

**2013 ENVIRONMENTAL AND LAND USE LAW ANNUAL UPDATE  
LEGISLATIVE UPDATE & 2014 FORECAST**

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**I. ENVIRONMENTAL**

**A. Bills That Passed.**

**1. Brownfields (SB 406)**

SB 406 limits where a project may be located in order to receive a sales tax refund for building materials and the brownfield redevelopment bonus refunds for jobs created. The project must be located on a site that has entered into a site rehabilitation agreement with the Department of Environmental Protection (DEP) or a local government delegated by DEP or on a parcel of real property that abuts the site. *The effective date of this bill was July 1, 2013; Chapter No. [2013-42](#).*

**2. Environmental Regulation (CS/CS/CS/HB 999)**

CS/CS/CS/HB 999, a comprehensive measure relating to environmental regulation, continues a trend over the last few years to streamline the environmental permitting process and reduce regulation. Among other things, the bill exempts certain farm ponds and wetlands from regulatory requirements, provides for expedited permitting for natural gas pipelines, authorizes DEP to adopt rules requiring or incentivizing the electronic submission of permit applications, and allows DEP and the water management districts to notify permittees by electronic mail in certain cases. The bill also provides that a new permit is not required for the restoration of sea walls that are constructed within 18 inches (increased from 12 inches) of the original location, and it requires the annual assessment fee for air pollution to be based on the actual (instead of allowable) emissions. *The effective date of this bill was July 1, 2013; Chapter No. [2013-92](#).*

**3. Extension of ERPs (CS/HB 7019)**

CS/HB 7019 provides yet another opportunity to qualify for the additional two-year permit extension enacted in 2011 for any environmental resource permit (ERP), as well as any building permit, that has an expiration date from January 1, 2012, through January 1, 2014. The holder of the permit or other authorization that is eligible for the two-year extension must notify the authorizing agency in writing by October 1, 2013 (the prior deadline was December 31, 2012, which last year was extended from December 31, 2011), identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

The bill also extends for three years any ERP or building permit in certain parts of the Florida Keys Area of Critical State Concern that has an expiration date from January 1, 2012, through January 1, 2016.

*The effective date of this bill was July 1, 2013; Chapter No. [2013-213](#).*

**4. Fossil Fuel Combustion Products (CS/CS/SB 682)**

CS/CS/SB 682 provides for the regulation of fossil fuel combustion products, which are defined as byproducts from the combustion of fossil fuels at fossil fuel fired or steam electric generation facilities. Under the legislation, beneficial uses of fossil fuel combustion products are not subject to regulation as solid or hazardous wastes under existing law. They are subject to other requirements such as air pollution control limits, wastewater discharge limits and water quality certifications. Beneficial uses include incorporation of these materials into building products, construction materials, use for structural fill and cover material used for lined Class I or Class II landfills. The bill exempts disposal facilities accepting fossil fuel combustion products from the prohibition on hazardous waste landfills in Florida. *The effective date of this bill was July 1, 2013; Chapter No. [2013-68](#).*

**5. Stormwater Permits (CS/SB 934)**

CS/SB 934 requires the development of statewide ERP rules that provide for a conceptual permit for municipalities or counties that create a stormwater management master plan for urban infill and redevelopment areas or community redevelopment areas (CRAs). The bill specifies that the master plan becomes part of the conceptual permit and that the rules must provide for an associated general permit for the construction and operation of urban redevelopment projects that meet the criteria established in the conceptual permit. The bill also provides requirements for the conceptual permit. *The effective date of this bill was July 1, 2013; Chapter No. [2013-176](#).*

**6. Underground Natural Gas Storage (CS/CS/CS/HB 1083)**

CS/CS/CS/HB 1083 creates a process for regulating the in ground storage of natural gas. The legislation provides that the Division of Resource Management within DEP has authority to administer and enforce laws relating to storage of gas in and recovery of gas from natural gas storage reservoirs. The bill creates a permitting process and provides criteria for determining whether a permit should be issued. The permit program provides for life of the facility permit subject to recertification every ten years. The bill also provides that the injected gas is the property of the injector or the injector's heirs, successors, or assigns, whether owned by the injector or stored under contract. *The effective date of this bill was July 1, 2013; Chapter No. [2013-205](#).*

**B. Bills That Died**

**1. ERP Exemptions/Transportation Mitigation (CS/CS/HB 7127)**

CS/CS/HB 7127 was a serious Christmas tree with many transportation ornaments generally implementing or encouraging transportation programs for every form of transportation infrastructure, including freight, high speed rail, ports, airports and space ports. These will now wait until next year. The bill would have included these provisions relating to the environment:

a. Exemptions from Part IV, Chapter 373 environmental resource permitting requirements for Chapter 298 Water Control Districts.

b. Wetland mitigation provisions for transportation projects. Among other provisions, the legislation would have required that once FDOT identified habitat mitigation for transportation projects, the number of credits required should be valued at \$150,000 per credit and consideration should be given to purchasing credits from a private mitigation bank, a water management district or DEP mitigation project or FDOT performing the mitigation.

**2. Fertilizer (CS/CS/CS/HB999)**

Concerns about the water quality of local watersheds has led about five local governments to adopt ordinances to limit the amount and types of fertilizers used within the local jurisdiction. As passed by the House, CS/CS/CS/HB 999 contained a provision that would have preempted local governments from adopting these ordinances. This provision became very controversial and was stripped by the Senate on final passage of the bill. This seems to be a perennial dispute, so don't be surprised to see this issue considered again in 2014.

**3. Hydraulic Fracturing Chemical Usage Disclosure (HB 743/SB 1028)**

These bills would have directed DEP to establish an online Hydraulic Fracturing Chemical Registry and would have required the owners and operators of wells on which hydraulic fracturing treatment is performed to disclose certain information. The House bill passed the House but died in the Senate. The Senate bill passed two committees of reference, but died in the Rules Committee. Look for these measures to be filed again in 2014.

**4. Brownfields (HB 415/SB 554)**

These bills would have revised the procedures for the designation of brownfield areas by local governments. They also would have provided additional liability protection for individuals responsible for the rehabilitation of a brownfield site. The House bill died in the Senate; the Senate bill was reported favorably by most committees of reference, but died in the Committee on Appropriations. Expect to see this legislation again next year.

**II. GROWTH MANAGEMENT**

**A. Bills That Passed**

**1. Agricultural Lands (CS/CS/HB 203)**

CS/CS/HB 203 prohibits a governmental entity (and not just a county, as is provided by current law) from adopting or enforcing any prohibition, restriction, regulation, or other limitation or from charging a fee on any activity of a bona fide farm operation on land classified as agricultural land under certain circumstances if the activity is already regulated through best management practices adopted by rule by DEP, DACS or a water management

district or if the activity is regulated by USDA, EPA or the Army Corps of Engineers. The bill also clarifies that the existing preemption of local regulation provided for farm buildings, farm fences and farm signs is limited to those located on lands used for bona fide agricultural purposes, and the bill defines such bona fide agricultural purposes. *The effective date of this bill was July 1, 2013; Chapter [2013-239](#).*

**2. Agritourism (CS/CS/SB 1106)**

CS/CS/SB 1106 prohibits a local government from prohibiting or restricting any "agritourism activity" on land classified as agricultural land. The bill revises the definition of "agritourism activity" to include any agriculture related activity on a bona fide farm or ranch or working forest that allows members of the public to view or enjoy certain activities and attractions. The term expressly does not include the construction of new or additional structures intended primarily to accommodate members of the general public. The bill also provides limitations on liability for the land owner and certain other person for the inherent risks of any agritourism activity, as defined. *The effective date of this bill was July 1, 2013; Chapter No. [2013-179](#).*

**3. Applications for Development Permits (CS/CS/CS/HB 999)**

CS/CS/CS/HB 999, generally dealing with environmental regulation (see above), also provides that, with respect to an application for development permit, a local government may not request additional information from an applicant more than three times unless the applicant waives this limitation in writing. *The effective date of this bill was July 1, 2013; Chapter No. [2013-92](#).*

**4. Development Permits/Extensions (CS/HB 7019)**

CS/HB 7019 requires cities and counties to attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development. This is intended to address concerns by FEMA with legislation enacted in 2012 (CS/CS/CS/CS/HB 503).

CS/HB 7019 was amended to provide yet another opportunity to qualify for the additional two-year permit extension enacted in 2011 for any building permit (as well as any ERP) that has an expiration date from January 1, 2012, through January 1, 2014. The holder of the permit or other authorization that is eligible for the two-year extension must notify the authorizing agency in writing by October 1, 2013 (the prior deadline was December 31, 2012, which last year was extended from December 31, 2011), identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

The bill also was amended to extend for three years any ERP or building permit in certain parts of the Florida Keys Area of Critical State Concern that has an expiration date from January 1, 2012, through January 1, 2016

The bill also authorizes the Florida Rail Enterprise to construct, operate and maintain communications facilities within new or existing high speed rail systems. In addition, the legislation also includes the initiative/referendum prohibitions of baby hometown democracy in CS/CS/CS/HB 537. *The effective date of this bill was July 1, 2013; Chapter No. [2013-213](#).*

**5. Local Referenda/Baby Hometown Democracy (CS/CS/HB 537)**

CS/CS/HB 537 explicitly prohibits an initiative or referendum process for any development order. The legislation also prohibits an initiative or referendum process in regard to any local government comprehensive plan or map amendment unless the process involves an amendment that affects more than five parcels of land and was in effect in the charter of a local government on June 1, 2011. The legislation is retroactive to June 1, 2011 and deems any initiative or referendum commenced or completed after that date null and void if the process did not meet the exception of existing charters as of June 1, 2011. As such, the bill likely will affect certain pending litigation, including *City of Boca Raton v. Kennedy, et. al.*, No. 2012-CA-009962-MB (Fla. 15th Cir. Ct. 2012), *appeal pending in Archstone Palmetto Park v. Kennedy*, Case No. 4D12-4554 (appeal filed Dec. 19, 2012), discussed during the 2012 Update. Similar provisions are also found in CS/HB 7019 (see below).

CS/CS/HB 537 also repeals an unrelated provision enacted in 2012 to benefit an “agricultural enclave.” That provision is found in s. 4, Ch. 2012-75, Laws of Florida.

*The effective date of this bill was June 5, 2013; Chapter No. [2013-115](#).*

**6. Manufacturing Development (CS/HB 357)**

CS/HB 357 establishes the Manufacturing Competitiveness Act. The purpose of the bill is to authorize local governments to establish local manufacturing development programs that grant master plan approval for new manufacturing sites. The Department of Economic Opportunity (DEO) is authorized to develop a model manufacturing master plan ordinance. Projects that go through this master plan approval would have the benefit of coordinated and expedited state permit approval as DEO is authorized to shepherd new manufacturing projects through the permitting system. *The effective date of this bill was July 1, 2013; Chapter [2013-224](#).*

**7. Public Meetings (CS/CS/SB 50)**

CS/CS/SB 50 specifies that members of the public must be given a reasonable opportunity to be heard on a proposition before a board or commission. “Board or commission” is defined to include any board or commission of a state agency or authority, or of any agency or authority of a county, municipal corporation, or political subdivision. Certain exemptions are provided, including quasi-judicial proceedings. The right to be heard may be enforced in circuit court, and attorney fees may be awarded against the board or commission for violations or against a member of the public found to be pursuing a frivolous action. The bill does not prohibit the board or commission from maintaining orderly conduct or proper decorum in a public

meeting, including time limits on speakers. *The effective date of this bill is October 1, 2013; Chapter [2013-227](#).*

## **8. Transportation Concurrency (CS/CS/CS/HB 319)**

CS/CS/CS/HB 319 amends section 163.8180(5), F. S., governing “concurrency” to clarify that an applicant for a development order, agreement, rezoning, etc., may satisfy transportation concurrency requirements by making a good faith offer to enter into a binding agreement to pay for or construct its proportionate share of required improvements. Further, if a local government elects to repeal transportation concurrency, any alternative mobility funding system adopted may not be used to deny, time, or phase an application for site plan approval, plat approval, final subdivision approval, building permits or the functional equivalent of such approvals, provided that the developer agrees to pay for the development’s transportation impacts. *The effective date of this bill was May 30, 2013; Chapter No. [2013-78](#)*

## **B. Bills That Died.**

### **1. Proportionate Share/Impact Fees (CS/CS/CS/HB 321 and SB 1776)**

The legislation would have prohibited the imposition of transportation concurrency fees or impact fees on construction of new business facilities of 6,000 square feet or greater. The prohibition would remain in place until July 1, 2016 unless fees were authorized by an affirmative vote of the local government’s governing authority.

### **2. Developments of Regional Impact (HB 4035)**

The bill would have repealed section 380.06(3) F. S. which authorized the state land planning agency, a local government or a regional planning agency to petition the Administration Commission to increase or decrease the numerical thresholds of statewide guidelines and standards used in determining whether developments are subject to development-of-regional-impact review. The remainder of the bill is a non-substantive reviser’s bill that corrects statutory citations and cross references.

### **3. Developed Local Government Comprehensive Planning Pilot Program (SB 786)**

SB 786 would have established an alternative plan amendment review process with less state oversight for certain more developed areas, namely Jacksonville, Miami, Tampa, Hialeah, and Pinellas County and Broward County. No House companion was filed, and the bill was never heard.

#### **4. Prohibition on Development Exactions (HB 673/SB 772)**

These measures would have prohibited local governments from imposing certain development exactions on or against private property. They provide that a county, municipality, or other local governmental entity may not impose on or against any private property a tax, fee, or charge or require any other development exaction, either directly or indirectly, that: (a) does not result from a development or proposed development with an essential nexus to development impacts upon the infrastructure or other public facilities that are maintained, owned, or controlled by the county, municipality, or other local governmental entity, or (b) is more stringent than an exaction imposed by a state or federal agency on or against the same property that concerns the same impact, unless the county, municipality, or other local governmental entity demonstrates that the exaction is reasonably necessary pursuant to this subsection. Neither bill was ever heard.

### **III. STATE LANDS AND BEACH MANAGEMENT**

#### **A. Bills That Passed**

##### **1. Environmental Regulation (CS/CS/CS/HB 999)**

CS/CS/CS/HB 999, the comprehensive bill generally dealing with environmental regulation (see above), also includes several provisions relating to state lands. The bill authorizes the Board of Trustees of the Internal Improvement Trust Fund to issue leases or letters of consent for boat shows, provides general permits for local governments to construct mooring fields, modifies the several exemptions from lease fees for certain single and multi-family docks, and provides conditions for lease discounts for marinas that offer some slips to the public. The bill also ratifies several no-bid agricultural leases that were approved by the Governor and Cabinet and thereby appears to have rendered moot certain pending legal challenges. *See final order dismissing amended petition with prejudice, Florida Wildlife Federation, Inc. v. Board of Trustees of the Internal Improvement Trust Fund, OGC Case No. 13-0065 (June 14, 2013). The effective date of this bill was July 1, 2013; The effective date of this bill was July 1, 2013; Chapter No. [2013-92](#).*

#### **B. Bills That Died**

##### **1. Purchase of Lands by Governmental Entity (SB 584/HB 901)**

SB 584 and HB 901 would have restricted the ability of state and local governments to buy additional conservation lands.

##### **2. State Lands (HB 33/SB 466)**

HB 33 and SB 466 would have allowed landowners to directly petition the Board of Trustees of the Internal Improvement Trust Fund to exchange state-owned land to a landowner for private use in exchange for other lands. The House bill was reported favorably by one



committee of reference, and then temporarily postponed (TPd) in the second committee; the Senate bill was TPD in its first committee of reference.

**3. Development of Oil and Gas Resources (HB 431)**

This bill would have allowed for the drilling of oil and gas on state land, specifically targeting the Blackwater River State Forest in Northwest Florida. The bill proved to be quite controversial, and it was withdrawn prior to introduction.

**IV. WATER RESOURCES**

**A. Bills That Passed**

**1. Consumptive Use Permitting (CS/SB 364)**

Consumptive use permits issued pursuant to section 373.236, F. S. after July 1, 2013 for development of alternative water supplies must be granted for at least 30 years provided there is data to provide reasonable assurance that all conditions for permit issuance will be met for the duration of the permit. If a permittee issues bonds to construct the water supply project within 7 years of permit issuance, completes the project and requests extension of the permit duration, the permit shall be extended through the life of the bonds or 30 years, which ever is later. Permits cannot be extended for a period of more than 7 years beyond the original permit term. So long as bonds are outstanding, the quantity of alternative water authorized by the permit may not be reduced unless a reduction is needed to prevent harm to water resources or to another legal use. *The effective date of this bill was July 1, 2013; Chapter No. [2013-169](#).*

**2. Everglades Restoration (CS/HB 7065)**

CS/HB 7065 is a major revision of the Everglades Forever Act which guides state government in its Everglades restoration goals. The bill sets an enforceable Everglades water quality effluent limit and proposes a set of projects to remove phosphorous pollution from water leaving farm fields and entering the Everglades Protection Area. The bill ratifies the several specific cleanup projects, extends the tax paid by sugarcane and other farmers to help fund the cleanup, and finds that best management practices reduce nutrients flowing to the Everglades. The legislation also authorizes appropriations of \$92 million from the tax on lands in the EAA and \$32 million from the state budget. *The effective date of this bill was May 28, 2013; Chapter No. [2013-59](#).*

**3. Ratification of TMDLs for Impaired Water Bodies (HB 7157)**

HB 7157 ratifies a number of DEP rules establishing Total Maximum Daily Loads (TMDLs) for a variety of water bodies designated as impaired, as well as a statewide TMDL for mercury. Affected impaired water bodies include: St. Marks River basin, Pensacola Bay basin, Indian River Lagoon, Hillsborough River basin, Springs Coast basin. Legislation enacted in 2010 provides that certain rules with a million dollar impact may not become effective



until ratified by the Legislature. HB 7157 provides the required ratification. *The effective date of this bill was May 28, 2013; Chapter No. [2013-59](#).*

**4. Future TMDLs for Impaired Water Bodies (HB 7157 and SB 1806)**

SB 1806 exempts future DEP rules establishing TMDLs from the legislative ratification requirement. *The effective date of this bill was July 1, 2013; Chapter No. [2013-70](#).*

**5. Numeric Nutrient Criteria (CS/SB 1808)**

CS/SB 1808 authorizes DEP to initiate rulemaking for quantitative nutrient (phosphorous and nitrogen) criteria and establish total maximum daily loads of nutrients for all flowing waters and downstream waters in Florida. DEP will establish numeric nutrient criteria for 22 estuary and coastal segments by July 1, 2013, and the remaining estuary and coastal segments by December 1, 2014. Implementation of freshwater criteria by rule will be pursuant to a DEP document entitled “Implementation of Florida’s Numeric Nutrient Standards, March 11, 2013” which is to be adopted by rule. Certain waters will not be subject to nutrient rules including man-made, physically altered streams primarily used for water management, tidal creeks at river mouths, marine lakes and South Florida flowing waters. *The effective date of this bill was May 30, 2013; Chapter No. [2013-71](#).*

**6. Onsite Sewage Treatment and Disposal Systems (CS/CS/CS/HB 375)**

CS/CS/CS/HB 375 authorizes a property owner of an owner-occupied, single-family residence to receive approval and a permit from DEP to be the maintenance entity for a performance based treatment system. Approval and a permit are conditioned upon the system manufacturer confirming the owner has received proper training for installation and service. The DEP will inspect such systems annually. Within Monroe County, all such systems must reduce nitrogen in the effluent by at least 70 percent to be in compliance with permitting standards. In Monroe County for areas not scheduled for central sewer service all onsite systems must meet specified standards for nitrogen, biological oxygen demand and suspended solids by December, 31, 2015. *The effective date of this bill was July 1, 2013; Chapter No. [2013-79](#).*

**7. Domestic Wastewater/Ocean Outfalls (CS/SB 444)**

CS/SB 444 provides:

- a. The operators or users of a deep ocean outfall for wastewater discharges must have a fully operational, functioning reuse system in place by December 31, 2025, that will take care of a minimum of 60 percent of the outfall’s “baseline flow.” Baseline flow means the annual average flow of domestic wastewater.
- b. If a facility that discharges through an ocean outfall contracts with another utility to install a functioning reuse system, the Department must approve any apportionment of the reuse generated from the new or expanded system.

- c. Peak flow back up discharges through the ocean outfall after December 31, 2025, may not cumulatively exceed 5 percent of a facility's baseline flow measured over a 5 year rolling average.
- d. A detailed reuse plan to achieve statutory requirements must be submitted to the Department by July 1, 2013. *The effective date of this bill was July 1, 2013; Chapter No. [2013-31](#).*

**8. Water Management Districts (SB 244)**

SB 244 provides the water management districts with guidance concerning minimum flows and levels (MFLs), water reservations, recovery or prevention strategies, and multi-district projects. The districts are required to provide DEP with technical information and staff support for the development of a reservation, minimum flow or level, or recovery or prevention strategy being adopted by DEP by rule. The districts are required to apply any reservation, minimum flow or level, or recovery or prevention strategy adopted by DEP without having to adopt their own district rules. *The effective date of this bill was July 1, 2013; Chapter [2013-229](#).*

**9. Permitting (CS/CS/CS/HB 999)**

CS/CS/CS/HB 999, the comprehensive bill generally relating to environmental regulation (see above), also includes several provisions affecting water resources permitting, including:

- a. The statutory provision addressing competing consumptive use permit (CUP) applications is clarified; water management districts (WMDs) may not reduce consumptive use allocations where additional water supply from the development of desalination plants is available.
- b. WMDs and DEP are authorized to notify a permittee by electronic mail of any change to or suspension of a permit as a result of a water shortage;
- c. The issuance of well permits is designated to be the sole responsibility of WMDs; delegated governments, or local county health departments, and other government entities are prohibited from imposing certain requirements and fees;
- d. Licensure of water well contractors by a WMD must be the only water well contractor license required for the location, construction, repair, or abandonment of water wells in the state or any political subdivision.

*The effective date of this bill was July 1, 2013; Chapter No. [2013-92](#).*

**10. Water Supply Planning (CS/SB 948)**

CS/SB 948 amends sections 373.701-373.709, F.S., to include utility companies, private landowners, water consumers and the Department of Agriculture and Consumer Services

(DACS) in water supply planning to provide for adequate water supply for all stakeholders, but particularly farmers. All water supply plans must include agricultural water supply demand based upon the best available data. DACS is also authorized pursuant to section 570.085, F. S. to establish an agricultural water supply plan based on a 20-year planning period that the water management districts must incorporate into their water supply plans. *The effective date of this bill was July 1, 2013; Chapter No. [2013-177](#).*

**11. Water Quality Trading (CS/CS/HB 713)**

CS/CS/HB 713 expands the voluntary water quality credit trading program from a pilot applicable only in the lower St. Johns River basin, to a statewide option. DEP may authorize water quality credit trading in adopted basin management action plans. The agency may not participate in the establishment of credit prices; however, entities that participate in trading must report to DEP the price for credits and any state funding received for the facilities or activities that generate the credits. *The effective date of this bill was July 1, 2013; Chapter No. [2013-146](#).*

**B. Bills That Died**

**1. Springs Revival Act (HB 789/SB 978)**

These bills would have required each water management district to identify and develop five-year restoration plans for first and second magnitude springs within the district. Neither bill was ever heard in committee.

**2. Stormwater Fees (CS/CS/CS/HB 999)**

Provisions relating to the payment of fees charged to governmental entities for stormwater utility bills proved to be controversial, and were deleted at the last minute from the comprehensive environmental regulation bill, CS/CS/CS/HB 999.

**V. FISH AND WILDLIFE**

**A. Bills That Passed**

**1. Wildlife BMPs (CS/HB 7087)**

CS/HB 7087 provides for DACS and the FWCC to enter into a memorandum of agreement to develop best management practices (BMPs) for wildlife to be implemented by the agriculture industry. Once the wildlife management BMPs are adopted, local governments are preempted from adopting or enforcing any ordinance, resolution, rule or policy regarding the BMPs on lands classified as agricultural lands. *The effective date of this bill was July 1, 2013; Chapter [2013-226](#).*

## VI. MISCELLANEOUS BILLS OF INTEREST

### A. Bills That Passed

#### 1. Brownfields Tax Incentives (CS/SB 406)

CS/SB 406, relating to economic development, includes provisions designed to tighten the tax incentives available for brownfields, limiting those areas eligible for bonus refunds to the brownfield site for which a rehabilitation agreement has been executed and any abutting real property parcel within a brownfield area which has been designated by a local government. *The effective date of this bill was May 20, 2013; Chapter No. [2013-42](#).*

### B. Bills That Died

#### 1. Administrative Procedure Act (CS/CS/CS/HB 1225)

CS/CS/CS/HB 1225 would have made a number of changes to the Administrative Procedure Act (APA) to enhance the opportunities for substantially affected parties to challenge rules, seek mediation of declaratory statements, and be awarded attorney fees in certain challenges. Among other things, the bill would have clarified the burden of proof for challengers and agencies in challenges to proposed and unadopted rules, authorized rule challenges in defense of agency actions on the same terms as petitions challenging rules and unadopted rules, including the award of reasonable attorney fees to prevailing challengers. The bill passed all three committees of reference in the House and the initial committee of reference in the Senate. So, don't be surprised to see it filed again in 2014.

## **2014 LEGISLATIVE FORECAST**

APA/Attorney fees  
APA/Unadopted Rules  
Brownfields  
Conservation Easements  
Drilling on State Lands  
Exactions Restrictions  
Expanded State Programmatic General Permit  
Pilot Program for Plan Amendments  
Fertilizer Application  
Hydraulic Fracturing Disclosure  
Landfill Siting Restrictions  
Minimum Flows and Levels (MFLs)  
Oil Exploration Ban  
Mean Annual Flood Line/Ordinary High Water Line  
Purchase of Conservation Lands  
Regulatory Reform  
Repeal of Ban on Land Application of Septage  
Strategic Lawsuits Against Public Participation (SLAPP Suits)