

# Southwest Florida Water Management District



## Legislative Update

*This week in Tallahassee – March 18, 2013*

### **Budget**

The budget process has begun in both the House and Senate and the committees have received their allocations to begin crafting their respective budgets. With the anticipation that for the first time in several years there will be additional revenue, there is discussion about funding for water projects.

The Governor released a general criteria to guide his decision-making process for the funding of water projects should they receive funding in the General Appropriation Act. Subsequent to that, both the Senate and House are now accepting water project proposals for state funding.

### **Minimum Flows and Levels** HB7 (Reps. Porter/Pilon)/SB244 (Sen. Dean)

This legislation requires the districts to include certain reservations and water bodies in priority lists and schedules, and provides for adoption of certain reservations and minimum flows and levels by DEP. It requires the districts to provide certain information and support to DEP, and requires the districts to apply, without adopting by rule, certain reservations, minimum flows and levels, and recovery and prevention strategies. The bill enables water management districts to enter into interagency agreements to implement resource management activities by a single district when a local government has geographical areas that cross boundaries. Further, the legislation authorizes water management districts to enter into interagency agreements for resource management activities under specified conditions. This is an effort to promote interagency coordination among the water management districts where boundaries overlaps.

The legislation also exempts cooperative funding programs from rulemaking. These types of programs are not regulatory in nature but rather are cost-share programs with cooperators.

*Update: The bills are still identical. HB 7 remains in the Rulemaking Oversight and Repeal Committee. SB 244 has passed through all of its committees and is on Special Order this coming week.*

### **Public-Private Partnerships**

HB 85 (Rep. Steube)/CS/SB 84 (Sen. Diaz de la Portilla)/SB 238 (Sen. Flores)

These bills all facilitate public-private partnerships, when cost-effective, to construct public-purpose infrastructure projects.

CS/HB 85 creates an alternative procurement process and requirements for public-private partnerships to facilitate the construction of public-purpose projects, and creates a Public Facilities and Infrastructure Act Guidelines Task Force to provide guidance on how to implement public-private partnerships to foster uniformity across the state. The bill authorizes responsible public entities to approve a qualifying project if there is a need for or benefit derived from the project, the estimated cost of the project is reasonable, and the private entity's plans will result in the timely acquisition, design, construction, improvement renovation, expansion, equipping, maintenance, or operation of the qualifying project.

The bill also authorizes the use of public-private partnerships for purposes of county transportation facilities. It permits counties to receive or solicit proposals and enter into agreements with private entities to build, operate, own, or finance transportation facilities that would be in the best interest of the public.

*Update: HB 85 passed the Government Operations Committee this week and is now in House Appropriations.*

CS/SB 84 creates a new section of law to facilitate public-private partnerships, when cost-effective, to construct public-purpose projects. The bill provides for notice to affected local jurisdictions as well as for comprehensive agreements between a public and a private entity, and specifies the requirements for such partnerships. The bill also lays out the financing sources for certain projects by a private entity, and provides for the applicability of sovereign immunity for public entities with respect to qualified projects.

*Update: CS/SB 84 was referenced to the Transportation Committee (and the reference to General Government Appropriations was removed). It also has a reference to Appropriations remaining.*

SB 238 provides legislative findings and intent relating to the construction or upgrade of facilities by private entities which are used predominately for a public purpose and requires public entities to develop and adopt guidelines governing procedures and criteria for the selection of projects and public-private agreements. It provides for financing from private sources and public entities and for the applicability of sovereign immunity for public entities with respect to qualified projects.

*Update: SB 238 has not been heard.*

### **Consumptive Use Permitting for Development of Alternative Water Supplies**

HB109 (Rep. Young)/SB364 (Sen. Hays)

This legislation authorizes Consumptive Use Permits for 30 years along with the ability for up to an additional seven years, if, after the permit is issued, the applicant issues bonds for the project, completes construction, and requests a permit extension.

The bill prohibits a reduction in permitted water quantities during the extension of the permit, and excludes from application of the act a permit for nonbrackish groundwater or nonalternative water supplies. It also provides an option for the duration of an alternative water supply permit to a county, special district, regional water supply authority, multijurisdictional water supply entity, or publicly or privately owned utility.

There has been one amendment to the bills, replacing the wording “unanticipated harm” with the word “harm.” This wording relates to when a permitted alternative source quantity may be reduced during a compliance report review.

*Update: HB 109 remains on second reading on the House Calendar. SB 364 passed Senate Appropriations and is on the Special Order Calendar this coming week.*

### **Stormwater Management Permits** HB183 (Rep. Raulerson)/SB934 (Sen. Lee)

This legislation would expedite the stormwater management permit process for projects that are located in an urban redevelopment area. The goal is to be able to redevelop those areas for economic purposes.

The bill authorizes local governments to adopt stormwater adaptive management plans and obtain conceptual permits for urban redevelopment projects and provides requirements for establishment of such permits by water management districts in consultation with DEP. It provides that certain urban redevelopment projects qualify for noticed general permit, and provides summary hearing requirements for challenges to consolidated environmental resource permits or associated variances or sovereign submerged lands authorizations proposed or issued by DEP in connection with specified deepwater ports.

*Update: HB 183 passed the Agriculture and Natural Resources Subcommittee this week with a strike-all amendment. Similarly, SB 934 passed the Environmental Preservation and Conservation Committee. The strike-all amendment is the language contained in the statewide ERP draft rule related to this issue,*

*providing for a conceptual permit based on a local government's master plan for urban infill and redevelopment. General permits for construction and operation of urban redevelopment projects shall be issued for projects that meet the criteria in the conceptual permit.*

*The House bill moves to the Agriculture and Natural Resources Appropriations Subcommittee, and the Senate bill moves to the Community Affairs Committee.*

**Manufacturing Development** HB357 (Rep. Boyd)/SB582 (Sen. Galvano)

This legislation is economic development driven and authorizes local governments to establish a local manufacturing development program that provides for master development approval for certain sites. It requires the Department of Economic Opportunity (DEO) to develop a model ordinance by December 1, 2013 containing specified provisions and requires local manufacturing development program ordinances to include certain information.

With regards to water management districts, the legislation requires DEO, in cooperation with participating agencies including WMDs, to establish a manufacturing development coordinated approval process for certain manufacturers and requires participating agencies, including Districts, to coordinate and review applications for certain state development approvals.

There are other provisions in the legislation to assist in expediting manufacturing development programs.

*Update: HB 357 passed the Economic Development and Tourism Subcommittee this week. It moves to the Economic Affairs Committee. SB 582 has not been scheduled.*

**Water Quality Credit Trading** HB713 (Rep. Pigman)/SB754 (Sen. Grimsley)

The bill expands statewide the water quality credit trading program currently occurring only in the Lower St. Johns River Basin as a pilot project. The bill also provides that DEP may authorize water quality credit trading in adopted BMAPs, and entities that participate in water quality credit trades must timely report to DEP the prices for credits, how the prices were determined, and any state funding received for the facilities or activities that generated the credits. DEP is not permitted to participate in the establishment of credit prices.

*Update: HB 713 passed the Agriculture and Natural Resources Appropriations Subcommittee this week, and moves to State Affairs. SB 754 is in the Community Affairs Committee.*

**Water Supply** HB1063 (Rep. Hutson)/SB 948 (Sen. Grimsley)

SB 948/HB1063 would require DACS to establish an agricultural water supply planning program to develop data regarding prospective agricultural water supply demand. FDEP and the Districts were brought in at the outset of this discussion as language for the bill was being developed.

As written, for purposes of regional water supply plans, the water management districts (WMDs) are required to consider the data supplied by DACS in determining the best available data for future agricultural water supply demands.

Specific provisions of the bill .:

- Add utility companies, private landowners, water consumers, and DACS to the list of entities that should cooperate to meet the water needs of rapidly urbanizing areas. The bill also adds rural areas to "rapidly urbanizing areas."
- Add "self-suppliers" to the list of entities the governing boards of the Districts must engage in planning to assist and assisting in meeting water supply needs.
- Add "self-suppliers" to the list of entities that WMDs may join with to carry out any of their powers.

- Requires regional water supply plans to include agricultural demand projections and that the projections must be based upon the best available data. The bill requires a full description of any adjustment or deviation from the data supplied by DACS to the Districts and that the original data must be presented along with the adjusted data.
- Strikes the word “alternative” from “alternative water supply development project options,’ thus broadening the possible water supply development project options that may be considered and chosen by various entities for water supply development.
- Includes “self-suppliers” in the list of entities that Districts are to assist in developing multijurisdictional approaches to water supply project development, where appropriate.
- Requires DACS to establish an agricultural water supply planning program to supply the Districts with anticipated agricultural water supply demands based on at least a 20-year planning period that must be considered by the Districts when developing District water management plans.

*Update: SB 948 was temporarily postponed in the Agriculture Committee this week. HB 1063 passed the Agriculture and Natural Resources Subcommittee this week with several amendments, brought forth by environmental groups. These amendments:*

- *Provide that when the governing board of a WMD may contract with other entities to meet water supply demands, the contracts are consistent with the public interest. The public interest requires that the proposed water use is reasonable and beneficial and does not interfere with another legal existing user.*
- *Restore existing language requiring that regional water supply plans include appropriate lists of water supply and alternative water supply projects.*
- *Provide that future water demand projects developed by DACS for agricultural land uses must include appropriate water conservation factors.*
- *Provide a definition of the term “self-supplier.”*

**Environmental Regulation** HB999 (Rep. Patronis)/SB 1684 (Sen. Altman)

This permitting “streamline” bill includes a few provisions that at this point impact the Districts. Specifically, the bill:

- Clarifies conditions for competing CUPs;
- Amends Section 373.308, F.S., to provide that issuance of well permits is the sole responsibility of Districts, and prohibits governmental entities from imposing requirements and fees and establishes programs for installation and abandonment of groundwater wells;
- Amends Section 373.323, F.S., to provide that licenses issued by the Districts are the only water well construction licenses required for construction, repair or abandonment of water wells and authorizes licensed water well contractors to install equipment for all water systems.

The bill also revises provisions for general permits to provide for the expansion of certain marinas and limit the number of mooring fields authorized under such permits, defines “mean annual flood line,” exempts specified ponds, ditches, and wetlands from surface water management and storage requirements and exempts certain water control districts from wetland or water quality regulations.

The legislation also contains the substance (although not identical) language contained in SB 948 related to DACS water supply planning. Representative Patronis has scheduled another stakeholder meeting this coming week to continue to work out issues related to the legislation.

*Update: Neither bill has been heard to date.*

**Environment** SB1104 (Sen. Brandes)

This is actually a transportation mitigation bill that includes a number of provisions that promote mitigation be implemented in a manner that is efficient, timeless, and cost-effective in project delivery. Specifically,

the bill revises the criteria for mitigation of projected impacts, requires DOT to include funding for environmental mitigation for projects in its work program, and revises the process and criteria for the payment by DOT or participating transportation authorities of mitigation implemented by the Districts or DEP.

Further, the bill revises the requirements for payment to the Districts or DEP of the costs of mitigation planning and implementation of the mitigation required by permit, revises payment criteria for preparing and implementing mitigation plans adopted by Districts for transportation impacts based on environmental impact inventory, and revises District responsibilities relating to a mitigation plan.

The bill also amends the outdoor advertisement exemption criteria for a public information system passed last year related to the federal Highway Beautification Act.

*Update: This bill passed the Transportation Committee this week, and moves to the Environmental Preservation and Conservation Committee.*

### **Florida Retirement System**

HB7011 (Government Operations Subcommittee, Rep. Brodeur)/SB 1392 (Sen. Simpson)

According to the staff analysis, the Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits to 623,011 active members, 334,682 retired members and beneficiaries, and 40,556 members of the Deferred Retirement Option Program. It is the primary retirement plan for employees of the state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 185 cities and 257 independent hospitals and special districts that have elected to join the system.

There are two plan options available to members of the FRS: the defined benefit plan, also known as the pension plan, and the defined contribution plan, also known as the investment plan. The proposed legislation:

- Closes the pension plan (defined benefit) to new enrollees, and requiring all new enrollees to participate in the investment plan (defined contribution), effective January 1, 2014;
- Eliminates the option for new enrollees to apply for disability benefits, effective January 1, 2014;
- Expands the investment options available to investment plan members;
- Closes the Senior Management Service Optional Annuity Program to new participants and prohibits elected officials from joining the Senior Management Services Class, effective January 1, 2014.

The bill does not impact the ability of any current FRS enrollee to select participation in the pension plan or the investment plan. Changes included in the bill only pertain to new enrollees initially enrolled in the system on or after January 1, 2014.

Senate 1392, as amended, makes the following changes to the Florida Retirement System (FRS), for members initially enrolled in the FRS on or after January 1, 2014:

- Changes the vesting period in the pension plan from 8 to 10 years;
- Mandates that Elected Officers' Class and Senior Management Service Class members may only join the investment plan;
- Changes the default for members who do not affirmatively choose a plan from the pension plan to the investment plan;
- Closes the Senior Management Service Optional Annuity Program to new members; and
- Changes the out of service disability retirement vesting period from 8 to 10 years.

The bill also lowers the employee's contribution rate from 3% to 2% for all members of the investment plan.

*Update: The House bill passed the full House this week (71-42). The Senate bill passed Community Affairs this week. It moves to Appropriations.*

### **Numeric Nutrient Criteria**

SAC2 (State Affairs Committee)/SB 1808 (Environmental Preservation and Conservation Committee)

The legislation (introduced by each respective committee) would authorize the Department of Environmental Protection (DEP) to implement its adopted nutrient standards for streams, springs, lakes, and estuaries, as approved by the U.S. Environmental Protection Agency plan to move forward on setting water quality standards in Florida.

### **Confirmations**

Executive Director Blake Guillory and Governing Board member Doug Tharp were voted favorable through the first committee of reference this week, the Environmental Preservation and Conservation Committee.

If you have any questions, please contact Colleen Thayer, Public Affairs Bureau Chief, at [colleen.thayer@watermatters.org](mailto:colleen.thayer@watermatters.org).