

Florida League of Cities, Inc.

Legislative Bulletin

Volume 37 - Issue 12: May 9, 2011

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Words from the Legislative Director

2011 Legislative Session Adjourns

This is the final edition of the *Legislative Bulletin* for the 2011 session. The Legislature adjourned sine die at 3:30 a.m. on Saturday, May 7. For a comprehensive summary of bills that passed or failed in the 2011 session, please stay tuned for the League's *Final Report* on the 2011 session. It will be published in late-May. Please contact the League if you have questions about the status of any bill.

[Full Article](#)

Budget Summary

Budget Summary

The Florida Legislature has passed the nearly \$70 billion budget. The Legislature swept almost \$530 million to close the \$3.8 billion shortfall, including \$193 million from what currently remains in the Sadowski Trust Fund. The House and Senate have also agreed to permanently redirect documentary stamp tax revenues from the Sadowski Trust Fund to the state's general revenue.

[Full Article](#)

FLC Legislative Priorities

Relating to State Revenue Limitation

CS/SJR 958 (Senate Budget Subcommittee on Finance and Tax) is an amendment to the state constitution to revise the existing limitation on state government revenue. The new state revenue cap will be based on inflation and population changes. The constitutional amendment requires 60 percent of the voter approval at the 2012 general election. CS/SJR 958 passed the Legislature.

[Full Article](#)

Governmental Reorganization - Economic Development

SB 2156 (Senate Budget Committee) is comprehensive legislation streamlining, repealing and redefining various agency duties and functions. The bill creates a new state agency, the Florida Department of Economic Opportunity, which is charged with consolidation of state government, reducing regulations and avoiding duplicative oversight. The bill provides for a transition period for the transfer of agencies to be completed by October 1, 2011. SB 2156 transfers the Florida Communities Trust program and the Stan Mayfield Working Waterfronts program from the Department of Community Affairs to the Department of Environmental Protection.

[Full Article](#)

Energy

CS/SB 2078 (Senate Communications, Energy, and Public Utilities Committee) and HB 7217 (House Energy and Utilities Subcommittee) were comprehensive energy-related bills that addressed renewable energy, energy conservation and economic development. Generally, the bills revised the current statements of legislative intent with respect to Florida's energy policy and the development of renewable energy. Both bills authorized public utilities, subject to specified conditions, to recover the costs to produce or purchase renewable energy. The bills required a utility to purchase renewable energy from renewable energy resources other than solar energy.

[Full Article](#)

Growth Management (Support)

HB 7207 (Select Committee on Government Reorganization), this year's comprehensive growth management reform, was passed as a conforming bill that was added onto the budget. HB 7207 is composed of compromise language between the House and Senate versions of HB 7129 and SB 1122. HB 7207 largely removes state government oversight from the comprehensive planning process. The bill makes the existing pilot program for expedited review of comprehensive plan amendments applicable statewide.

[Full Article](#)

Pension Reform (Support – FLC Priority)

CS/CS/SB 1128 (Ring) provides the following reforms for local pensions, including police and fire pensions:

[Full Article](#)

Public Officers/Severance Pay (Oppose – FLC Priority)

CS/CS/CS/SB 88 (Gaetz) restricts severance pay for any public officer, agent, employee or contractor. The bill allows up to 20 weeks of severance pay under limited circumstances. Employment contracts entered into before July 1, 2011, that have severance pay provisions are grandfathered, but a contract renewal or renegotiation after July 1, 2011, requires compliance with the restriction. The bill permits severance pay if it represents settlement of an employment dispute, but the severance is limited to six weeks.

[Full Article](#)

Major Bills That Passed - Education

Charter Schools (Oppose)

CS/CS/CS/SB 1546 (Thrasher) exempts charter schools from payment of proportionate share mitigation, which expands a current exemption from payment and impact fees and other exactions. The bill includes a preemption of local government site development restrictions, such as parking or size of the school, and requires local governments to provide a level of regulation consistent with that accorded to public schools. CS/CS/CS/SB 1546 passed the Legislature. (Pratt).

[Full Article](#)

Major Bills That Failed - Energy & Environmental

Consumptive Use Permits and Reclaimed Water (Support)

HB 1001 (Williams, T.) and CS/CS/SB 1514 (Latvala) required consumptive use permits (CUP) to be issued for a period of 20 years and revised the authority of the governing board of a water management district to issue CUPS for up to 50 years under certain conditions. HB 1001 and CS/CS/SB 1514 eliminated requirements for permit compliance reports to be submitted every five years and repealed the authority of the Department of Environmental Protection (DEP) and water management district governing boards to modify or revoke consumptive use permits. The bills authorized the establishment of “mandatory reuse zones” by authorizing a local government to require water users to connect to a reclaimed water system for irrigation and other nonpotable uses. HB 1001 and CS/CS/SB 1514 created a new 20-year sustainable water use permit and established the permit application and issuance requirements, as well as the monitoring, compliance and performance requirements for these permits.

[Full Article](#)

Water Management District/Basin Boards Governance (Support)

CS/CS/HB 649 (Pilon) and CS/SB 882 (Detert) would have revised the makeup of water basin boards and the functions and operations of a basin board. The bills clarified local government authority to adopt ordinances that implement landscape irrigation restrictions set forth in water management district rules or orders. CS/CS/HB 649 died in Senate messages, and CS/SB 882 died in the Senate Budget Committee. (Dudley).

[Full Article](#)

Ocean Outfalls (Support)

CS/HB 613 (Trujillo) and CS/CS/SB 796 (Diaz de la Portilla) would have extended the current compliance deadlines from December 2025 until December 2030 prohibiting ocean discharges

by waste water treatment plants. The bills also exempted a percentage of the utilities' peak flows from both the advanced wastewater treatment standards of discharges through ocean outfalls and the prohibition on discharges through ocean outfalls entirely. The Department of Environmental Protection was required to submit a report to the Legislature by February 15, 2019, detailing any changes needed to the reuse requirement. CS/HB 613 died in Senate messages, and CS/CS/SB 796 died in the Senate Budget Committee.

[Full Article](#)

Onsite Sewage Treatment and Disposal Systems (Oppose)

HB 13 (Coley) and CS/CS/CS/SB 1698 (Dean) would have repealed legislation adopted during the 2010 session creating a mandatory statewide onsite sewage treatment disposal systems (septic tank) evaluation program. HB 13 simply eliminated the inspection program, the procedures and criteria for the evaluation and inspection program, as well as the grant program established to subsidize the cost of repairing septic systems. CS/CS/CS/SB 1698 required local governments to adopt a "model" septic tank inspection program for some or all of the area within their boundaries. Local governments were authorized to opt out of enacting an inspection program, except those local governments within a springshed area.

[Full Article](#)

Environmental Permitting (Oppose)

CS/CS/CS/HB 991 (Patronis) and SB 1404 (Evers) addressed a variety of regulatory and permitting issues. SB 1404 was never heard by any Senate committee; thus, there were substantial differences between CS/CS/CS/HB 991 and SB 1404. Of primary concern was language in the bills prohibiting municipalities from requiring that, as a condition of approval for a development permit, an applicant obtain a permit or approval from any other state or federal agency. Local governments would have been protected from liability if an applicant failed to meet state or federal standards and were authorized to include as a permit condition, a requirement that all applicable state or federal permits be obtained prior to development.

[Full Article](#)

Water Management Plans and Programs (Support)

CS/CS/HB 389 (Glorioso) and CS/CS/SB 934 (Storms) authorized local governments that have created a community redevelopment area or an urban infill and redevelopment area to develop and adopt a stormwater adaptive management plan that addresses the quantity and quality of stormwater discharges for the redevelopment or infill area. The bills also established a process for the local government to obtain a conceptual permit from the water management district or Florida Department of Environmental Protection. Urban redevelopment projects that met the criteria established in the conceptual permit would have qualified as a noticed general permit that authorized construction and operation for the duration of the conceptual permit. CS/CS/SB 934 died on the Senate calendar, and CS/CS/HB 389 died in Senate messages.

[Full Article](#)

Fertilizer Regulations (Oppose – Preemption)

CS/CS/CS/HB 457 (Ingram) and CS/SB 606 (Evers) would have preempted local government authority to ban the sale of urban fertilizers and modified the process by which a local government could adopt fertilizer management practices that are more stringent than the

statutory Model Fertilizer Ordinance created by the Florida Department of Environmental Protection and the Florida Department of Agriculture and Consumer Services. The bills included a grandfather provision protecting existing bans on the sale of fertilizers, provided such bans were adopted prior to July 1, 2011. CS/CS/CS/HB 457 died in Senate messages, and CS/SB 606 died on the Senate calendar. HB 7215, which passed, included the language prohibiting a local government from banning the sale of fertilizer unless the local government had an ordinance in place by July 1, 2011.

[Full Article](#)

Numeric Nutrient Criteria (Support)

CS/CS/CS/HB 239 (Williams, T.) and CS/SB 1090 (Dean) would have prohibited the state, water management districts and local governments from implementing the U.S. Environmental Protection Agency numeric nutrient criteria rules. The bills required the Florida Department of Environmental Protection to enter rulemaking to revise the state classification of surface waters. CS/CS/CS/HB 239 died in Senate messages, and CS/SB 1090 died in the Senate Environmental Preservation and Conservation Committee.

[Full Article](#)

Major Bills that Passed - Property Rights

Bert Harris Private Property Rights Act (Oppose)

CS/CS/HB 701 (Eisnagle) revises the Bert Harris Private Property Rights Act, which was originally enacted in 1995. The Bert Harris Act encompasses government actions that constitute an “inordinate burden” on a citizen’s property. An inordinate burden is defined as an action of one or more governmental entities that has directly restricted or limited the use of real property such that the property owner is permanently unable to attain the reasonable, investment-backed expectation for the existing use of the real property. The changes made to the bill this year include language which provides that a temporary burden of one year or more “may” be distinguished as an inordinate burden.

[Full Article](#)

Major Bills That Passed - Energy & Environmental

Permit Challenges

CS/CS/CS/HB 993 (Roberson) amends agency rulemaking procedures under the Administrative Procedure Act and revises various provisions to align with legislative ratification requirements enacted in 2010. Certain rulemaking timeframes are conformed to other periods required in the statutory rulemaking process. The bill also provides for withdrawal of rules that are not effective

because they were not ratified by the Legislature, and it exempts certain rulemaking from ratification requirements. The bill includes controversial language that requires an individual challenging a permit issued under Chapters 373, 378 or 403, Florida Statutes, to prove that the permitted project would harm the environment.

[Full Article](#)

Department of Agriculture (Oppose—Preemption)

CS/CS/HB 7215 (House Agriculture and Natural Resources Subcommittee) addresses a variety of issues relating to agriculture and the powers and duties of the Florida Department of Agriculture and Consumer Services (DACS). Of primary importance to municipalities, the bill includes language that preempts local governments from regulating the sale, composition, formulation and distribution of commercial fertilizers. The bill includes a grandfather provision for counties that have existing ordinances regulating the sale of urban turf fertilizers. The DACS authority regarding pollution control and the regulation of open burning connected with land-clearing, agricultural or forestry operations is also revised by the bill.

[Full Article](#)

Major Bills That Passed - Finance and Taxation

Local Government Accountability

CS/SB 224 (Dean) changes the schedule for submitting a local governmental entity's annual audit report and annual financial report from 12 to nine month, changes provisions relating to the preparation of municipal budgets and requires the budgets to be posted on the website of the municipality. The Legislative Auditing Committee can take action against audited entities that fail to take corrective action or fail to give a reasonable explanation on lack of corrective action in response to the audit recommendations. CS/SB 224 passed the Legislature. (Hughes).

[Full Article](#)

Local Business Taxes (Watch)

CS/CS/CS/HB 311 (Roberson) exempts an individual engaging in or managing a business in an individual capacity as an employee of another person from local business tax requirements. It also prohibits a local governing authority from holding an exempt employee liable for the failure of the employer to comply with certain local business tax requirements. An exemption of this provision has been included for local business tax ordinances adopted before October 13, 2010. CS/CS/CS/HB 311 passed the Legislature.

[Full Article](#)

Property Assessment (Oppose -- Unfunded Mandate)

CS/CS/CS/CS/CS/HJR 381 (Dorworth) is an amendment to the state constitution that reduces the current assessment limitation on non-homestead real property from 10 percent to 5 percent. The 5 percent cap will sunset in 2023. The constitutional amendment creates a first-time homesteader tax exemption that gives an additional homestead exemption of 50 percent of just value of the

property, up to the median home value in each county, to individuals who have not received a homestead exemption in the past three years. This exemption applies only to non-school property taxes and diminishes to zero in five years.

[Full Article](#)

Major Bills That Passed - General Government

Regulation of Firearms and Ammunition

CS/CS/CS/HB 45 (Gaetz) imposes a financial penalty on governments, elected officials or staff that adopt policies or take enforcement action that violates the existing state law preemption of firearm and ammunition regulation. City officials or employees who are found to have willfully and knowingly violated the preemption would be personally liable for a fine of no more than \$5,000. A government entity could be liable for actual damages up to \$100,000 and for the plaintiff's attorney's fees. For example, under the bill, an elected city official passing or a city employee enforcing an ordinance prohibiting guns in parks, discharging guns within city limits, or otherwise restricting guns could be personally liable as provided in the bill.

[Full Article](#)

Vacation Rentals (Oppose – Preemption)

CS/CS/CS/HB 883 (Horner) and CS/CS/SB 476 (Evers) preempt local governments from treating vacation rentals differently than other residential properties based solely on their classification, use or occupancy. Both bills were amended to grandfather those local governments with ordinances regulating vacation rentals existing prior to June 1, 2011. CS/CS/CS/HB 883 passed the Legislature. CS/CS/SB 476 was laid on the table in the Senate.

[Full Article](#)

Gun Bill – Open Carry

CS/CS/SB 234 (Evers) was amended to clarify that licensed concealed weapons permit (CWP) holders cannot be charged with a crime if their concealed firearm is briefly and openly displayed to another person, unless the firearm is intentionally displayed in an angry or threatening manner. The bill also allows for people with concealed weapons permits to carry or store firearms in their vehicle for lawful purposes. Early versions of the bill would have allowed CWP holders to openly carry firearms in public. CS/CS/SB 234 passed the Legislature.

[Full Article](#)

Florida Retirement System

SB 2100 (Senate Budget Committee) incorporates the Senate and House agreed-to changes to the Florida Retirement System (FRS). SB 2100 is a budget-related bill. The agreed FRS changes include: .

[Full Article](#)

Pain Management Clinics (Support)

CS/CS/HB 7095 (Schenck and Health & Human Services Committee) prescribes medical standards and operational restrictions for pain-management clinics and requires more stringent permitting regulations for community pharmacies to be conformed under the new standard by July 2012. The bill provides that a pain-management clinic may be declared a public nuisance if the clinic has been the site of multiple criminal incidences within six months. Criminal penalties will be imposed on doctors that overprescribe narcotics and violate medical standards of care. CS/CS/HB 7095 passed the Legislature.

[Full Article](#)

Mobile Home Park Lot Tenancies (Oppose)

CS/SB 650 (Jones) requires local governments to cite the appropriate violator for ordinance violations that take place in mobile home parks. The bill also prohibits local governments from bringing liens, penalties, fines, or other administrative or civil proceedings against a party if the violation is not the party's responsibility. CS/SB 650 passed the Legislature. (Pratt).

[Full Article](#)

Major Bills That Failed - General Government

Immigration

CS/SB 2040 (Alexander) would have required publicly funded job boards to check applicants' immigration status, ask state and local agencies to determine the legality of people seeking public benefits, and require law enforcement to make reasonable efforts to verify the immigration status of anyone who has been arrested and is in police custody. In addition, the bill contained provisions allowing for non-violent, illegal aliens to serve shortened prison sentences before being deported. The bill did not include any requirements for businesses or public agencies to use the E-Verify program. CS/SB 2040 passed the Senate on May 4 and died in House messages.

[Full Article](#)

Highway Safety and Motor Vehicles (Oppose)

CS/CS/CS/HB 1353 (Albritton) was amended to include provisions requiring local governments to fund studies and gain Department of Transportation approval to place red light cameras at dangerous intersections. The bill was also amended to prohibit local governments from issuing red light camera tickets for right-on-red violation, but this provision was removed by the Senate. CS/CS/CS/HB 1353 died in Senate messages. (Cook).

[Full Article](#)

Red Light Cameras (Oppose – Preemption)

CS/HB 4087 (Corcoran) and SB 672 (Garcia) would have repealed laws passed during the 2010 legislative session that authorize the use of traffic infraction detectors. CS/HB 4087 passed the House and died in Senate messages. SB 672 died in committee. (Cook) .

[Full Article](#)

Major Bills That Failed - Transportation

Department of Highway Safety and Motor Vehicles (DHSMV)

CS/CS/CS/HB 1353 (Albritton) was the comprehensive DHSMV legislative package. The bill included language that would have required local governments to pay for a professional safety hazard study to be completed before the installation of a traffic infraction detector or red light camera. This language also stated that local governments may not issue tickets for right-on-red violations. The bill died on special order calendar.

[Full Article](#)

Department of Transportation (Oppose)

CS/CS/CS/HB 1363 (Brandes) was the Department of Transportation legislative package. The bill included provisions adding sheriffs as a class of individuals who receive a portion of the local gas option tax. The bill also included provisions which specify that stop lights must have a green, yellow and red indication light. The bill mandated mandatory yellow light timing requirements.

[Full Article](#)

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