



Florida Legislative Session Review

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Today's Overview

1. General Background for 2023 Session
2. Primary Water-Related Legislation of Interest to Local Stormwater Programs
3. What to Look for in 2024



General Background for 2023 Session

1. Florida Growth and 2023 Budget Request
2. Significant Interest in Water Quality and Resiliency
3. Culture Wars
4. Pronounced Preemption Philosophy



General Background for 2023 Session

1. Florida continues to grow

- Population currently estimated to be > 22 million people*
- Estimate of >300k per year, people moving to Florida*
- Florida budget grows;
 - February 2023, Governor recommended ~\$114-billion-dollar budget
 - 2023 session, Legislature submitted ~\$117-billion-dollar budget

*Bureau of Economic and Business Research (BEBR), Florida Estimates of Population 2022

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General Background for 2023 Session

2. Significant Interest in Water Quality and Resiliency

- Dozens of hours of presentations/testimony on water quality, flooding, resiliency, storm preparedness and response
- Previous sessions provided Florida Springs and Aquifer Protection Act (2016), Clean Waterways Act (2020)
- 2023 – anticipation was on the final pieces of the Clean Waterways Act (finalizing stormwater, wastewater, OSTDS rules)



General Background for 2023 Session

3. Time Spent on “Culture Wars”

- “Don’t Say Gay” returns
- Disney battle continues
- Bans on gender affirming treatment, bathroom bills, education bills focused on sex and gender
- Environmental, Social and Governance (ESG) & Diversity, Equity, and Inclusion (DEI)



General Background for 2023 Session

4. *Preemption Philosophy*

- “Government Closest to the People Governs Best” *continues to be superseded by* “We Know What’s Best for You” and we won’t hesitate to exercise our authority
- Local Ordinance Preemption
- Housing Preemption
- Growth Management Preemptions



Resources on FSA website

www.florida-stormwater.org/legislative

- ✓ Priority Issues
- ✓ General bills being tracked by FSA
- ✓ White Papers
- ✓ News Clips

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FSA Tracked Bills of Concern – Did Not Pass

- ✘ SB 1240/HB 1197 – Land and Water Management. (Opposed)**
- ✘ HB 671/SB 682 – Residential Building Permits. (Opposed)**
- ✘ SB 742/HB 713 – Administrative Procedures & Permitting Process. (Monitored)**
- ✘ SB 910/HB 371 – Management and Storage of Surface Waters. (Opposed)**



Priority Issues

✘ **SB 1240/HB 1197 – Land and Water Management. (Opposed)**

These bills would have preempted almost all local environmental regulations. They were filed as a result of one local permitting controversy. Had these bills gained traction, they would have made it very difficult for local governments to comply with their legal obligations under state and federal law with regard to water quality in particular. However, they would have impacted other areas of regulation such as solid waste and recycling, and other programs as well.



Priority Issues

✘ **HB 671/SB 682 – Residential Building Permits. Oppose (Failed).**

- These bills would have drastically reduced the timeline to process building permits for residential structures.
- Many agencies reported this would cause them to have to decouple building permit review from other permit reviews since these timelines cannot be met for environmental permits.
- This means that the permitting process would actually be longer in many cases as a result of this bill.



Priority Issues

✘ **SB 742/HB 713 – Administrative Procedures & Permitting Process. Monitor (Failed).**

These bills would have revised statutory revisions related to rule development, notices, public workshops, publication, timeframes, materials incorporated by reference, statements of estimated regulatory impact, adverse impacts on small businesses, public hearings, lower cost regulatory alternatives, and annual regulatory plans.



Priority Issues

✘ SB 910/HB 371 – Management and Storage of Surface Waters. (FSA Opposed)

These bills were also the result of a local permitting controversy. They would have provided an exemption surface water management and storage regulations for activities that create, restore, or enhance environmental habitat. However, the bills were technically flawed and would have created statutory inconsistencies and would have been very difficult to implement and administer.



FSA Tracked Bills of Concern - Passed

- ✓ HB 1405 – Biosolids. (Supported)**
- ✓ HB 1379 – DEP Bill. (Supported)**
- ✓ SB 540 – Local Government Comprehensive Plans. (Monitored)**
- ✓ SB 170 – Business Impact Statements. (Opposed)**
- ✓ SB 1604/HB 439 – Land Use and Development Regulations. (Monitored)**



Priority Issues

✓ HB 1405 – Biosolids. Support (Passed).

HB 1405 authorizes the Department of Environmental Protection to provide grants within the wastewater grant program for projects that implement innovative technologies for the disposal of biosolids and convert wastewater residuals to class AA fertilizer or other uses.



Priority Issues

✓ **HB 1379 – DEP Bill. Support (Passed).**

Contains a number of provisions requested by the Department of Environmental Protection, including changes to:

- Requirements of comprehensive plan elements;
- Land acquisition provisions related to real property purchase agreements, components of the Indian River Lagoon Protection Program;
- Prohibitions on septic tanks basin management action plans (BMAPs) in effect for Outstanding Florida Springs under certain circumstances; and,
- Opens the availability of wastewater grants to additional participants.

The substance of SB 458/HB 827 re: Wastewater Grants was amended onto this bill, which will allow funding for projects in impaired waterbodies. Currently, only projects located in a BMAP, an alternative restoration plan adopted by final order, or a rural area of opportunity are eligible for this funding.



Priority Issues

- ✓ **SB 540 – Local Government Comprehensive Plans. Monitor (Passed).**
 - Provides that that the prevailing party in a challenge to a local comprehensive plan or plan amendment is entitled to attorney's fees.
 - Amendatory language was added to both bills that that relates to the timeframe for comprehensive plan amendments that was controversial because it had to do with Miami-Dade's Urban Development Boundary and the Everglades. However, that language was removed.



Priority Issues

- ✓ **SB 170 – Business Impact Statements. Oppose (Passed).**
 - Requires local governments to issue a business impact statement prior to the passage of any new ordinance and it awards attorney's fees against local governments in certain cases.
 - Also delays the enforcement of ordinances that are challenged until conclusion of litigation.
 - However, the attorneys fee provision was narrowed to apply only to ordinances that are arbitrary, unreasonable, or expressly preempted, and the bill contains a laundry list of exemptions, including ordinances required to comply with state and federal law and ordinances that relate to growth management.
 - Additionally, the bill has been amended to clarify that local governments who publish notice of an ordinance can continue the ordinance to a future meeting without republishing as long as, at the first meeting, the date, time and place of the subsequent meeting is publicly stated.



Priority Issues

✓ SB 170 – Business Impact Statements. Oppose (Passed).

Exemptions:

1. Ordinances required for compliance with federal or state law or regulation;
2. Ordinances relating to the issuance or refinancing of debt;
3. Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
4. Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by a county government;
5. Emergency ordinances;
6. Ordinances relating to procurement; or,
7. Ordinances enacted to implement the following:
 - a. Part II of chapter 163, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements, and development permits;
 - b. Sections 190.005 and 190.046;
 - c. Section 553.73, relating to the Florida Building Code;
 - d. Section 633.202, relating to the Florida Fire Prevention Code.



Priority Issues

✓ SB 1604/HB 439 – Land Use and Development Regulations. (Monitored)

- The bill revises local comprehensive planning requirements by increasing the required planning periods and prohibiting local governments that fail to update their comprehensive plan in accordance with the seven-year evaluation and appraisal process from initiating and adopting any publicly initiated plan amendments.
- The bill prescribes certain procedures for the Department of Economic Opportunity to apply when local governments remain out of compliance with comprehensive planning updates.
- The bill prohibits local governments from requiring certain building design elements for single-family or two-family dwellings located in planned unit developments and master planned communities approved on or after July 1, 2023, and limits the application of those elements to dwellings located in a local government jurisdiction that has a design review board or an architectural review board to those with a board created before January 1, 2020.
- The bill precludes an independent special district from complying with the terms of a development agreement, or any other agreements connected to the development agreement, adopted within three months preceding a law changing the selection method of the members of the governing body, and requires the new governing body to vote on whether to seek readoption of such development agreement within four months of taking office. These provisions expire on July 1, 2028, unless reviewed and reenacted by the Legislature.
- The bill revises the existing process for the approval of new electric distribution substations to apply to all new or existing substations.



Fertilizer Ordinances

Last week (weekend) of session...

- Added a new provision to the Implementation Bill (SB 2500) prohibiting local governments from *"adopting or amending a fertilizer ordinance, which provides for a prohibited application period"* during the 2023-24 budget year.
- Added funding *"...\$250,000 in nonrecurring funds shall be used by the University of Florida Institute of Food and Agricultural Sciences (UF/IFAS) to evaluate the effectiveness of the timing of seasonal fertilizer restrictions on urban landscapes toward achieving nutrient target objectives for waterbodies statewide."*

Can conclude this will be a major topic for 2024 Session – likely lead to some action to remove seasonal bans (from both existing and future ordinances).



What to Anticipate Next / 2024 Session

- ✓ Ratification of Stormwater Rule (hopefully!!!)
Current rule is adopted but not effective until ratification by Legislature
- ✓ Continued efforts to limit local governance
- ✓ Limits on Fertilizer Ordinances

** Implications of Waters of the United States (WOTUS)*



Questions?

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