2014 ENVIRONMENTAL AND LAND USE LAW ANNUAL UPDATE

Legislative Update and 2015 Forecast

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BILLS THAT PASSED
WATER

Agricultural Water Policy; Dispersed Water Storage Programs (CS/HB 7091)

The bill addresses a number of issues relating to the powers and duties of the Department of Agriculture and Consumer Services (DACS). Among other things, the bill:

Authorizes the Florida Forest Service to grant leases, permits or concessions for the use of state forest lands.

Allows agricultural lands participating in a dispersed water storage program to retain an agricultural classification and requires those lands to be assessed as nonproductive agricultural lands. If the land is diverted to a non-agricultural use, it must be assessed as any other non-agricultural land.

Establishes a process for DACS or a water management district and a private landowner to delineate baseline wetland conditions prior to entering into an agreement for water storage and water quality improvements on the landowner's property. The baseline, not the wetlands that might exist once the water storage or water quality project is complete, will be considered the extent of wetlands and other surface waters for the purpose of regulation for the duration of the agreement and after its expiration.

The effective date of this bill was July 1, 2014; Chapter No. 2014-150

Government Ethics/ Lobbying Water Management Districts (CS/CS/CS SB 846)

SB 846 subjects the governing bodies and certain officials of several quasi-governmental groups such as the Clerk of the Courts Operations Corporation, Enterprise Florida, Inc., Citizens Property Insurance Corporation, and the Florida Development Finance Corporation to Florida's Code of Ethics for public officials. The legislation also requires all elected municipal officers to take four (4) hours of ethics training annually.

Further the new law creates section 373.3261, Florida Statutes, which mandates that anyone lobbying before any of the water management districts must register as a lobbyist with the district. "Lobbies" means seeking, on behalf of another person, to influence a district with respect to a decision of the district in an area of policy or procurement or an attempt to obtain the goodwill of a district official or employee. The term "lobbies" is to be interpreted consistent with the Commission on Ethics rules implementing the executive branch lobbyist registration requirements in section 112.3215, Florida Statutes, so these rules should be consulted.

The effective date of this bill was July 1, 2014; Chapter No. 2014-183

Lower Santa Fe and Ichetucknee MFLs (HB 7171)

A measure enacted in 2013[1] allows a water management district to request DEP to set minimum flows and levels (MFLs) for water bodies that are impacted by permitting decisions in two or more water management districts. On June 11, 2013, the Suwannee River Water Management District (SRWMD) Governing Board formally requested that DEP adopt the Lower Santa Fe and Ichetucknee Rivers and Priority Springs Minimum Flows and Levels, Ichetucknee River and Priority Springs Prevention Strategy, and Lower Santa Fe River and Springs Recovery Strategy. These MFLs have the potential to be affected by water withdrawals in both the SRWMD and the St. Johns River Water Management District (SJRWMD). Adoption by the DEP would allow both water management districts to apply these MFLs and the associated regulatory strategy, resulting in a streamlined rulemaking process. During the rulemaking process, the DEP's analysis estimated the projected economic impact of the proposed rule would exceed $1 million in the aggregate for the five-year period. As such, pursuant to the APA, the rule could not go into effect until ratified by the Legislature. However, a rule challenge filed in the Division of Administrative Hearings[2] delayed the adoption of Rule 62-42.300, making it unavailable for ratification during the 2014 Regular Session. **HB 7171** exempts Rule 62-42.300 from ratification under s. 120.541(3), Florida Statutes.

The effective date of this bill was June 13, 2014; Chapter No. 2014-155

Mitigation Banking (HB 7175)

This legislation is the Florida Department of Transportation (FDOT) omnibus package. It includes a section on mitigation banking that amends section 373.4137 to provide:

1. The FDOT environmental impact inventory must include anticipated mitigation needed based on functional habitat loss determined by the Uniform Mitigation Assessment Method (UMAN).

2. Before FDOT projects are included in a water management district (WMD) mitigation plan, FDOT must consider using credits from a mitigation bank. Consideration factors include:

    a. Availability of credits within project area.

    b. Satisfaction of regulatory criteria.

    c. Completion of existing WMD or DEP mitigation sites initiated with FDOT funds.

3. FDOT may purchase credits from a bank, a WMD, DEP or conduct its own mitigation.

4. Funding procedures are specified.

[1] Chapter 2013-299, Laws of Florida.
[2] Still v. SRWMD, et al, DOAH Case Nos. 14-1420RU, 14-1421RP, 14-1423RP and 14-1644RP.

5. If a WMD cannot timely permit a mitigation site, FDOT may use mitigation funds to purchase credits from a mitigation bank.

6. FDOT will be invoiced $75,000 per acre of impact for mitigation activities on existing WMD or DEP sites initiated by FDOT funds prior to July 1, 2013.

7. Before March 1 of each year, each WMD must develop a mitigation plan to offset only the impacts of transportation projects for which a WMD's mitigation satisfies the Clean Water Act regulations.

8. FDOT may not exclude a transportation project from a mitigation plan for that fiscal year unless the project is unfunded.

The effective date of the bill was July 1, 2014; Chapter No. 2014-223

Public Information Systems on Water Management Land (HB 7175)

HB 7175 also includes an amendment to section 373.618, Florida Statutes, governing public information systems on water management district lands. The amendment requires that such systems comply with all federal laws and agreements and the Highway Beautification Act of 1965.

The effective date of the bill was July 1, 2014; Chapter No. 2014-223

Similar language is also included in CS/CS/HB 1161.

The effective date of this CS/CS/HB 1161 was July 1, 2014; Chapter No. 2014-215

Reclaimed Water Study (CS/CS/SB 536)

CS/CS/SB 536 requires DEP to conduct a comprehensive study and to submit a report on the expansion of the beneficial use of reclaimed water, stormwater and excess surface water in the state. DEP is directed to coordinate with various stakeholders. The report must, among other things, factors that presently prohibit or complicate this expansion and identify measures that would lead to greater efficient use of reclaimed water. Permit incentives, including extended terms, must also be addressed. In addition, the report must explore the feasibility and benefits of constructing regional storage facilities on public or private lands for reclaimed water, stormwater and excess surface water.

The report must be submitted to the Governor, the President of the Senate and the Speaker of the House of Representatives no later than December 1, 2015.

The effective date of this bill was July 1, 2014; Chapter No. 2013-79

Water Utilities (CS/CS/CS/SB 272)

SB 272 relates to water utilities regulated by the Public Service Commission (PSC). Part I creates a process that allows customers of a regulated utility to petition the PSC to the revoke the certificate of authorization of a utility under certain conditions. The petition must state with specificity each issue that customers have with the "quality of service, each time the issue was reported and how long each issue has existed." The petition must be signed by 65% of the utility customers. Interestingly, the new statute does not define exactly what qualifies as a "quality of service issue". I can only imagine what some inventive retirees might come up with.

If the PSC determines that the petition has merit, it may; (a) issue an order specifying the issues that must be rectified, (b) identify the necessary corrective measures the utility must take, (c) and require a schedule for correction of quality of service issues. If the utility fails to correct the issues, its certificate of authorization may be revoked.

Part II of the legislation ties PSC rate fixing for utilities to a utility meeting Department of Environmental Protection secondary water quality standards. If a utility fails to adequately resolve each water quality issue, the PSC may penalize the utility financially by reducing its rate of return on equity, denial of requested rate increases or revocation of the certificate of authorization.

The effective date of this bill was July 1, 2014; Chapter No. 2014-68

BILLS THAT PASSED
ENVIRONMENTAL

Brownfields (CS/CS/CS/HB 325)

CS/CS/CS/HB 325 amends statutory provisions relating to the brownfield program and modifies the procedures for establishing a brownfield area. The bill authorizes the local government designating a brownfield area to use a term other than "brownfield area" for the designated area. The bill expands the liability protection provided to any person, his or her successors and any assignees executing and implementing a successful completion of a Brownfield Site Rehabilitation Agreement. This action effectively relieves them of liability for claims of property damages, including diminished value of real property or improvements; lost or delayed rent, sale, or use of real property or improvements; or stigma to the real property or improvements caused by contamination addressed by a brownfield site rehabilitation agreement. This expanded protection applies to causes of action accruing on or after July 1, 2014, and does not apply to persons discharging contamination on the property, those committing fraud related to completion of site rehabilitation or those exacerbating the contamination of property subject to a brownfield site rehabilitation agreement in violation of applicable laws which causes property damage.

The effective date of this bill was July 1, 2014; *Chapter No. 2014-114*

Carbon Dioxide Emissions Guidelines (CS/SM 1174)

The United States Environmental Protection Agency (EPA) was scheduled to issue guidelines for establishing emission limitations for existing electric power plants pursuant to Section 111(d) of the Clean Air Act in June, shortly after the end of the 2014 Regular Session.[3] CS/SM 1174 is a Senate Memorial urging Congress to direct EPA to rely on state regulators to develop performance standards for carbon dioxide emissions, taking into account the unique policies, energy needs, resource mix and economic priorities of individual states. It also requests that Florida be permitted to establish less stringent performance standards or longer compliance schedules for fossil fuel electric generating units and asks for maximum flexibility to implement these new performance standards.

Coastal Management (CS/HB 7093)

HB 7093 started out as DEP's Petroleum Cleanup Program bill and picked up many other provisions at the very end of the session. One notable addition was the incorporation of HB 791 which was sponsored by Rep. Doc Renuart (R-Ponte Vedra Beach) and expands the use of general permits for minor coastal structures, dune restoration, walkovers and swimming pools at single family residences. The bill also authorizes DEP to grant certain leases, concessions and permits at the state's aquatic preserves for the purpose of promoting public use. New concession agreements for accommodations in certain state parks are prohibited if something similar already exists within 1500' of the park boundary. This restriction only applies to those parks that provide beach access and have less than 7000' of shoreline.

The bill was effective July 1, 2014; Chapter No. 2014-151

Little Gasparilla Island/Docks (HB 929)

Currently, there are approximately 122 single family and private residential multi-slip/multi-family docks adjacent to Little Gasparilla Island within the Lemon Bay Aquatic Preserve. Of these, approximately 44 single family docks and 17 private residential multi-slip/multi-family docks were constructed or modified prior to March 1, 2013, without the required permits/authorizations. HB 929 establishes a process that allows for the 44 docks to receive all proper authorizations within two years after the effective day of the bill.

The effective date of this bill was June 13, 2014; Chapter No. 2014-237

Permit Extensions (CS/HB 7023)

CS/HB 7023 covers issues predominantly related to economic development. It also provides yet another opportunity to extend certain permits--a practice that first began in 2009. This year, the bill extends the expiration date by two years of any building permit and any Environmental Resource Permit with an expiration date from January 1, 2014, through January 1, 2016. This extension includes any local government-issued development orders or building permits, including certificates of levels of service. This extension is in addition to any existing permit extensions, provided that the total permit extension time does not exceed four years. The authorizing agency must be notified of the request for extension in writing no later than December 31, 2014.

The effective date of this bill was July 1, 2014; Chapter No. 2014-218

[3] The proposal was issued on June 2, 2014, and was published in the Federal Register on June 18, 2014.

Petroleum Contamination CS/HB 7093

During the past two years, DEP has undertaken a deliberate review of its divisions, districts, and programs in an effort to determine the effectiveness and efficiency of each program and make improvements. As part of this review, DEP determined that the Petroleum Restoration Program must provide more fiscal accountability for its expenditures, lower the cost of site rehabilitation, and focus rehabilitation activities on those sites that pose the greatest risk to human health and the environment.

CS/HB 7093 simply repeals the former "preapproval" program that was established in 1995. At that time, the preapproval program was replacing the older reimbursement program which reimbursed site owners and responsible parties for rehabilitation services for petroleum contaminated sites that are eligible for state funding from the Inland Protection Trust Fund. The now former preapproval program required contaminated site rehabilitation to be conducted in priority order using contractors meeting certain qualifications. Tasks associated with the rehabilitation of these sites were preapproved by the department and contractors were paid using templated rates. DEP established standard operating procedures to implement the preapproval program which allowed parties responsible for the site to select the contractor to perform the site rehabilitation. The program was determined to be ineffective and inefficient and has been transitioned to cleaning up sites by competitive bid. It is expected that this will reduce the cost of state-funded petroleum contaminated site cleanups and focus rehabilitation activities on those sites that pose the greatest risk to human health and the environment.

The effective date of this bill was July 1, 2014; Chapter No. 2014-151

Ratification of DEP Petroleum Contamination Site Rehabilitation Rules (HB 7089)

In 2013, the bill implementing that year's General Appropriations Act, required all contracts for petroleum contamination site rehabilitation to be competitively procured. This required DEP to adopt rules for the competitive solicitation procedures. The rules were filed for adoption in December 2013. As required by the APA, the Department prepared a Statement of Estimated Regulatory Costs (SERC). Two of these rules were estimated to have an economic impact in excess of $1 million over a five-year period, thus requiring legislative ratification. HB 7089 ratifies these two rules: Rule 62-772.300 establishes minimum qualifications for contactors performing petroleum contamination rehabilitation activities for the program; and Rule 62-772.400 establishes the process FDEP will utilize for competitive procurement of contractors.

The effective date of this bill was June 13, 2014; Chapter No. 2014-149

XL Pipeline Resolution (HB 281)

This House Memorial urges the President to issue the final approval for the construction and completion of the XL Pipeline project.

BILLS THAT PASSED
GROWTH MANAGEMENT

Baby Hometown: Local Referenda (SB 374)

SB 374 is yet another effort to "fix" the restrictions on local initiatives and referenda. In particular, it addresses an issue in the town of Longboat Key, which prohibits the increase in density limitations in its comprehensive plan without a referendum. Prior to enactment, only those local initiatives and referenda that affect five parcels or more are allowed. This bill eliminates the references to five parcels or more, allowing the town to hold a referendum.

The effective date of this bill was June 20, 2014; Chapter No. 2014-178

Fuel Terminals (CS/CS/SB 1070)

CS/CS/SB 1070 recognizes that fuel terminals are a critical component of fuel storage and distribution, and it expresses the Legislature's intent to maintain, encourage and ensure adequate and reliable fuel terminal infrastructure in the state. The bill provides that, after July 1, 2014, a local government may not amend its comprehensive plan, land use map, zoning districts, or land development regulations in a manner that would conflict with a fuel terminal's classification as a permitted and allowable use, including, but not limited to, an approval of any amendment that causes a fuel terminal to be a nonconforming use, structure or development.

The effective date of this bill was July 1, 2014; Chapter No. 2014-093

Growth Management: Aggregation of Developments (CS/HB 7023)

CS/HB 7023 predominantly covers issues related to economic development. It also includes a provision that makes clear that developments in a dense urban land area (DULA) are exempt from aggregation standards in s. 380.06. It thus clarifies that existing DRIs in what are now DULAs are not subject to aggregation.

The effective date of this bill was July 1, 2014; Chapter No. 2014-218

Subsurface Rights Disclosure (HB 489)

Prompted by news reports that developers were retaining mineral rights below residential lots, HB 489 requires any seller of a lot containing a new home or upon which a new home is to be built to provide an affirmative subsurface rights disclosure if the seller (or any related entity) has or will retain mineral rights below the parcel.

The effective date of this bill was October 1, 2014; Chapter No. 2014-034

Vacation Rentals (SB 356)

By way of background, because Florida is state with millions of part time residents or people who own more than one house, many single family residences are rented out whenever the owners are not in residence. Today there are more single family rental units in Florida than there are hotel rooms. On rare occasion, in some cities, renters proved to be noisy, possibly obnoxious or destructive. As a result, some local governments began to adopt ordinances that effectively prohibited vacation rentals. Three years ago, the vacation rental industry was successful in passing legislation that preempted local governments that had not adopted such ordinances from prohibiting vacation rentals based solely on classification, use or occupancy. SB 356 began life as a repeal of the three year old prohibition. However, it reached adulthood as an amendment to the classification, use or duration prohibition that prohibits local ordinances that regulates the duration or frequency of vacation rentals.

The effective date of this bill was July 1, 2014; Chapter No. 2014-071

MISCELLANEOUS

Special Districts (CS/SB 1632/HB 1237)

SB 1632, relating to special districts, filed by Sen. Kelli Stargel (R-Lakeland) is primarily a reorganization and streamlining of the Uniform Special District Accountability Act - Chapter 189, Florida Statutes. Rep. Larry Metz (R-Groveland) was the sponsor of the House companion, HB 1237.

Though SB 1632 is primarily a reorganization of Chapter 189, it does make several substantive revisions, including:

- Providing a process for review of and enforcement against special districts that are inactive or fail to comply with statutory reporting requirements;

- Repealing the general purpose local government review process for special districts and replacing it with a process giving the creating entity general oversight review authority (i.e., districts created by special act – the Legislature; districts created by local ordinance – the general purpose local government that enacted the ordinance; dependent districts – the general purpose local government to which the district is dependent; and districts created by the Governor and Cabinet – the Governor and Cabinet);

- Amending Chapter 112 to provide for suspension and removal of special district board members to be identical to that of city and county commissioners; and

- Requiring each special district to maintain a website by October 1, 2015, which must contain basic information about the district, as well as budget and audit documents.

BILLS THAT DID NOT PASS

Chemicals of Concern (HB 991/SB 1180)

These bills would have required the Department of Health, in consultation with other state agencies, to generate a list of chemicals of high concern, predominantly those known to harm pregnant women and children or that contribute to serious diseases such as cancer. The bills provide procedures for the designation of the chemicals and authorize the Department of Health to participate in an interstate clearing house regarding the use of chemicals in consumer products.

Concurrency/Impact Fees (HB 7023)

As initially filed, this bill would have exempted certain new development from having to comply with impact fee, concurrency or proportionate share requirements for transportation impacts. The bill passed, but without these provisions.

Development Exactions (HB 1077/SB 1310)

The legislation would have prohibited a county, municipality or other local government from assessing a fee, charge or other development exaction that would require the construction of infrastructure or facilities unrelated to the direct impacts of the proposed development or would be more stringent than a state or federal exaction for the same impact. Local governments could impose a tax, fee or other condition to mitigate direct impacts of development in proportion to the magnitude of the impact or accept a voluntary dedication of land or an easement to mitigate direct impacts.

DRIs in DULAs (HB 241/SB 372)

These bills would have revised the exemption from Development of Regional Impact (DRI) review by reducing the minimum population and density requirements for Dense Urban Land Areas (DULAs), effectively adding seven counties and 20 cities to the areas where projects are not subject to DRI review. The seven counties are Brevard, Escambia, Lee, Manatee, Pasco, Sarasota and Volusia.[4]

Environmental Regulation (CS/ HB 703/SB 1464)

CS/HB 703/SB 1464 is legislation that proposes a potpourri of regulatory proposals that would have made obtaining certain permit and approvals in Florida somewhat more reasonable. The proposals included:

An amendment to section 163.3162, Florida Statutes, that would have prohibited a county from enforcing amendments to ordinances regulating wetlands, springs protection, or stormwater on agricultural property if the amendments were adopted after July 1, 2003.

[4] Eight counties currently qualify as a DULA: Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, Pinellas, and Seminole. In addition, 242 cities currently qualify as a DULA.

Amending section 163.3194, Florida Statutes, prohibiting a local government from rescinding a prior land use approval because the underlying land is in a bona fide agricultural use.

Relief from permit fees for multifamily private docks.

Amending section 298.225, Florida Statutes, specifying that a water control district project included in an adopted water control plan, platted by the local general purpose government and permitted for wetlands impacts by state or federal agencies would not require an additional local government approval for wetlands impacts.

Authorizing the water management districts to issue permits for up to 50 years for dispersed water storage projects.

Authorizing the water management districts to issue permits for up to 30 years for an approved development of regional impact within a rural area of critical economic concern.

Preemption of additional water well permitting criteria to the state.

Authorization for mitigation bankers to provide insurance to cover financial responsibility requirements of the mitigation bank permit.

Simplification of regional water supply planning.

Creation of a solid waste landfill closure fund to provide for closure of landfills that were permitted by the DEP and had been abandoned if there was assurance that an insurance policy would reimburse the fund for closure costs.

Hydraulic Fracturing Disclosure (CS/HB 71 /HB 157)

Hydraulic fracturing, commonly referred to as fracking, is the use of water, sand and chemicals injected into the ground at high pressure to blast open rock beneath the surface to release trapped oil and gas. HB 71 would have directed DEP to establish an on-line hydraulic fracturing chemical registry disclosing the total volume of water used and the chemical ingredients for each well on which hydraulic fracturing treatments are performed. HB 157 was tied to the passage of HB 71 and would have created a public records exemption for trade secrets related to hydraulic fracturing treatments provided to DEP. Procedures for requesting and maintaining confidentiality are provided in the bill. Neither bill passed this session and there were no companion measures were filed in the Senate. However, the hydraulic fracturing issue continues to be controversial, particularly in Southwest Florida, so look for legislation on this subject next year.

Land Conservation (SB 1398)

The bill proposed to add four criteria that must be met prior to the state or any local government completing a land purchase for conservation purposes. The four criteria were:

(1) An accurate inventory, not more than one year old, of government-owned property is made public;

(2) Sufficient funds are approved in the state's (or county's or city's) annual budget for the maintenance of existing properties;

(3) A description of the current use of existing properties and an analysis of proposed future uses of existing properties are made publicly available;

(4) An analysis describing the annual cost of restoration and maintenance of the proposed land purchase is completed and made publicly available, and funds sufficient to restore and maintain the proposed land purchase are approved and set aside.

Nature Coast Aquatic Preserve (CS/SB 1094/CS/CS/HB 1123)

This bill proposed the creation of a new aquatic preserve in the coastal regions of Pasco, Hernando and Citrus counties, called the Nature Coast Aquatic Preserve. The bill required the Board of Trustees to adopt and enforce rules related to the management and preservation of the preserve while not infringing on the riparian rights of adjacent property owners. The Senate bill made it through two committee stops, but died in Appropriations. The House Bill was on the Calendar but never came up for a vote.

Ban on the Land Application of Septage (CS/SB 1160/CS/CS/HB 1113)

Beginning on January 1, 2016, Florida law prohibits the land application of septage from onsite sewage treatment and disposal systems. HB 1113 and CS/SB 1160 would have delayed the effective date of this prohibition for one year and required DEP to examine and report on potential options for safely and appropriately disposing or reusing septage. HB 1113 died in House messages. DEP is expected to review this issue with interested stakeholders, so look for this issue to be the subject of legislation in 2015.

Onsite Sewage Treatment and Disposal Systems (CS/CS/HB 1055/CS/SB 1306)

These bills addressed alternative sewer designs in which the septic tank is connected to a central sewer system and a pump moves water from the septic tank into the sewer system. This allows the existing septic tank drainfield to stay functional as a back-up system for emergency use. Current law requires that the owner of a home or business that connects directly to a central sewer system must remove the abandoned septic tank and drainfield. The bill would have clarified that, upon approval by DEP, the owner of an existing system is authorized to use all or a portion of that system, including the drainfield, as an integral part of a sanitary sewer system. The House bill died on the calendar, and the Senate bill died in committee.

Property Rights (HB 1134/SB 1314)

The legislation would have mandated a property rights element in all comprehensives plans. The element would have to consider the impact of all development orders, plan amendments, ordinances and other local government decisions on private property rights, encourage economic development, the use of alternative solutions and consideration of harm created by noncompliance with the plan provisions (presumably harm created by the local government).

Springs (CS/CS/CS/SB 1576)

This bill created the "Florida Springs and Aquifer Protection Act" and directed DEP to designate Outstanding Florida Springs. In addition, the bill required the delineation of a spring protection & management zone for each of those springs, the setting of minimum flow and minimum water level standards, the implementation of recovery and prevention strategies, and the development of Basin Management Action Plans. Local governments were required to adopt fertilizer ordinances that meet or exceed the DEP's Model Ordinance for Florida Friendly Fertilizer and the bill prohibited numerous activities in spring protection and management zones including: the disposal of wastewater residuals and septage and the permitting of new wastewater disposal facilities and hazardous waste facilities. New septic tanks on lots smaller than one acre were also prohibited in these zones. An amended version of SB 1576, with funding provisions deleted, was passed by the Senate and died in House messages.

Nevertheless, the Appropriations Bill HB 5001 contains the following provisions related to springs funding: $5 million for Best Management Practices implementation and irrigation system efficiency conversions in freshwater springs recharge areas; $1.7 million for implementation of total maximum daily loads (TMDLs) for springs; and $25 million to DEP for prioritization of springs projects "to protect the quality and quantity of water that flows from springs."

State Owned Lands (HB 1433/SB 1604)

This bill would ahve required that recommendations for surplusing state-owned conservation lands be based on a scientific analysis conducted by the Florida Natural Areas Inventory and the Division of State Lands.

Water/Wastewater (HB 813/SB 1248)

Metaphorically speaking, these bills could be advertised as a Texas Lights Out wresting match between counties and cities that provide water/waste water utility services within the unincorporated portions of a county. Had the legislation passed it would have provided:

Any municipal extension of municipal water/waste water utility service to any unincorporated portion of a county would require prior county consent.

When a municipal franchise to serve an unincorporated portion of a county expired, the county would have the option to acquire the municipality's facilities at fair market value.

PSC approval of any rate differential by a municipality between customers in the unincorporated portion of a service area and city customers. Any rate differential would be limited to no more than 25%.

Municipal utility customers in an unincorporated area could petition the PSC to review utility rates and charges and determine whether the rates are just and reasonable.

The PSC would have prior approval of any municipality's acquisition of facilities to be used to service customers in an unincorporated portion of a county.