specificity is only included for the *water resource* development component of the plan that the WMDs are responsible for implementing. The intent is to make the plans more useful to local water suppliers in developing alternative water supplies and then to provide permitting and funding incentives to local water suppliers if they choose a project included in the plan. Specifically, the bill requires that the regional water supply plans:

- Identify water supply projects (not just source options) more than sufficient to meet the existing and future needs while sustaining the environment. For each project identified, the plan must include:
 - The quantity of water expected to be produced.
 - The timeframe by which the project needs to be completed and planning-level estimated capital costs of the project.
 - An analysis of the funding needs and sources.
 - Identification of the entity that should implement the project, although this is not binding – local governments retain the ability to choose any water supply project selected and are not required to select an option from the plan.
- Identify the need for multi-jurisdictional approaches to project options. The WMDs are directed to assist water utilities, special districts, and local governments in development of multi-jurisdictional approaches.
- Where the plan identifies the need for alternative water supply development, the WMDs are directed to notify the affected local governments and educate and involve the local elected officials in working towards solutions.
- Within a year of plan completion, the local governments are required to notify the WMDs of the water supply project or projects from the plan that they will implement. If one of the projects in the plan is not selected, the local government must indicate what project they will implement and how it will meet the identified water demand. The local government must provide annual status updates to the WMDs on project implementation.
- DEP, in its annual report on regional water supply planning, is required to report on the status of each of the alternative water supply projects being implemented, and other overall progress of water supply development in meeting future needs.

IV. Consumptive Use Permitting

The bill provides permitting incentives to encourage selection of alternative water supply projects included in the regional water supply plan:

- If a water supplier implements an alternative water supply project identified in the regional water supply plan, and demonstrates the ability to design, construct, operation and maintain the project, they shall be presumed to have a use consistent with the public interest.

- The permit duration for alternative water supplies shall be 20 years. The permit may be extended if the revenue linked to the permitted water allocation is required for retirement of the bonds, and if permit conditions for issuance will continue to be met.

V. Growth Management

The bill more closely ties WMD regional water supply planning with growth management and provides a “hard edge” to water supply concurrency requirements. Specifically, the bill:

- Requires that a local government, within 18 months of approval of an updated regional water supply plan by the WMD, amend its potable water element to include the project selected by the local government as described above.
- Requires the local government to identify water sources adequate to meet existing and projected needs and develop a work plan to ensure that facilities are built.
- Encourages the development of multi-jurisdictional facilities to meet future demand.
- Requires that adequate water supply be available before a certificate of occupancy or its equivalent is issued. Also provides that before the issuance of a building permit, the local government shall contact the water supplier to ensure that the water will be available before the anticipated date of issuance of a certificate of occupancy.
- Requires that the EAR evaluate the local government’s success in identifying needed water supply projects and implementing the projects as part of the capital improvements element.

VI. TMDLs

Section 13 revises s. 403.067, F.S., regarding the development and implementation of total maximum daily load allocations for impaired surface waters. Specifically, it:

- Authorizes DEP to develop preliminary allocations of pollutant loadings and pollution reduction responsibilities at the time of TMDL development, when sufficient data for a final allocation may not be available, and a detailed allocation later during development of basin management action planning (BMAP).
- Establishes that BMAPs will include substantive provisions affecting the obligations and rights of pollution sources to reduce pollution pursuant to the TMDL and thus requires that BMAPs be adopted by Secretarial order.
- Establishes a direct linkage between the BMAP and related DEP permits and provides for chapter 120 challenges to only one of the two identical actions,

either the BMAP or the permit. (Other permit requirements would be unaffected.) Also provides that BMAP management strategies shall be completed pursuant to the BMAP schedule and that such schedule may extend beyond the standard 5-year NPDES permit cycle. *(NPDES permitting requirements are not, themselves, changed as they are subject to federal law.)*

- Changes the way pollutant reductions associated with nonpoint sources of pollution identified in a BMAP are to be addressed: such sources must either implement best management practices to comply with the TMDL or demonstrate through water quality monitoring that no actions are necessary.
- Establishes that nonpoint sources that fail either to implement best management practices or demonstrate compliance with the TMDL through monitoring may be subject to enforcement.
- Provides that any entity implementing applicable management strategies specified in a BMP cannot be required to implement any other measures to reduce relevant pollutant loadings and is deemed in compliance with s. 403.067, F.S.
- Elaborates the existing process whereby DEP may verify the effectiveness of BMPs in protecting water quality.
- Clarifies the re-evaluation and modification of BMPs, where necessary, to improve effectiveness and establishes that revised BMPs must be implemented timely.
- Requires DEP to submit a report on pollutant trading before adopting rules on the subject.
- Related sections 16 and 17 are merely conforming language.

VII. Stormwater and Wastewater Financial Assistance

Lastly, the bill amends s. 403.885 F.S., (the legislative water project funding process), to more closely conform to the procedures currently being used by the House, Senate, and Executive Office of the Governor to evaluate applications for funding through the legislative Community Budget Issue Requirement (CBIR) process. The changes clarify the types of projects that may qualify for funding, including establishing that drinking water projects do not qualify.

The bill adds several criteria to the ones currently in the law (protect public health, protect the environment, documented in a plan) to comport with the current review process. At least 20% of all funds made available pursuant to s. 403.885, F.S., must go to small disadvantaged local governments (currently only 20% of sales tax revenues devoted to this purpose must go to such communities).

Except as otherwise provided in the bill, these provisions take effect upon becoming law.

WATER MANAGEMENT DISTRICT SECURITY **HB 473**

HB 473 requires a water management district that has facilities identified by the local Regional Domestic Security Task Force (RDSTF) as “critical infrastructure” to conduct a fingerprint-based criminal history check for any current or prospective employee, or any other person, if those persons are allowed regular access to facilities defined in the district's security plan as a restricted access area. Water Management Districts are required to conduct the background checks at least once every 5 years, but may conduct them more frequently as provided in the district's security plan. A full set of fingerprints must be taken in the manner required by FDLE, and in accordance with the district's security plan, and are submitted to FDLE and the FBI for state and federal processing. In addition, the bill requires the security plan for buildings, facilities, and structures, of each water management district to identify criminal convictions or other criminal history factors that disqualify a person from employment or regular access to facilities designated in the plan as restricted access areas. The bill allows a district to establish a procedure for appeal from a denial of employment or access based on procedural inaccuracies or discrepancies, and to allow temporary waivers to meet special or emergency needs of the district. The disqualifying factors must include conviction within the past seven years of a number of enumerated offenses.

A person who has completed a sentence after conviction of any of the above may qualify for employment or regular access to restricted access areas if he or she has remained free from a subsequent conviction for any of the listed offenses for a period of at least 7 years prior to the employment or access date under consideration.

This bill takes effect upon becoming law.

PROMPT PAYMENT FOR CONSTRUCTION SERVICES **HB 509, 1st Engrossed**

The bill re-names the “Florida Prompt Payment Act,” which applies to local governments and special districts - including WMDs - as the “Local Government Prompt Payment Act,” and creates a new “Florida Prompt Payment Act” to apply to state projects.

The bill creates a new section in the Local Government Prompt Payment Act where upon substantial completion of construction projects, state and local governments are required to develop a list of items (a punch list) for final acceptance of construction services purchased. State and local governments are required to develop a punch list of items necessary to render the construction services purchased “complete, satisfactory, and acceptable.” The contract between the local governmental entity and a contractor must provide for this list.

Also, the bill restricts the percentage on the amount of retainage that a local governmental entity or district may withhold from each progress payment. Until 50 percent of the contract value has been completed, a local government may not withhold more than 10 percent from a payment as retainage. After 50 percent completion of the construction services, the local government can withhold no more than 5 percent.

This bill takes effect October 1, 2005.

FLORIDA INLAND NAVIGATION DISTRICT **HB 655**

The bill amends s. 374.984, F.S., to expand the geographic jurisdiction of Florida Inland Navigation District (FIND) to include a portion of the Okeechobee Waterway located in Martin and Palm Beach Counties. The bill expands the navigation responsibility of FIND from its current terminus at the St. Lucie Lock to include an additional 52 miles through Lake Okeechobee to the western Palm Beach County boundary. Under provisions of the bill, FIND will become the “local sponsor” for navigation requiring FIND to provide land to the ACOE for the management of dredged materials from the Waterway. Without a “local sponsor” to provide lands for navigation dredging, the ACOE has not been able to remove shoals that impair navigation, especially during drought and low water conditions. The ACOE remains responsible for performing all dredging and construction on the Waterway. The bill recognizes that water levels are subject to natural weather cycles and Lake management strategies that may adversely affect navigation upon the Waterway, and exempts FIND from taking action to restore navigation on the Waterway when the water level of Lake Okeechobee and the Waterway within the Lake is less than 12.56 feet.

This bill was signed into Law on May 10, 2005.

WATER MANAGEMENT DISTRICT PLANNING & REPORTING **HB 727, 1st Engrossed**

This bill codifies the plan consolidation pilot project. Last year, Senate Bill 2832 (Ch. 2004-53, L.O.F.) was passed which required the SFWMD to initiate a pilot project to coordinate, and where appropriate, consolidate legislative-mandated plans and reports regarding the status of district programs and water resources within the District’s jurisdiction. As required, the pilot project was submitted to the Governor and Legislature by February 15, 2005. The pilot project, entitled “2005 South Florida Environmental Report,” was well received by the legislature. Changes made by the pilot project to reporting requirements will now apply to all of the state’s water management districts. The bill also gives the water management districts the option to develop a strategic management plan in lieu of a district water management plan. The strategic plan may be substituted for the district management plan, provided it meets a series of minimum requirements.

This bill was signed into Law on May 10, 2005.

ENVIRONMENTAL PERMITTING PROGRAMS
HB 759, 1ST Engrossed

The bill requires the DEP to develop, on or before October 1, 2005, a mechanism or plan to consolidate, to the maximum extent practicable, federal and state permitting associated with wetlands and navigable waters. The mechanism or plan is to be compiled into a report and filed with the Speaker of the House of Representatives and the President of the Senate. Additionally, DEP is to analyze and propose the development of an expanded state programmatic general permit program and may propose the creation of a series of regional general permits issued by the United States Army Corps of Engineers (Corps of Engineers) to be administered by DEP, the water management districts, or their designees.

The bill provides for all “dredge and fill” activities impacting 10 acres or less of wetlands or waters, including navigable waters, to be processed by the state as part of the environmental resource permitting program implemented by DEP and the water management districts.

Similar to SB 2502, the bill extends the life of jurisdictional determination petitions to include those filed on or before June 1, 1994. Other provisions not relating directly to the SFWMD include: the establishment of a financial responsibility component for permitted phosphate mining activities that affect wetlands and other surface waters, requiring mining companies to provide certain security for wetlands mitigation based upon the expected life of the mining operation; an extension on the deadline for DEP to complete a cumulative impact study on the Peace River Basin to January 31, 2007; and an extension of the date by which implementation of the Environmental Resource Permit program is to be assumed by the Northwest Florida Water Management District (NFWFMD) from July 1, 2005 to July 1, 2010. (NOTE: This extension is later supplanted by provisions in the budget implementing bill (SB 2602) which amends the deadline to be July 1, 2006.)

This bill takes effect upon becoming law.

WATERFRONT PROPERTY
HB 955, 2ND Engrossed

HB 955 creates the “Waterfronts Florida Program” within the Department of Community Affairs (DCA) to provide technical assistance and support to communities in revitalizing waterfront areas in the state. The bill requires that a municipality located in a county that adopts a charter form of government on or after July 1, 2005, will have the option to exercise exclusive land use planning. The exercise requires that the municipality has to adopt a resolution approving the exercise of exclusive land use planning authority. The

bill requires comprehensive plans to include efforts to preserve recreational and commercial working waterfronts, and provides a definition of recreational and commercial working waterfronts.

The bill changes the limits on small scale comprehensive plan amendments in counties designated as rural areas of critical economic concern by the Governor. The bill requires the Board of Trustees of the Internal Improvement Trust Fund to encourage the use of sovereign submerged lands for water-dependent uses and public access. The bill instructs the Department of Environmental Protection (DEP), in coordination with the Fish and Wildlife Conservation Commission (FWCC), to conduct a study of the use of state lands for recreational boating to identify opportunities to increase recreational boating access within the state park system.

Section 10 of the bill provides that DEP and the water management district adopt programs to expedite the processing of wetland resource and environmental resource permits for marina projects that reserve at least 10 percent of available boat slips for public use.

The bill provides that \$1 from fees paid on boat registration in the state be deposited into the Marine Conservation Trust Fund for public launching facilities, and creates a tax deferral program for owners of recreational and commercial working waterfronts to encourage them to maintain the current use of the property.

This bill takes effect January 1, 2006.

PUBLIC MARINAS AND BOAT RAMPS
HB 989, 2nd Engrossed

The bill directs the Department of Environmental Protection (DEP) to adopt a rule to establish a general permit authorizing local governments to construct, operate, and maintain public marina facilities and public boat ramps. However, the facility may not exceed an area of 50,000 square feet over wetlands or other surface waters.

The bill provides that all conditions of the general permit shall remain in effect for the life of the facility and shall be binding on all subsequent owners, and must comply with Part IV of Ch. 373 – Management and Storage of Surface Waters, and section 373.118(1), F.S., – General Permits.

The bill also requires that the public marina facility comply with the local government comprehensive plan, including compliance with a local government manatee protection plan required pursuant to Ch. 370, F.S.

This bill takes effect July 1, 2005.

GREENWAYS AND TRAILS
HB 1141, 1st Engrossed

In 1979, the Legislature enacted the Florida Greenways and Trails Act setting forth the State's goal of developing a statewide system of greenways and trails for recreational and conservation purposes.

This bill, in part:

- Amends statutory language related to the Recreational Trail system and encourages state, regional, and local agencies to give enhanced consideration for acquisitions to any parcel to assist in establishing the Florida National Scenic Trail.
- Amends term limits for members of the Florida Greenways and Trails Council and changes the duties of the council to more accurately reflect their activities. The water management district representative will serve a one-year term.
- Establishes The Conserve by Bicycle Program within the Department of Transportation and provides for a Conserve by Bicycling study to be performed to show the value of bicycle use facilities in saving transportation costs.
- Creates the Florida Circumnavigation Saltwater Paddling Trail as part of the Florida Greenways and Trails System and identifies segments associated with the trail.
- Creates statutory language to encourage the operation of the nonprofit corporation, Florida Mining-Recreation, Inc., for the purpose of working with industry, government, and private land owners to create plans and assist in the development of recreational opportunities on mined lands in the state.
- Amends section 378.036(6), F.S., removing provisions relating to recreational opportunities on mined lands.
- Directs water management districts and the Florida Communities Trust to include the Florida National Scenic Trail in its program components.

This bill takes effect upon becoming law.

SIGNING AND SEALING BY PROFESSIONAL GEOLOGISTS **HB 1289**

The bill creates section 373.1175, F.S., relating to the signing and sealing of water resource related documents under Chapter 373, F.S. Specifically, if an application for a permit or license, or the performance of an activity regulated under Chapter 373, F.S., requires the services of a professional geologist, DEP or the governing board of a water management district may require that a professional geologist licensed under Chapter 492, F.S., sign and seal any documents and reports in connection with the permit application or regulated activity. In addition, nothing in the creation of section 373.1175, F.S., is to prevent or prohibit the continued practice by professional engineers.

This bill takes effect July 1, 2005.

WATER CONTROL DISTRICTS
HB 1389, 3rd Engrossed

The bill amends several provisions of Ch. 298, F.S., relating to water control districts. Specifically, the bill grants the board of a water control district the authority to purchase or lease real or personal properties for use in works projects. It provides that amendments to the engineer's report that do not result in a levy increase are not subject to notice and adoption procedures applicable to water control plans. However, any objections and proposed revisions to the engineer's report, water control plan, or plan amendment are to be heard and determined by the district board. In addition, the bill revises notice requirements for water control plans or amendments.

As originally filed, this bill restricted a water management district's ability to review and comment on a water control district's overall water control plan to those pieces of the plan that triggered the need for a chapter 373 permit. At the request of SFWMD, the bill was amended to revert back to its original language; however, with the exception that the bill shortens the water management district review time to 60 days from 90 days after receipt.

The bill also provides that a water control district with an adopted plan, and who has a biomedical research institution and campus within its boundary, shall be the exclusive water and wastewater provider within the district.

This bill takes effect upon becoming law.

TRANSPORTATION (FDOT MITIGATION)
HB 1681, 1st Engrossed

The bill amends various sections relating to the Department of Transportation (FDOT), among these is an amendment of Section 373.4137, F.S., relating to environmental mitigation process for transportation projects. Currently FDOT and specified transportation authorities are required to annually submit for approval to the DEP and the water management districts, a plan to mitigate the environmental impacts of transportation projects. On a quarterly basis, the FDOT is required to identify and transfer to an escrow account, funds to pay for mitigation of projected acreage impacts resulting from projects identified in the inventory for the current fiscal year. At the end of each year, the projected acreage impacts are reconciled to the actual acreage of impact of projects as permitted, including permit modifications.

The bill provides for a quarterly, instead of an annual reconciliation of escrow payments and allows FDOT to fund mitigation activities for future transportation projects at current prices. Also, the bill eliminates DEP's administrative role in approving regional mitigation plans and removes the scheduled fiscal year 2005-2006 repayment of the

\$12 million advance transfer via per acre credits, allowing the repayments to reflect the actual pace of the mitigation process.

This bill takes effect July 1, 2005.

DOCUMENTARY STAMP TAX REVENUE
HB 1889, 2ND Engrossed

This bill has been a priority of the current administration for several years. It amends s. 201.15, F.S., to provide that, effective July 1, 2007, the amounts distributed from documentary stamp tax collections to various trust funds may not exceed amounts specified below. The bill amends ss. 201.15(2), (3), (4), (6), and (7), F.S., to limit the distribution from documentary stamp collections to the Land Acquisition Trust Fund, Water Management Lands Trust Fund, Invasive Plant Control Trust Fund, and State Game Trust Fund.

The following distributions are not changed by the bill: CARL Trust Fund, including a distribution to the State Game Trust Fund for land management; Water Quality Assurance Trust Fund; General Inspection Trust Fund; State Housing Trust Fund; and Local Government Housing Trust Fund. The estimated impact of the redirection in fiscal year 2007-08 is shown below:

Documentary Stamp Tax Redistribution Pursuant to HB 1889
(Millions of Dollars)

Florida Statutes	Current Law	Proposed Cap	Redirect to GR FY 07-08
s. 201.15(2) Land Acquisition Trust Fund	\$199.9	\$83.8	\$116.1
s. 201.15(3) Land Acquisition Trust Fund	51.3	26.0	25.3
s. 201.15(4) Water Mgmt Lands Trust Fund	111.1	60.5	50.6
s. 201.15(5) CARL Trust Fund	100.5	100.5	None
s. 201.15(5) State Game Trust Fund (CARL)	10.6	10.6	None
s. 201.15(6) Invasive Plant Control Trust Fund	60.3	36.1	24.2
s. 201.15(7) State Game Trust Fund	13.2	9.3	3.9
s. 201.15(8) Water Quality Assurance Trust Fund	6.6	6.6	None
s. 201.15(8) General Inspection Trust Fund	6.6	6.6	None
s. 201.15(9) State Housing Trust Fund	99.6	99.6	None
s. 201.15(9) Local Govt Housing Trust Fund	99.6	99.6	None
s. 201.15(10) State Housing Trust Fund	28.6	28.6	None
s. 201.15(10) Local Govt Housing Trust Fund	200.4	200.4	None
Total Statutory Distributions	988.3	768.2	220.1

For the trust fund balances being capped, the bill provides for an annual increase based upon an index, intended to reflect increases in certain costs (i.e., land management costs as we purchase more land). Lastly, the bill provides that, if the payment requirements in any year for bonds that were outstanding on July 1, 2007, exceed the

distribution amounts provided by the bill, distributions to the trust fund from which the bond payments are made will be increased to either the amount needed to pay bond obligations or the applicable percentage distribution under ss. 201.15(1) through (12), F.S., whichever is less.

Except as otherwise provided in the bill, these provisions take effect July 1, 2007.

WATER MANAGEMENT DISTRICTS
CS/CS/SB 2502, 1st Engrossed

The bill authorizes each water management district to establish and administer a program to encourage small businesses to participate in the procurement and contract activities. The specifics of the program are to be provided by rule. The purpose of the program is to spur economic development and support small businesses, including businesses that are owned by women and minorities, to successfully expand in the marketplace.

The bill amends s. 373.073, F.S., to allow a water management district governing board member to continue to serve at the expiration of his or her term until a successor is appointed, but not more than 180 days.

Section 373.414(13), F.S., is amended to address a glitch in the grandfathering provision that allows the use of jurisdictional declaratory statements for wetlands delineation that was issued prior to the adoption of the statewide methodology for wetlands delineation. Currently, a petition to use such statements must have been made *prior* to June 1, 1994. This bill allows such petition to be made *on or before* June 1, 1994.

Finally, the bill amends s. 373.0361, F.S., to allow water management districts an additional year to submit water supply plans so that they are consistent with the requirements set forth in the growth management initiative.

This bill takes effect upon becoming law.

BILLS THAT FAILED TO PASS

AGRICULTURE ECONOMIC DEVELOPMENT **HB 561 / CS/CS/SB 716**

This bill would have provided that a change in land use classification, or agricultural zoning, or the lowering of the residential density designation on agricultural land, as classified under s. 193.461, F.S., created an excessive burden and gave the aggrieved landowner a cause of action under s. 70.001, F.S., the Bert Harris Act. It also would have reduced the required notice period for such an action from 180 days to 90 days.

The bill would have established an “agricultural enclave” classification for an unincorporated, undeveloped parcel owned by a single individual or entity that does not exceed 2,560 acres and met certain criteria. An exception existed for an agricultural enclave if a damaging pest, disease, or natural disaster was identified within 5 miles of the enclave that allowed the enclave to include up to 5,120 acres. It also would have created a classification for “family farm agricultural enclave.” The bill would have provided that the owner of an agricultural enclave could apply for a plan amendment or development of regional impact, if applicable, to include uses and intensities consistent with the surrounding industrial, commercial, or residential areas if the amendment otherwise complies with applicable local, state, or regional plans. The owner of a family farm agricultural enclave also could have applied for a similar plan amendment; however, if the local government had failed to act on such amendment within the required timeframe, the plan amendment or application for development of regional impact was granted or approved. It also would have provided that a landowner could apply to the Department of Community Affairs (DCA) to designate a rural land stewardship area. The minimum size for a rural land stewardship area was reduced from 10,000 acres to 2,500 acres. In addition, the bill exempted plan amendments relating to agricultural enclaves, family farm agricultural enclaves, and large-scale plan amendments adopted as a result of informal mediation from the limitation on the frequency of plan amendments. The bill authorized the continuance of an agricultural lease to the end of its term when it existed on land purchased by a state entity for conservation or recreation purposes. It required that reasonable efforts would have to be made to continue the lands in agriculture production and that the acquiring agencies considered existing agriculture leases in the development of its management plan. Also, the bill would have provided that a purchasing entity must make reasonable efforts to keep lands in agricultural production if the land was in agriculture at the time of acquisition and that it was consistent with the purposes for which the property was purchased.

Finally, the bill required that regional water supply plans recognize that alternative sources of water to agricultural self-suppliers were limited, and also required a water management district to inform an applicant for renewal of an agricultural water use permit that 20-year permits were available. This bill required the Department of Agriculture and Consumer Services (DACCS) and a WMD to enter into a Memorandum of Agreement regarding the processing of exemptions for agriculture water usage.

AGRICULTURAL WATER CONSERVATION
CS/SB 1748, 1ST Engrossed

This past summer, the Senate Agriculture Committee prepared an interim project report (2005-101) in which they identified a number of revisions to Ch. 373, F.S., aimed at promoting agricultural water conservation. The proposed bill would have required each water management district, in cooperation with the DEP and DACS, to review rule criteria for environmental resource permits, existing permit exemptions, and alternatives to standard permitting programs and recommend to the Legislature additional regulatory alternatives intended to encourage agricultural water conservation. It would have authorized 20-year permits for agricultural production that incorporated agricultural water conservation measures and provided a ten percent net reduction in permitted water use or replaced a water supply source. Lastly, the bill would have authorized the governing board of a water management district or the DEP to adopt rules for issuing general permits for the use of certain wetlands for implementing agricultural water conservation measures.

WATER MANAGEMENT DISTRICTS
CS/HB 1819

This bill would have provided that the Legislature annually review and authorize the millage rate for each water management district, and annually set the amount of revenue authorized to be raised by each district from the taxes authorized by Chapter 373. However, the maximum millage rate for each district would not have been allowed to exceed the rates currently in section 373.503(3), F.S.

WATER SUPPLY, PLANNING & PRODUCTION
CS/HB 1881

The bill would have created a new Part VII to Chapter 373, F. S. to include all those sections of Chapter 373 that address water supply policy, planning, and production. The new Part VII also would have included revisions to current law to reflect the increasing need for the development of alternative water supplies, and the need for increased levels of cooperation between local governments to develop such alternative water supplies. Although this bill failed to pass, the Senate has made a commitment to the House of Representatives to pursue a general overhaul of the water supply development and planning provisions in Ch. 373, F.S., next year.