FLORIDA'S ENVIRONMENT, WATER POLICY, THE 2018 LEGISLATURE AND BEYOND

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PASSED

CLEAN WATER ACT SECTION 404 ASSUMPTION (HB 7043)

Under the Clean Water Act, the Corps (or a delegated State) must authorize the discharge of dredged or fill materials into wetlands via a section 404 permit. Time is money, and the Corps' issuance of a section 404 permit can take several months and even years, because unlike Florida agencies, the Corps is under no meaningful obligation to reach a decision within any timeframe. The 2018 Florida Legislature passed legislation (on nearly unanimous, bipartisan votes) that directs the State to assume 404 permitting authority, while maintaining federal water resource protections.

HB 7043 authorizes the Department of Environmental Protection (DEP) to assume administration of the Clean Water Act, Section 404, wetlands permitting program. The legislation provides that state assumption would streamline, but not merge, the current state and federal permitting processes. It grants the DEP rulemaking authority to adopt necessary rules to satisfy federal requirements to administer the program, and it clarifies that when state law conflicts with federal requirements, the federal requirements would apply to the state administered section 404 permits. The legislation incorporates by reference the exemptions from federal permitting requirements found in the Clean Water Act and rules for the state administered section 404 permits.

The passage of this legislation marks the beginning of the assumption process, not the end. Now the State of Florida needs to enter into memoranda of agreement with the EPA, Army Corps of Engineers, and Fish & Wildlife Service. The State also needs to complete rulemakings establishing the state program, and EPA must approve the program as meeting the Clean Water Act requirements.

The act became effective on March 23, 2018; Chapter No. 2018-88

BEACH ACCESS/CUSTOMARY USE (HB 631)

HB 631 prohibits a governmental entity from adopting or keeping in effect an ordinance or rule establishing customary use of privately owned dry sand areas. The bill creates a process for perfecting "recreational customary use" of a beach above the mean-high water line. The process requires the government intending to establish a recreational customary use must adopt a formal notice of its intent to affirm the existence of a recreational customary use on private beach property which would identify the properties over which the use would be affirmed, the recreational uses

of the property and the sources of evidence the government claims prove the existence of the recreational customary use.

The governmental entity is obligated to notify the owner of each parcel for which the use is claimed by certified mail at least thirty (30) days before adoption of the notice of intent, publish the notice in a newspaper of general circulation and post the notice on the government's website. Within sixty (60) days of notice adoption, the government must file a complaint with the Circuit Court requesting the court to issue a "Declaration of Recreational Customary Use" based on the evidence to be submitted. The burden of proof is on the government and proceedings under the new law are de novo.

The new law does not apply to ordinances or rules in effect before January 1, 2016. A governmental entity may raise customary use as an affirmative defense in proceedings challenging an ordinance or rule adopted prior to July 1, 2018.

The act became effective July 1, 2018; Chapter No. 2018-94

DEVELOPMENTS OF REGIONAL IMPACT (HB 1151)

The Development of Regional Impacts (DRIs) law was passed in 1972 as a temporary measure intended to event ually be replaced by local government comprehensive plans which became mandatory in the eighties. This bill essentially ends the DRI process for most developments, eliminates state and regional review of DRIs and Florida Quality Development projects, and transfers implementation of and amendments to DRI development orders to local governments.

The act became effective on April 6, 2018; Chapter No. 2018-158

LINEAR FACILITIES (HB 405)

HB 405 clarifies the boundaries of jurisdictional authority among the Florida Siting Board, Public Service Commission, and local governments in the siting of linear facilities, such as electric power transmission lines and pipelines.

Specifically, this bill makes three major clarifications. First, it clarifies that new linear facilities are not "development" under chapter 163 or chapter 380, so long as they are being sited in "to be established rights-of-way or corridors." Thus such linear facilities are not subject to a local government land development code. Second, it clarifies that when approving new linear facilities as part of a Power Plant Site Certification, the Siting Board may exercise its discretion to grant variances from otherwise applicable requirements of reviewing agencies and local governments for the same reasons as DEP can for variances under sect 403.201. Lastly, the bill clarifies that the public service commission has exclusive authority to require transmission lines to be located underground.

The rationale for the center point of the legislation is rooted in the basis for the Power Plant Siting Act. Back in 1973, the Legislature passed the Siting Act to create an "efficient, simplified, centrally coordinated, one-stop licensing process" for new, significant electric power generation and transmission line projects. The Siting Act balances the State's interest in ensuring that our communities have necessary electric power with the parochial interests of local governments.

A judicial decision by the Third District Court of Appeal upset that historic balance, when the Court held that local land development codes can apply to transmission lines. Due to the Third District's opinion, prior to the certification process, a utility would have to go to every local government through which the transmission line corridor may pass and modify the land use plats to allow for transmission lines in to-be-established rights of way. This legislation reestablishes prior understandings regarding the inapplicability of land development codes to linear facilities sited in to-be-established rights of way.

The act became effective on March 19, 2018; Chapter No. 2018-34

MILITARY BASE PROTECTION (HB 1173)

Topically, CS/CS/HB 1173 covers matters such as military base protection land purchases, land purchase for Areas of Critical State Concern ("ACSC"), valuation of land for state purchase, authorized uses of certain state lands and the use of tourist impact tax revenues. The bill provides:

- Sections 253.025(21) and 288.980.(2)(b), Florida statutes add the following procedures to the Military Base Protection Program:
    - The Department of Economic Opportunity ("DEO") must annually request military installations in Florida to submit a list of base buffering encroachment lands for possible purchase by October 1.
    - DEO must submit the list of lands to the Florida Defense Support Task Force ("FDSTF") for review.
    - FDSTF must review the list and provide ranking recommendations by December 1.
    - The Division of State Lands must apply the Uniform Appraisal Standards for Federal Land Acquisitions to the selected properties.
    - The Board of Trustees must disclose the appraisal to the seller if federal partnership funds are available.
    - The Board of Trustees may lease or convey the acquired buffer lands to the military installation at less than appraised value.
- Section 380.0555(22), Florida Statutes is amended to expand the Apalachicola Bay ACSC designation to provide affordable housing and protect the water quality of the area through federal, state and local funding of water quality improvement projects. The legislation also authorizes the Board of Trustees within an ACSC to prevent or satisfy private property rights claims resulting from limitations imposed by the ACSC designation by using Florida Forever funds.
- Section 380.0666(3), Florida Statutes is amended to authorize each land authority to use tourist impact tax funds to pay costs related to affordable housing projects.

- Section 259.105(4), Florida Statutes is amended to add criteria the Acquisition and Recreation Council must use to evaluate proposed Florida Forever projects including mitigation of natural disasters and floods in developed areas.

The act became effective on April 6, 2018; Chapter No. 2018-159

RATIFICATION OF ST. JOHNS RIVER WATER MANAGEMENT DISTRICT RULES (HB 7035)

- In June 2017, the St. Johns River Water Management District (SJRWMD) adopted by rule the minimum flow and water level (MFL) for Silver Springs, which is an Outstanding Florida Spring (OFS).

- If an OFS is below or projected to fall below the MFL within 20 years, then concurrent adoption of a recovery or prevention strategy is required.

- Currently, the MFL is being met; however, by 2025, the projected water use demands of the area cannot be met under the established frequent low flow for the OFS.

- Accordingly, the SJRWMD concurrently moved to adopt proposed rule 40C-2.101, F.A.C, establishing a prevention strategy for the OFS, which includes the development of additional water supplies and other regulatory action to prevent the existing flow or water level from falling below the established MFL.

- A statement of estimated regulatory costs (SERC) must be prepared if a proposed rule will have an adverse impact on small business or is likely to directly or indirectly increase regulatory costs in excess of $200,000 aggregated within one year after implementation. If the SERC shows that the adverse impact or regulatory costs of the proposed rule exceeds $1 million in the aggregate within five years after implementation, then the proposed rule must be submitted to the Legislature for ratification. The SJRWMD's SERC indicates that the proposed rule will exceed $1 million aggregated within five years after implementation. Accordingly, proposed rule 40C-2.101, F.A.C., was submitted to the Legislature for ratification.

- The bill ratifies the SJRWMD's proposed consumptive use rule, proposed rule 40C-2.101, F.A.C., which will be incorporated into the SJRWMD's "Applicant's Handbook, Consumptive Uses of Water." The bill serves no other purpose and will not be codified in the Florida Statutes.

The act became effective on March 19, 2018; Chapter No. 2018-41

APPROPRIATIONS (HB 5001)

The 2018 Legislature approved the largest appropriations bill ever, $88.7 billion dollars. Notable environmental appropriations include the following:

- $100 million dollars for the Florida Forever program.
- $175 million dollars for the Everglades.
- $50 million dollars for the Herbert Hoover Dike.
- $30 million dollars for various water projects.

VETOED

WASTEWATER/AQUIFER RECHARGE (HB 1149)

This omnibus environmental legislation addressed sundry environmental regulations. It was ultimately vetoed by the Governor due to his stated concerns over potential unintended consequences associated with the reclaimed water provisions in the bill. It is a potpourri of environmental topics that include SB 244 (wastewater collection and assessment, reuse and aquifer recharge), CS/CS/HB 837 (C-51 Reservoir) and potions of CS/CS/HB 7063 (myriad environmental and natural resources topics including conservation lands). Specifically, the vetoed legislation addressed the following:

- Section 373.250, Florida Statutes is amended to provide examples of reclaimed water use that may create impact offsets or substitution credits, concepts that allow use of reclaimed water to eliminate impacts of surface or groundwater withdrawals or to substitute reuse water for a portion of a permitted use. Examples given include prevention of salt water intrusion or raising aquifer water levels.

- Section 373.250(5)3, Florida Statutes is created directing DEP to revise its rules to include criteria by which impacts of consumptive use permit ("CUP") withdrawals by a utility may be offset by an impact offset or substitution credit of reuse water.

- Section 403.064(1), Florida Statutes is amended to encourage aquifer recharge for reuse implementation. The water management districts and DEP are directed to enter into a memorandum of agreement for coordinated review and permitting of any reclaimed water project.

- Section 373.413(7), Florida Statutes is created to allow DEP in coordination with the water management districts to adopt rules that will authorize reissuance of an expired environmental resource permit ("ERP") if the applicant can show that the project could not reasonably be completed before the ERP expired, site conditions have not changed and no more than three (3) years have passed since the permit expired.

- Section 403.813(1), Florida Statutes is amended to prohibit a local government from requiring a person claiming an ERP exemption to provide further verification from DEP.

- Section 403.813(13), Florida Statutes is amended to authorize dock or pier replacement pursuant to a DEP exemption if the facility is within five (5) feet of the original facility, is no larger than the original facility and no additional aquatic resources are impacted.

- Section 373.4135, Florida Statutes is amended to allow governmental entities to provide offsite regional mitigation areas established before December 31, 2011 when credits are not available from a private mitigation bank.

- Section 373.4598(9), Florida Statutes is amended primarily to require that funds appropriated for Phase I or Phase II of the C-51 water storage project must be focused on reduction of high volume discharges from Lake Okeechobee to the St. Lucie and Caloosahatchee estuaries. The bill also authorizes for the South Florida Water Management District to enter into capacity allocation agreements with a water supply entity for a pro rata share of unreserved capacity in the C-51 Reservoir.

- Section 403.1839, Florida Statutes creates the blue star collection system assessment and maintenance program. The program would serve as a voluntary incentive program to assist public and private utilities in limiting sewer system overflows and the unauthorized release of pathogens.

- Section 403.067, Florida Statutes is amended to require DEP to presume compliance with water quality standards for pathogens when the utility demonstrates a history of compliance with wastewater disinfection requirements for any discharge into an impaired surface water and the utility maintains a program as a certified blue star utility.

- Section 403.087, Florida Statute creates an additional opportunity for a utility to qualify for a ten (10) year permit.

- Section 403.1839, Florida Statutes provides DEP authority to reduce a penalty assessed under Section 403.161 for sewer overflow if the utility is blue star certified.

During the House debate over the legislation, an interesting amendment was introduced that would have delayed certain septic tank requirements in springs areas. This amendment, which was based on the asserted absence of cost-effective nitrogen removing onsite treatment system options, may foretell future legislative discussions, as the economic impacts of the 2015 springs legislation are realized.

The bill was vetoed by the Governor on April 6, 2018

DIED

ADMINISTRATIVE PROCEDURES/SERC (HB 83/SB 912)

Under current law, an agency is required to prepare a SERC only if there is an adverse impact on small business or if the proposed rule is likely to directly increase regulatory costs in excess of $200,000 in the aggregate within one year after implementation of the rule. HB 83 and SB 912 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 a 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 83 passed the House; SB 912 was reported favorably by the first of three committees. Similar legislation also passed the House, but not the Senate, in 2017.

AGENCY RULEMAKING (HB 941/SB 1410)

HB 941 and SB 1410 include recommendations from the Joint Administrative Procedures Committee (JAPC) for changes to the APA. Among other things, this legislation would have required each agency to periodically review its rules for consistency with the powers and duties granted by the applicable enabling statutes.

The bills also would have required the Division of Administrative Hearings (DOAH) to serve all documents on all parties of record. Parties to the proceeding who file electronically are then relieved of the duty to serve other parties who are registered for electronic filing.

HB 941 passed the House; SB 1410 was never heard in committee.

AUXILIARY CONTAINERS/DISPOSAL PLASTIC BAGS USED BY RETAIL ESTABLISHMENTS (HB 6039/SB 1014)

These measures would have repealed the current state law enacted in 2008 (s. 403.7033, F.S.) that prohibits state agencies and local governments from adopting regulations on plastic bags and other single-use plastic objects. Neither bill was ever heard in committee; similar legislation also was filed in 2017.

Note: A circuit judge has declared the 2008 law (and two other similar state statutes) unconstitutional, and that decision is the subject of a pending appeal. *Florida Retail Federation, Inc. and Super Progresso, Inc. v. The City of Coral Gables, Florida*, Case No. 3D17-562.

BASIN MANAGEMENT ACTION PLANS (SB 1664)

SB 1664 would have required the development of an onsite sewage treatment and disposal system remediation plan as part of a basin management action plan (BMAP) if the DEP determines that remediation is necessary to meet a total maximum daily load (TMDL). Specifically, the bill would have:

- Authorized the DEP to identify one or more priority focus areas in order to promote cost-effective remediation.
- Required the DEP, as part of the development of a BMAP to:
    - Evaluate the need for the creation or improvement of wastewater treatment facilities to meet a TMDL; and

    - Identify funding sources available to the relevant local governments for the creation or improvement of wastewater treatment facilities.
- Authorized and encourages the DEP and the relevant Water Management Districts (WMDs) to enter into cost-share agreements with the relevant local governments for the creation or improvement of wastewater treatment facilities.
- Provided criteria for projects to which the DEP must give priority for funding purposes.
- Provided that onsite sewage treatment and disposal systems on lots of one acre or less must conform to the requirements of the remediation plan.
- Required the DEP to help develop a public education plan about water pollution from onsite sewage treatment and disposal systems.

SB 1664 bill died in committee.

ENVIRONMENTAL REGULATION COMMISSION (HB 203/SB 316)

These bills would have required the Governor to appoint a new member of the Environmental Regulation Commission (ERC) within 90 days after the occurrence of a vacancy on the Commission. The bills also would have removed the language that authorizes the Governor to fill a vacancy at any time for the unexpired term of a Commissioner.

As originally filed, the bills also would have required a minimum of four affirmative votes to approve or modify a proposed rule submitted to the ERC that pertains to air quality standards or water quality standards.

The Senate Bill was reported favorably by two of the three referenced committees; the House Bill was reported favorably by the first of three committees of reference. Similar legislation failed to pass in prior years, too.

FRACKING (HB 237/SB 462/SB 834)

All three bills prohibit the DEP from authorizing "advanced well stimulation treatment", a process of either fracturing rock strata or dissolving strata as a means of increasing the flow of oil during the development of an oil well. All bills died in committees.

INLAND PROTECTION (HB 1075/SB 1438)

DEP regulates underground and aboveground storage tank systems in an effort to protect Florida's groundwater from past and future petroleum releases. DEP may establish criteria for the prioritization, assessment and cleanup, and reimbursement for cleanup of areas contaminated by leaking underground petroleum storage tanks.

The Petroleum Restoration Program (PRP) establishes the requirements and procedures for cleaning up contaminated land, as well as the circumstances under which the state will pay for the cleanup. To fund the cleanup of contaminated sites, the Legislature created the Inland Protection Trust Fund (IPTF). An excise tax per barrel on petroleum and petroleum products in or imported into the state funds the IPTF. In response to significant discharges of drycleaning solvents at drycleaning facilities as part of the normal operation of these facilities, the Legislature created the

Drycleaning Solvent Cleanup Program (program) because these discharges pose a significant threat to the quality of the state's groundwater and inland surface waters.

The program facilitates remedial measures, provides reliable alternative sources of water, encourages real property owners to voluntarily cleanup property contaminated with drycleaning solvents, and improves the marketability and use of property contaminated with drycleaning solvents.

DEP may use funds from the Water Quality Assurance Trust Fund (WQATF) to rehabilitate contaminated facilities. The WQATF receives its funds from taxes collected on gross receipts on all charges imposed by the drycleaning facility or the dry drop-off facility for the drycleaning or laundering of clothing or other fabrics; taxes collected on each gallon of perchloroethylene sold; fees collected for registration of drycleaning facilities and wholesale supply facilities; and all penalties, judgments, recoveries, reimbursements, loans, and other fees and charged under the drycleaning solvent cleanup program.

These bills sought to expand the use of the Inland Protection Trust Fund (IPTF), traditionally used for petroleum contamination site cleanup, for use for the Drycleaning Solvent Cleanup Program (program). Specifically, the bills:

- Required a minimum of $150 million to be appropriated annually to the IPTF;
- Directed $30 million annually from the IPTF to the WQATF for the program;
- Authorized the WQATF to receive $30 million annually from the IPTF for use in the program; and
- Required DEP to create, by rule, a scoring system to assign state contractors to program tasks and sites.

Both bills died in committee.

PUBLIC MEETINGS (HB 79/SB 192)

HB 79 and SB 192 would clarify that "de facto meetings," are subject to the Sunshine Law and would define key terms, including "de facto meeting." The bills also would specify the conditions under which members of a board or commission may participate in fact-finding exercises or excursions. The Senate Bill passed the Senate; the House Bill was reported favorably by all committees of reference, but died on the House Calendar.

PUBLIC RECORDS/SHADE MEETINGS (HB 439/SB 560)

HB 439 and SB 560 would allow local governments to go into "shade" meetings if litigation is "imminent," rather than having to wait until litigation is actually filed. The House Bill was reported favorable by the initial committee of reference; the Senate Bill was reported favorable by all three committees of reference, but died on the Senate Calendar.

REGULATORY REFORM (HB 791/SB 1268)

HB 791 and SB 1268 would have created a Red Tape Production Advisory Council within the Executive Office of the Governor. The Council would be required to annually review the *Florida Administrative Code* to determine whether any rules are duplicative, obsolete, especially burdensome to business or disproportionately affect businesses with fewer than 100 employees or revenue below $5 million. The bills would have provided that if the Council were to find that a rule meets one or more of these criteria and that it can be repealed or amended with minimal impact on public health, safety and welfare, the Council would have been required to recommend repealing or amending the rule. The Council also would have been required to provide an annual report with its rule recommendations to the Governor, the President of the Senate, Speaker of the House of Representatives and to the Joint Administrative Procedures Committee for the purposes of publishing the report.

The bills also would require JAPC to establish a regulatory baseline in the APA consisting of the total number of agency rules that are in effect on January 1, 2019. Once this baseline had been established, the adoption of a proposed rule would not have been allowed to cause the total number of rules to exceed this regulatory baseline. If an agency proposes a rule that would exceed the regulatory baseline, the agency would have been required to submit a rule replacement request, by proposing to repeal one or more existing rules to maintain the regulatory baseline. An agency would also have been allowed to request that a proposed rule be exempt from the regulatory baseline by submitting an exemption request to JAPC. However, JAPC would not have been authorized to approve an exemption request or a rule replacement request that provides fewer than two rules for repeal or replacement until the total number of rules was 35 percent below the regulatory baseline. JAPC would have been required to submit an annual report providing the percentage reduction and the total number of rules compared to the regulatory baseline. In addition, each agency's annual regulatory plan would have been required to identify existing rules that may be appropriate for future repeal to maintain the regulatory baseline. Finally, the bill would have required JAPC to examine each existing rule for compliance with the APA every four years.

The House Bill was reported favorably by its first two committees of reference. The Senate Bill was never heard.

SEA LEVEL IMPACT PROJECTION (SB 542)

SB 542 would prohibit commencement of construction of certain state-financed structures in coastal areas without first conducting a sea level impact projection study and having it approved and published by DEP. The bill was referred to four committees in the Senate; no House companion was filed.

TREE AND VEGETATION REMOVAL (CS/CS/HB 521/SB 574)

Currently, certain municipalities and counties have attempted to impose permitting and costly mitigation requirements on special districts with responsibility for water management and flood control facilities. CS/CS/HB 521 would have exempted water management districts, water control districts and special districts with statutory authority granted by Chapter 298, Florida Statutes from

requiring local government permits to maintain or remove vegetation including trees from established district rights-of-way. The bill passed the House but died in Senate Messages.

VEGETABLE GARDENS (SB 1776)

SB 1776 would prohibit a county, municipality, or other political subdivision of the state from regulating vegetable gardens on residential properties. Additionally, any such local ordinance or regulation regarding vegetable gardens on residential properties would be void and unenforceable. However, the bill would allow local governments to adopt a local ordinance or regulation of a general nature that does not specifically regulate vegetable gardens, including, but not limited to, regulations and ordinances relating to water use during drought conditions, fertilizer use, or control of invasive species. Alert readers will note that this measure was prompted by the ruling in *Ricketts and Carroll v. Village of Miami Shores*. Along the way, the sponsor offered, but then withdrew, an amendment that would have preempted to DACS the regulation of the use or sale of food service utensils, including forks, knives, spoons, plates, napkins and straws by certain entities. The bill passed the Senate; both not considered in the House.

CONSTITUTION REVISION COMMISSION PROPOSALS

The Florida Constitution Revision Commission wrapped on April 16th, having approved eight amendments for the November 2018 ballot. These amendments will join five amendments already on the November ballot. Each of these proposals will need to pass by 60% in the election in order to become law. Following is a brief summary of all 13 amendments, the last eight of which are products of the CRC:

INCREASED HOMESTEAD PROPERTY TAX EXEMPTION (Amendment 1): Increases by up to $25,000 the current homestead exemption from non-school taxes by exempting the assessed value of a home between $100,000 and $125,000.

LIMITATIONS ON PROPERTY TAX ASSESSMENTS (Amendment 2): Removes the scheduled January 1, 2019, repeal of the 10-percent assessment limitation on non-homesteaded property.

VOTER CONTROL OF GAMBLING (Amendment 3): Provides voters the "exclusive right to decide whether to authorize casino gambling in the State of Florida."

RESTORING VOTING RIGHTS (Amendment 4): Automatically restores the right to vote for people with prior felony convictions, except those convicted of murder or a felony sexual offense, upon completion of their sentences.

SUPERMAJORITY VOTE REQUIRED TO IMPOSE, AUTHORIZE, OR RAISE STATES TAXES OR FEES: (**Amendment 5**): Requires any new fee or tax imposed, authorized, or raised by the Legislature must be approved by two-thirds of the membership of each house of the Legislature.

VICTIMS' RIGHTS AND JUDGES (Amendment 6): Establishes a series of rights for crime victims, including the right to be notified of major developments in criminal cases and the right to be heard in legal proceedings. It increases the mandatory retirement age for judges from 70 to 75. It also

provides that judges or hearing officers should not necessarily defer to the interpretation of laws and rules by governmental agencies in legal proceedings.

FIRST RESPONDERS AND HIGHER EDUCATION (**Amendment 7**): Requires the payment of death benefits when law enforcement officers, paramedics, correctional officers and other first responders are killed while performing official duties. It also applies to Florida National Guard and active-duty military members stationed in Florida. It establishes a governance system for the 28 state and community colleges. It also requires a supermajority vote by university boards of trustees and the Board of Governors when raising student fees.

PUBLIC SCHOOLS (**Amendment 8**): Imposes an eight-year term limit on school board members. It allows an alternative process for approving public schools, including charter schools, rather than by local school boards. It also establishes a requirement for the teaching of civic literacy in public schools.

OIL DRILLING AND VAPING (**Amendment 9**): Prohibits drilling for gas and oil in state coastal waters and bans vaping and the use of electronic cigarettes in workplaces.

GOVERNMENTAL STRUCTURE (**Amendment 10**): Requires all charter-county governments to have elected constitutional officers, including sheriffs. It also dictates that the Legislature shall convene its annual session in January in even-numbered years. It creates an Office of Domestic Security and Counterterrorism in the Department of Law Enforcement. Finally, it revises the constitutional authority for the Department of Veterans' Affairs.

PROPERTY RIGHTS AND HIGH-SPEED RAIL (**Amendment 11**): Removes language that prohibits "aliens ineligible for citizenship" from owning property. It also removes obsolete language that authorizes a high-speed rail system. It revises language to make clear that the repeal of a criminal statute does not affect the prosecution of any crime committed before the repeal.

ETHICS (**Amendment 12**): Imposes a lobbying ban on former state elected officials, state agencies heads and local elected officials. The proposal prohibits public officers, including elected officers in special districts with ad valorem taxing authority, from lobbying for compensation before any government body or agency during their term of office. In addition, public officers may not lobby their former agency or governing body for a period of six years after leaving office. It also create a new ethics standard that prohibits public officials from obtaining a "disproportionate benefit" from their actions while in office.

In particular, if adopted this Amendment would amend Section 8 of Article II of the State Constitution to:

- Prohibit legislators and statewide elected officers from personally representing another person or entity for compensation before the legislature or any state government body or state agency except judicial tribunals for six years following vacation of office.

- Prohibit legislators and statewide elected officers from personally representing another person or entity for compensation during term of office before any federal agency; the

legislature; any state government body or agency other than judicial tribunals; or any political subdivision of the state.

- Prohibit state appointed officers from personally representing another person or entity for compensation before the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department for a period of six years following vacation of his or her position.

- Prohibit state appointed officers during service from personally representing another person or entity for compensation before any federal agency; the legislature; any state government body or agency other than judicial tribunals; or any political subdivision of the state.

- Prohibit county officers pursuant to Article VIII or a county charter, school board members, superintendent of schools, elected municipal officers, or elected special district officers in special districts with ad valorem taxing authority from personally representing another person or entity for compensation before his or her former agency or governing body for a period of six years following vacation of office, or before any federal agency; the legislature; any state government body or agency other than judicial tribunals; or any political subdivision of the state during his or her term of office.

GREYHOUND RACING (**Amendment 13**): Bans greyhound racing at Florida tracks after Dec. 31, 2020.

CRC PROPOSALS THAT DIED

PROPOSAL 23 – NATURAL RESOURCES AND SCENIC BEAUTY

Proposal 23 gave every person a right to a clean and healthful environment, including clean air and water; control of pollution; and the conservation and restoration of the natural, scenic, historic, and aesthetic values of the environment as provided by law. The proposal allowed any person to enforce this right against any party, public or private, as provided by law.

The proposal appeared to expand the parties that may have legal standing to initiate or intervene in civil or administrative legal actions. It seemed to create a new legal cause of action that previously did not exist. It also could have had the effect of allowing a legal action against an entity that is impacting the environment in accordance with law.

The exact extent or nature of such legal action remains unknown, but may have included administrative, civil, or criminal legal actions.

Proposal 23 died in committee.

PROPOSAL 24 – COMMISSIONER OF ENVIRONMENTAL PROTECTION

Proposal 24 sought to increase the size of the Florida Cabinet to four members. The proposal created a Commissioner of Environmental Protection to serve as a statewide elected officer and member of the Florida Cabinet. The proposal provided that the Commissioner of Environmental Protection supervise matters pertaining to environmental protection that are required or authorized by law to DEP (or its successor agency) and water management districts.

The proposal expanded the number of trustees of the Internal Improvement Trust Fund and the Land Acquisition Trust Fund to include the Commissioner of Environmental Protection.

Proposal 24 would have taken effect January 3, 2023. However, the proposal died in committee.