

## **FLORIDA'S ENVIRONMENT, WATER POLICY, THE 2017 LEGISLATURE AND BEYOND**

*Eric Draper  
Terry Lewis  
Larry Sellers  
Jon Stevenson  
Frank Walker*

### **PASSED**

#### **CONTAMINATED SITE CLEANUP (CS/CS/SB 1018)**

SB 1018 addresses a number of environmental issues, including contaminated site cleanup. Among other things, the bill provides for the advancement ahead of priority ranking for the rehabilitation of individual petroleum contaminated sites proposed for redevelopment. It also eliminates the 25 percent cost-share requirement for the advanced cleanup at such sites.

*The act became effective on July 1, 2017; Chapter No.: 2017-95*

#### **DERELICT VESSELS (CS/CS/HB 7043)**

CS/CS/HB 7043 passed the House on April 26, 2017, and subsequently passed the Senate on April 27, 2017.

In 2009, the Legislature required the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to explore policy options for regulating the anchoring and mooring of vessels outside the marked boundaries of public mooring fields (pilot program). The bill incorporates many of the findings and recommendations from the pilot program submitted to the Legislature in December 2016. The bill also allows certain private residential multifamily docks to use sovereignty submerged lands to exceed the number of moored boats to the number of residential units as authorized under former administrative rule, and allows FWC to establish boating-restricted areas to protect seagrasses on privately owned submerged lands if requested by the owner and certain conditions are met.

*The act became effective on July 1, 2017; Chapter No.: 2017-163*

#### **LAKE O/WATER RESOURCES (CS/SB 10)**

CS/SB 10 was the much anticipated bill to provide water storage south of Lake Okeechobee, including the Everglades Agricultural Area (EAA) reservoir project and the C-51 reservoir project. The bill was a top take home priority for Senate President Joe Negron, and he was made to pay dearly for leaning on Senators and getting House concurrence.

In 2015 the St. Lucie and Caloosahatchee estuaries experienced harmful discharges of excess water from Lake Okeechobee during an abnormally rainy winter and spring. Negron's hometown Stuart saw toxic algae blooms with green goo spreading into marinas and driving residents from water

front homes. At the same time Florida Bay within Everglades National Park lost vast seagrass areas due to hyper-salinity and related to a lack of freshwater flows. Negron responded by announcing last summer a plan to buy 60,000 acres of sugarcane land to build reservoirs that could hold 360,000 acre feet – roughly six inches of the lake’s surface.

Environmental groups and fishing captains rallied around Negron’s proposal but the sugar industry objected and financed a comprehensive campaign including creating the group #GladesLivesMatter to paint the Senate President’s proposal as harmful to economically disadvantaged communities in the EAA.

By mid-session Negron and bill sponsor Senator Rob Bradley gave up on the land purchase and passed a compromise bill that would place a smaller reservoir on 16,000 acres (A-2 site) of state owned land currently leased for sugarcane farming. The bill also authorized use of the proposed C-51 reservoir, a rock quarry on the edge of the EAA.

The bill passed with appropriations and statutory allocations of both Amendment 1 – Land Acquisitions Trust Fund dollars and general revenue, along with authorizing \$800 million in bonds. State and federal agencies are on a fast track to plan and implement the reservoirs.

Specifically SB 10:

- Creates s. 373.4598, F.S., establishing water storage reservoirs to reduce high-volume discharges of water from Lake Okeechobee to coastal estuaries. Along with terminating leases for sugarcane growing on some (not all) state owned land in the EAA, the bill allows for land acquisition – presumably to get inholdings within existing state lands and to add water quality treatment areas next to the reservoir.
- Directs state agencies to work the Army Corps of Engineers to change existing Everglades restoration project plans and seek Congressional authorization to plan and build the EAA reservoir on the A-2 lands.
- Provides for optional paths for construction of the reservoir with or without federal partnership.
- Also approves and provides financing for building a 60,000 acre-foot in-ground reservoir on a rock quarry site near Wellington to take excess Lake Okeechobee water. The plan is not clear on the ultimate fate of the water.
- Creates s. 446.71, F.S., establishing the Everglades Restoration Agricultural Community Employment Training Program (program) requiring the Department of Economic Opportunity (DEO), in cooperation with CareerSource Florida, Inc., to establish a program to provide grants to stimulate and support training and employment programs that seek to match persons who complete such training programs to nonagricultural employment opportunities in areas of high agricultural unemployment, to provide other training, educational, and information services necessary to stimulate the creation of jobs in the areas of high agricultural unemployment.

- Creates s. 373.475, F.S., establishing a water storage facility revolving loan fund requiring DEP to provide funding assistance to local governments or water supply entities for the development and construction of water storage facilities to increase the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems.
- Amends s. 403.890, F.S., to require revenues deposited into or appropriated to the Water Protection and Sustainability Program Trust Fund to be distributed to the alternative water supply program and the water storage facility revolving loan fund, and removes all other programs that were to obtain funding from the original trust fund.
- Amends s. 201.15, F.S., to authorize issuance of up to \$800 million in Florida Forever bonds for costs related to water storage reservoir projects (e.g., the EAA reservoir project and the C-51 reservoir project), including costs for land acquisition, planning, and construction.
- Amends s. 375.041, F.S., to allow Amendment 1 - LATF funding for the EAA reservoir project, the Lake Okeechobee Watershed Project, the C-43 West Basin Storage Reservoir Project, the Indian River Lagoon-South Project, the Western Everglades Restoration Project, and the Picayune Strand Restoration Project.

*The act became effective on May 9, 2017; Chapter No.: 2017-10*

#### **GENERAL APPROPRIATIONS ACT AND THE USES OF THE LAND ACQUISITION TRUST FUND (LATF) (SB 2500)**

SB 2500 General Appropriations Act and the Uses of the Land Acquisition Trust Fund (LATF)

In 2014 75% of Florida voters approved Amendment 1 designating 33% of documentary stamp taxes to water and land conservation purposes. Since passage there has been a great debate about the Legislature ignoring the obvious intent of the amendment and using much of the money for agency expenses rather than for buying conservation lands. The debate was amplified in the FY18 appropriations bill when legislators zeroed out land conservation.

The final FY18 appropriations bill, along with other bills making appropriations, spent \$1.969 billion of state and federal funds on programs that could be argued to be environmental somehow. Of those funds \$763 million came from the voter approved Land Acquisition Trust Fund. Some of the funds went to Everglades projects, springs conservation land management expenses, beach projects and paying down Florida Forever bond debt. However \$194 million went to agency operating expenses including paper towels in the DEP Secretary's restroom. An additional \$33 million was pushed into pollution control programs and another \$32 million is statutorily dedicated to subsidizing cleanup of pollution from fertilizer applied to sugarcane fields.

*The act became effective on June 2, 2017; Chapter No.: 2017-70*

## **LATF Litigation**

A number of environmental groups went to state court after the 2015 session to ask that up to \$300 million of the LATF be restored to actual conservation land acquisition spending. The case has made little progress. Two cases were consolidated in December and the environmental parties have amended their motions several times. The Florida Legislature hired outside counsel and has aggressively defended its appropriations bills.

## **HERBERT HOOVER DIKE REMEDIATION - LAKE OKEECHOBEE (HB 1-A)**

While Senate President Negron advanced new reservoir projects to reduce discharges from Lake Okeechobee, Governor Scott stuck stubbornly to the idea that putting more water in Lake Okeechobee would somehow reduce discharges of polluted water into coastal estuaries. During the special session he persuaded legislators to add an authorization and a one-time \$50 million appropriation to accelerate repair of the Herbert Hoover Dike around Lake Okeechobee, which is considered one of the nation's most dangerous (of collapsing and destroying lives and property in a huge flood) structures.

The bill creates Section 288.101, Florida Statutes - Florida Job Growth Grant Fund to promote economic opportunity by improving public infrastructure including infrastructure funding to accelerate the rehabilitation of the Herbert Hoover Dike. United States Army Corps of Engineers to implement this paragraph.

The bill also appropriates for the 2017-2018 fiscal year the nonrecurring sum of \$50,000,000 from the General Revenue Fund to the Department of Economic Opportunity for the Florida Job Growth Grant Fund for the Herbert Hoover Dike as provided in s. 288.101(2)(b).

*The act became effective on July 1, 2017; Chapter No.: 2017-233*

## **LOCAL PREEMPTION / ZONING FOR CHARTER SCHOOLS (CS/HB 7069)**

State law already allows charter schools to locate in colleges, universities, libraries, museums, performing arts centers, churches and certain other facilities, without changing their buildings' zoning or land-use designations. HB 7069 would loosen those rules even more for charter schools by providing that charter schools may use these facilities under their pre-existing zoning and land use designations "without obtaining a special exception, rezoning, land use charter, or any other form of approval."

*The act became effective on July 1, 2017; Chapter No.: 2017-116*

## **LOCAL PREEMPTION FOR BRANDING/SIGNAGE (CS/CS/HB 1021)**

Included in a bill generally dealing with construction are provisions preempting local governments from adopting or enforcing any ordinance or building permit or development order requirement that conflicts with or impairs the corporate branding for a franchise or imposes any requirement

on the design, construction or location of signage advertising the retail price of gasoline that prevents the signage from being clearly visible from certain roads.

*The act became effective on July 1, 2017; Chapter No.: 2017-149*

#### **LOCAL PREEMPTION FOR MEDICAL MARIJUANA TREATMENT CENTERS (SB 8-A)**

SB 8-A, enacted during Special Session A, implements Amendment 2, relating to medical marijuana. The bill preempts to the state, to some extent, the regulation of the cultivation, processing and delivery of medical marijuana by Medical Marijuana Treatment Centers, (MMTCs).

MMTCs may not be located within 500 feet of a public or private elementary/middle or secondary school. And cities and counties have some authority to regulate, by ordinance, MMTC dispensing facilities. Cities and counties may ban such facilities all together, but if they do not, then they may not limit the number. Cities and counties may establish criteria for the location of MMTCs, and other permitting requirements that do not conflict with state law or department rule, but these cannot be more restrictive than ordinances for pharmacies.

*The act became effective on June 23, 2017; Chapter No.: 2017-232*

#### **PUBLIC NOTICE OF POLLUTION/CONTAMINATED SITE CLEAN UP (CS/CS/SB 1018)**

Two high profile environmental incidents in 2016 resulted in Governor Scott ordering the Department of Environmental Protection ("DEP") to adopt an emergency rule requiring regulated interests experiencing releases of pollutants to make additional notifications, including notifying members of the media and local governments, when such incidents occur. Prior to expiration of the emergency rule, DEP proposed a replacement rule which was challenged. The Administrative Law Judge issued a final order invalidating the proposed rule due to a lack of authority for the rulemaking. This resulted in the filing of SB 532 in the Senate and HB 1065 in the House to address the pollution notification requirements. SB 532, by Senator Galvano, passed all committees in the Senate and passed the Senate. HB 1065 was not heard by any committee in the House. A compromise was developed late in the Session and amended on to SB 1018, which also addresses contaminated site cleanup. The compromise language significantly reduces the burden on the regulated community by requiring that the notifications be made to the DEP and that DEP then be required to post these notices on a website and to an e-mail list of those requesting the notifications. The notification is required to be made within 24 hours of the discovery of a release or discharge which is not authorized by law, and which is reportable to the State Watch Office within the Division of Emergency Management pursuant to any department rule, permit, order, or variance. Follow up notification is required when it is discovered that the pollution has migrated off site.

*The act became effective on July 1, 2017; Chapter No.: 2017-095*

#### **PUBLIC RECORDS (CS/CS/SB 80)**

CS/CS/SB 80 revises provisions governing awards of attorney's fees in connection with public records requests, and it addresses claims that the public records law was being abused by some

who were making unreasonable or abusive requests solely in an effort to obtain attorney's fees when the agency failed to promptly respond. The bill creates a "safe harbor" by requiring the court to award attorney's fees and costs to a complainant suing an agency to enforce a public records request only when the court determines the agency unlawfully refused access to a public record and a complainant provided a written request for the public records at least five days before filing the lawsuit. Such prior notice is not required if the agency does not post the record custodian's contact information in the agency's primary administrative building and on the agency's website.

If the court finds the complainant requested a public record or participated in the civil action for an improper purpose, the court may not award attorney's fees to the complainant and must require the complainant to pay the agency's attorney's fees and costs. An "improper purpose" is one in which a person requests records primarily to cause a violation of the public records law or for a frivolous purpose.

These new provisions apply to public records requests made on or after the effective date.

*The act became effective on May 23, 2017; Chapter No.: 2017-021*

#### **RENEWABLE ENERGY / IMPLEMENTATION OF AMENDMENT 4 (CS/SB 90)**

This bill implements Amendment 4 by prohibiting the consideration of 80 percent of the just value of property attributable to a renewable energy source device in determining the assessed value of any nonresidential real property. It creates an exemption equal to 80 percent of the value of a renewable energy source device from the tangible personal property tax. The prohibition and exemption only apply to devices installed after January 1, 2018, unless the devices are affixed to property owned or leased by the US Department of Defense, the devices supply JEA, or the devices were installed after August 30, 2016 as part of a 2-5 megawatt project on municipal land to supply a municipal electric utility. If a project in a fiscally constrained county files an application for a comprehensive plan amendment or PUD zoning before December 31, 2017, all devices installed as part of that project will be subject to tax. Creates Part II of Chapter 520 related to consumer protections regarding distributed energy generation system sales and leases for residential purposes.

*The act became effective on July 1, 2017; Chapter No.: 2017-118*

#### **RESOURCE RECOVERY & MANAGEMENT (CS/HB 335)**

CS/HB 335 is designed to facilitate the reuse of so-called "dirty plastics." The bill adds pyrolysis facilities to those facilities that are exempt from solid waste regulation if a majority of the specified materials are used or reused within one year. "Used or reused" includes conversion by gasification or pyrolysis of post-use polymers to crude oil, fuels, feed stocks or other raw materials. Facilities may still require a DEP recovered materials processing facility registration, air pollution permit and the like.

*The act became effective on July 1, 2017; Chapter No.: 2017-167*

## **RIGHT OF WAY/UTILITIES (CS/CS/HB 687)**

This bill creates the “Advanced Wireless Infrastructure Deployment Act.” Sets up a process to be used statewide for wireless providers to install certain wireless facilities in public rights of way. Defines “authority” as a county or municipality with jurisdiction and control of the rights-of-way of any public road. Excludes the Department of Transportation rights-of-way. Creates exemption for utility poles in certain specified retirement communities with certain deed restrictions and underground utilities. Creates exemption for certain municipalities on a coastal barrier island of less than 5 square miles and less than 10,000 residents which had has a referendum to issue bonds to pay for undergrounding of utilities. Defines “micro wireless facility” and “small wireless facility” by specified dimensions. Prohibits an authority from regulating, prohibiting or charging for the collocation of small wireless facilities in the public rights-of-way, unless otherwise authorized in the Act. Specifies requirements for permit application process by authorities, including time frames. Requires approval or denial of permits by electronic mail. Establishes conditions under which permits for collocation may be denied. Allows authority to adopt by ordinance provisions for insurance coverage, performance bonds, indemnification and other specified matters. Prohibits authorities from entering into exclusive arrangements for the right to attach equipment to authority utility poles. Sets rate to collocate small wireless facilities on an authority utility pole as “not to exceed” \$150 per pole annually. Existing agreements relating to collocation of these facilities with an authority remain in effect. Historic preservation zoning regulations may continue to be enforced. Privately owned utility poles, those owned by an electric cooperative or municipal electric utility, or a privately owned wireless support structure are exempt. Persons are not authorized to collocate small wireless facilities or micro wireless facilities on an authority utility pole in a location subject to covenants, conditions, restriction, articles of incorporation, and bylaws of a homeowners’ association; however, installation of micro wireless facilities on an existing and authorized aerial communications facility is permitted.

*The act became effective on July 1, 2017; Chapter No.: 2017-136*

## **DIED**

### **APA/AGENCY RULEMAKING/SERC (HB 1163/SB 1640)**

These measures would have required an agency to prepare a Statement of Estimated Regulatory Costs (SERC) before the adoption or amendment of *any* rule other than an emergency rule. The bills also would have required the agency to prepare an SERC for a rule repeal only if such repeal would impose a regulatory cost.

The measures also would have provided that, in any challenge to a rule repeal, the repeal must be considered presumptively correct by the adjudicating body.

HB 1163 passed the House; SB 1640 was reported favorable the first of three committees.

## **AQUIFER REPLENISHMENT (HB 751/SB 1438)**

CS/SB 1438 would have authorized the Florida Department of Environmental Protection (DEP) to:

- Place additional conditions on permits for underground injection intended to protect, augment, or replenish the state's ground water resources. These conditions can include the establishment of a zone of discharge for ground water standards and associated institutional controls to promote the conservation, reclamation, and sustainability of the state's ground water resources. Examples of institutional controls would include property interests, use restrictions and access controls, and well construction limitations.
- Develop rules establishing voluntary facility classifications and associated operator licensing requirements for treatment facilities that provide treatment for reclaimed water, stormwater, and other water resources as a means of promoting the availability of sufficient water for existing and future reasonable-beneficial uses and natural systems.

The bill died in the Appropriations Subcommittee on the Environment and Natural Resources.

## **ATTORNEY'S FEES/ADMIN PROCEEDINGS (SB 996 /HB 997)**

These measures would have required the Administrative Law Judge (ALJ) to award attorney's fees and costs to the prevailing party in a proceeding seeking to cancel or modify a permit having the effect of authorizing development of land. The ALJ would not be required to make this award against the challenger if the challenge was substantially justified or if special circumstances exist that would make the award unjust.

The measures were very controversial with environmental interest groups, and were temporarily postponed in the first committee of reference.

## **DOAH/APPOINTMENT OF ALJs) (HB 1225/SB 1352)**

These measures would have required the Governor (or the Governor and Cabinet) to appoint or re-appoint ALJs from nominees recommended by a nominating commission. The bills also specified the composition of the commission and the process by which the members of the commission would be appointed.

The bills also would have specified the length of the ALJs' terms of office (four years). The bills also would have reclassified ALJs from career service to select exempt service employees, thus allowing them to be fired without cause.

HB 1225 passed the House; SB 1352 past two of three committees.

## **ENVIRONMENTAL REGULATION COMMISSION (SB 198/ HB 861)**

Florida's Environmental Regulation Commission (ERC) is granted by statute the authority to set standards for a number of areas of environmental regulation. Proposed rules containing a standard that is covered must be submitted by the Secretary of the DEP for approval, modification, or

disapproval. The ERC is made up of seven individuals from the areas of local government, agriculture, science and technical, development, lay citizens and environmental community. In 2016 the ERC considered a rule proposal to change human health based water quality criteria and for the establishment of a new classification of waters. At the time of consideration, the ERC had two vacancies and only five members were serving. The vacant seats were designated for local governments and the environmental community. The ERC approved the proposal by a 3 to 2 vote. SB 198 and HB 861 were filed to address the concerns expressed primarily by the environmental community about the process utilized for adopting the new human health based water quality criteria. The bills proposed to require the Governor to appoint a new member of the ERC subject to confirmation by the Senate within 90 days after the occurrence of vacancy. The bills also proposed to require that approval, modification, or disapproval of a proposed rule be by simple majority unless the rule pertained to nine enumerated categories covering virtually all environmental requirements and standards, in which case the supermajority of five votes would be required. The Senate Bill moved through committees and was amended to delete the supermajority requirement and to provide that four affirmative votes of the ERC would be required to address rules in the areas of air pollution, water quality standards, and water quantity standards. The bill passed the Senate. The House Bill was also amended somewhat, but that bill died in committee. The Senate Bill died in messages. So, look for this issue to be considered again during the 2018 Legislative Session.

#### **ETHANOL/BIODIESEL/FUEL STORAGE (CS/HB 1353)**

The Federal Congress enacted the Energy Policy Act of 2005 requiring the use of ethanol for gasoline and biodiesel as an additive for ultra-low sulfur diesel fuel. However, Florida had enacted secondary containment fuel storage regulations prior to 2005. And, Florida's regulations may not be compatible with storing gasoline or diesel mixed with ethanol or biodiesel, thereby causing tank and piping damage. CS/HB 1353 would have authorized the following:

- The Department would have been authorized to use \$10 million dollars a year from the Inland Protection Trust Fund to financially assist operators of facilities with storage systems experiencing corrosion problems that required tank or piping replacement prior to the end of the useful life of the storage facility.
- Confirmation of corrosion by an expert consultant and a statement from a certified public accountant confirming the depreciated value of the tank or piping in order to qualify for financial assistance would have been required.

While CS/HB 1353 did not pass, SB 1018 did pass and contains provisions directing the Department to study the matter and report to the Governor, President of the Senate and Speaker of the House by December 15, 2017 and appropriating \$25,000 for the study.

#### **FLORIDA FOREVER (HB 7119)**

While HB 7119 did not pass, it appears to be aimed at eliminating funding for a number of programs including the water management districts' priority lists of water projects, acquisitions of state parks, and forestry projects.

## **FRACKING BAN (SB 98/SB 442)**

SB 98 was entitled the “Stop Fracking Act.”

Among other things the bill would have prohibited “extreme well stimulation” in Florida and prohibited DEP from issuing a permit that authorized extreme well stimulation.

A similar bill, SB 442, prohibiting “advanced well stimulation,” was reported favorable by one committee of reference.

## **LINEAR FACILITIES (SB 1048/ HB 1055)**

SB 1048 attempted to overturn a Third District Court of Appeal decision in a power plant siting case. The bill addressed two issues: application of specific local laws in a siting proceeding and the authority of the siting board to order undergrounding, or burying, of a transmission line.

The bill amended the exemptions from the land-use-consistency provisions of the Power Plant Siting Act (PPSA) and Transmission Line Siting Act (TLSA) to provide that they apply to established rights-of-way and corridors, to rights-of-way and corridors yet to be established, and to creation of distribution and transmission corridors.

The bill also established the standard to be used in authorizing variances in a site certification under the PPSA and the TLSA. It also provides that the PPSA and TLSA cannot affect in any way the Public Service Commission’s (PSC) exclusive jurisdiction to require transmission lines to be located underground.

SB 1048 died in Messages to the House on May 5, 2017.

## **LOCAL ETHICS REFORM/LOCAL LOBBYING (HB 7021)**

The bill proposed numerous changes to the Florida Code of Ethics (Part III, Chapter 112, Florida Statutes) related to local government officers, employees and lobbyists. Specifically:

- City council or commission members serving municipalities with \$5 million or more in total revenue and candidates for those offices must file full and public financial disclosure (long form disclosure, the same as constitutional officers) of their financial interests.
- All special district governing board members must complete 4 hours of approved ethics training annually.
- All local officers with a conflict of interest must not only abstain from voting but announce the conflict before participating in discussions of the measure.
- Any person wishing to lobby a local government entity must register as a lobbyist with the Florida Commission on Ethics.

- The Ethics Commission would have been authorized to issue advisory opinions.

### **LOCAL REGULATION PREEMPTION (CS/HB 17)**

Prohibits local governments from adopting or imposing new regulations on a business, profession, or occupation unless the regulation is expressly authorized by general law. Provides that the prohibition is effective July 1, 2017. Defines "local government" to mean a county, municipality, special district, school district, or political subdivision of the state. Defines "regulation" to mean a rule or regulation, license, permit, or requirement, along with any associated fee. Provides that the regulation of businesses, professions, and occupations is expressly preempted to the state and that local regulations are superseded unless expressly authorized by general law. Provides that local regulations enacted before July 1, 2017, but not expressly authorized by general law, may continue to exist until July 1, 2020, but may not be added to or modified except to repeal or reduce the regulation. HB 17 passed its first house committee reference (Careers and Competition) by 9-6 margin and ultimately died after not being heard in its second committee of reference (Commerce). Companion or substantially similar legislation was not filed in the Senate.

### **ONSITE SEWAGE TREATMENT (CS/CS/CS 285/SB 1748)**

The bills would have required:

- By January 1, 2019, the Department of Health ("DOH") must identify all onsite sewage treatment and disposal systems in the state including the operational conditions of the systems using only existing information available from a state or local commercial source.
- DOH would be prohibited from onsite inspections.
- By January 1, 2019, DOH must report to the Governor, Senate President and Speaker of the House with county-wide data from all counties and a state-wide map of all onsite sewage treatment and disposal systems.
- Section 689.30 would have been amended to require a seller of property to disclose and the buyer to acknowledge in writing at or before execution of a contract for sale that the property is served by an onsite sewage treatment and disposal system.

### **PLASTIC DISPOSABLE BAGS (SB 162/HB 93)**

Allows for certain local governments in coastal communities with a population of less than 100,000 to regulate or ban plastic bags as part of a pilot program that includes certain regulatory and data collection requirements. The term "coastal community" means a municipality that abuts or borders the Gulf of Mexico or Atlantic Ocean, or a saltwater bay, sound, straight, inlet, lagoon, salt marsh, coastal wetland, or other saltwater body immediately adjacent to the Gulf of Mexico or Atlantic Ocean. New taxes or fees on the use or distribution of plastic bags is prohibited under the terms of the proposed pilot program. Any regulation or ban must be enacted by ordinance, shall not take effect earlier than January 1, 2018, and must expire no later than June 30, 2020. Data on the impact of the pilot program must be submitted to the municipality at a public hearing allowing

for public comment, with a copy of the report also made available to the Department of Environmental Protection.

SB 162 passed its first senate committee reference (Environmental Preservation and Conservation) by 4-1 margin and ultimately died after not being heard in its second committee of reference (Community Affairs). Similar house legislation (HB 93, Richardson) was not heard in committee.

### **PRIVATE PROPERTY RIGHTS IN COMP PLANS (SB 940/HB 1309)**

The bills would have amended Section 163.3177, Florida Statutes, to require all counties and municipalities to include a property rights element within their comprehensive plans by a time certain (at its next evaluation and appraisal report or July 2019, whichever occurs first.) The bill directs that the property rights element must include principles, guidelines, standards and strategies to protect private property rights.

### **RECOVERED MATERIALS (CS/SB 1288/HB 1133)**

These measures would have added wood, asphalt and concrete to the list of recovered materials. Among other things, this change would have prohibited certain local government regulation of these materials and facilities.

Each bill passed its initial committee of reference.

### **STORMWATER (HB 751)**

HB 751 would have required local governments to adopt specified best management practices and measures as established by the Department of Environmental Protection. The bill provided that such practices and measures comply with certain water quality standards and prohibited adoption of more stringent standards.

HB 751 died in the House Natural Resources & Public Lands Subcommittee.

### **FEARLESS FORECAST:**

#### **CRC:**

CRC has been appointed and is meeting. Any amendments proposed will be on the November, 2018 General Election Ballot. Will require 60 percent to enact. \$2 million appropriation in the 2017-2018 budget with proviso language that requires majority approval of all CRC hires.