



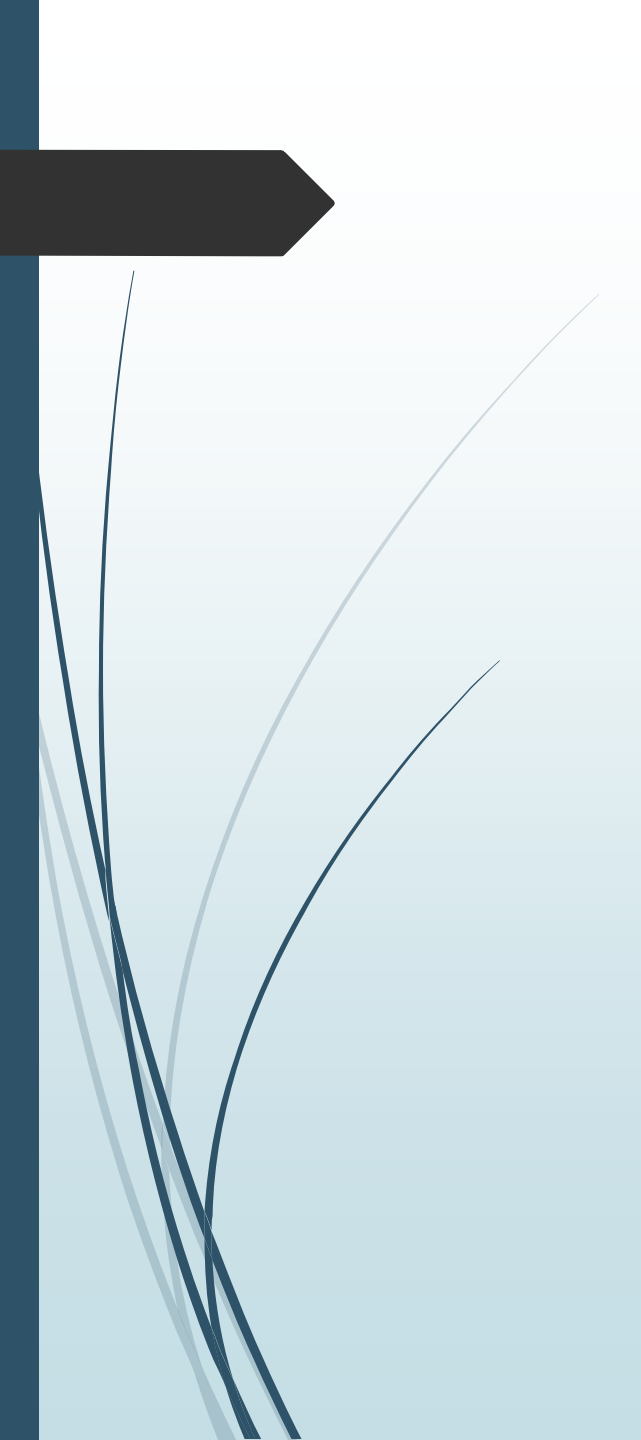
# FLORIDA'S ENVIRONMENT, WATER POLICY, THE 2019 LEGISLATURE AND BEYOND

David Childs, Hopping Green & Sams, P.A.  
Terry Lewis, Lewis Longman & Walker  
Larry Sellers, Holland & Knight LLP  
Jon Steverson, Foley & Lardner LLP



# Big Picture

- ▶ New Leadership
  - ▶ Senate President Bill Galvano
  - ▶ House Speaker Jose Oliva
  - ▶ Governor Ron DeSantis
- ▶ The Numbers
  - ▶ 3,571 Bills Filed
  - ▶ 194 Bills Passed



# Water and Environmental Bills Passed

# SB 2500—Appropriations Act

- ▶ Total Budget of \$91.1 billion; up from \$88.7 million in 2018-2019.
- ▶ Only \$131 million vetoed.
- ▶ The Governor signed the bill on June 21, 2019, and it became effective on July 1, 2019.

# SB 2500—Appropriations Act

*The Governor approved significant environmental appropriations, including...*

- ▶ *More than \$625 for Everglades and water resources*
  - ▶ More than \$400 million for Everglades restoration
  - ▶ \$100 million for springs restoration
  - ▶ \$50 million for target water quality improvements, including septic to sewer
  - ▶ \$25 million to address harmful algal blooms



# SB 2500—Appropriations Act

- ▶ \$5 million for nutrient water quality data analytics and public interface
- ▶ \$50 million for beach and dune restoration
- ▶ \$5.5 million for coastal resiliency, with additional funding for coral reefs
- ▶ \$35.5 million for park repairs and improvements
- ▶ \$33 million in new land acquisition



# CS/HB 325—Coastal Management

- CS/HB 325 amends several provisions of Chapter 161, Florida Statutes related to prioritizing state funding for severely eroded beaches and the management of inlets. Specifically:

# CS/HB 325—Coastal Management

- A scoring system consisting of four tiers of criteria for establishing funding priorities such as (a) tourism-related return on investment and economic impact of a project, (b) availability of federal matching dollars, (c) storm damage reduction benefits, (d) current condition of the project area, (e) cost effectiveness of the project based on the yearly cost per volume per mile of proposed each fill placement, (f) consideration of previous state commitment to a project, (g) recreational benefits, and (h) environmental habitat enhancement.





# CS/HB 325—Coastal Management

- ▶ Payment of up to 75 percent of project costs for inlet management and requiring that 10 percent of appropriations for beach erosion projects be reserved for inlet management projects.
- ▶ The long term beach management plan maintained by DEP must include a strategic beach management plan, a critically eroded beaches report, and a statewide long-range budget plan.



# SB 1552—Florida Red Tide Mitigation & Technology Development Initiative

- ▶ SB 1552 creates the Florida Red Tide Mitigation and Technology Development Initiative which provides:
  - ▶ The initiative is established as a partnership between the Fish and Wildlife Research Institute within the Fish and Wildlife Conservation Commission and Mote Marine Laboratory.
  - ▶ The Initiative must develop, test and implement innovative, effective and environmentally sustainable technologies and approaches for controlling and mitigating the impacts of red tide.

# SB 1552—Florida Red Tide Mitigation & Technology Development Initiative

- ▶ Beginning January 15, 2021 the Initiative must submit a report of accomplishments to the Governor, Senate President and Speaker of the House.
- ▶ An appropriation of 3 million.
- ▶ The Governor signed the bill on June 20, 2019 and it became effective on July 1, 2019. Chapter [2019-114](#), L.O.F.



# CS/CS/HB 95

## C-51 Reservoir Project


- ▶ Authorizes the SFWMD to negotiate with the owners of the C-51 reservoir project site for the acquisition of any portion of the project not already committed to utilities for alternative water supply purposes.
- ▶ The operation of Phase I of the C-51 reservoir project must follow any operation or maintenance approved by the district.



# CS/CS/HB 95


## C-51 Reservoir Project

- ▶ Water received from Lake Okeechobee into the reservoir may be used to support consumptive permits only if the consumptive use complies with SFWMD rules.
- ▶ Allows Phase II of the C-51 project to be funded by legislative appropriation in addition to funding as a project component of CERP.
- ▶ The Governor signed the bill on June 7, 2019, and it became effective on July 1, 2019. Chapter [2019-68](#), L.O.F.



# CS/CS/HB 771—Environmental Regulation VETOED

- Requires counties and municipalities to address the contamination of recyclable material in contracts for residential recycling collection and processing.
- Provides that a recovered materials processing facility is not required to process contaminated recyclable material except as provided for in its contract with a county or municipality.



# CS/CS/HB 771—Environmental Regulation VETOED

- ▶ Expands the permit exception for the replacement or repair of existing docks or piers to allow the replacement dock or pier to be within 5 feet of the same location and no larger than the original structure.
- ▶ Preempts local government bans on single-use plastic straws until July 1, 2024.
- ▶ Vetoed by Governor on May 10, 2019, citing moratorium on local regulation of plastic straws.

# CS/HB 521-Wetland Mitigation

- ▶ In 2012 the Legislature prohibited a government entity from creating or providing for mitigation for a project other than its own, with certain exceptions.
- ▶ The bill authorizes the local government to allow permittee-responsible mitigation consisting of the restoration or enhancement of lands purchased and owned by a local government for conservation purposes if state and federal mitigation credits are not available.
- ▶ The Governor signed the bill on June 18, 2019, and it became effective on July 1, 2019. Chapter 2019-110, L.O.F.





# Growth Management/Land Use Legislation Passed

# CS/CS/HB 7103—Inclusionary Housing


- Requires that inclusionary housing ordinances enacted by local government must provide incentives to fully offset all costs to the development of its affordable housing contribution—e.g., density bonuses.

# CS/CS/HB 7103—Processing Timelines

- Requires local governments to review development order applications for completeness within 30 days, providing the applicants with 30 days to address deficiencies and approving or denying the application within 120 days (for complete applications) or 180 (for applications that require final action through a quasi-judicial hearing).
- The processing timelines do not apply in an area of critical state concern.

# CS/CS/HB 7103—Processing Timelines

- ▶ Prohibits a local government from charging fees (other than a reasonable administrative fee) for building inspections if the fee owner or contractor hires a private provider.
- ▶ Reduces the number of business days from 30 to 20, after receipt of a permit application and affidavit from a private inspector for a local building official to issue a permit.



## CS/CS/HB 7103—Vesting in New Comprehensive Plans

- Creates provisions for vesting densities contained in development orders. When a new municipality adopts a comprehensive plan after January 1, 2019, all land development regulations adopted to implement the plan must incorporate each development order existing before the plan's effective date and must vest the density and intensity approved by the development order.




## CS/CS/HB 7103—Summary Proceedings and Attorney's Fees

- ▶ In proceedings to enforce the consistency of development orders with local government comprehensive plans, either party is entitled to the summary procedure of s. 51.011, F.S.
- ▶ Upon a showing by clear and convincing evidence that summary proceeding is not appropriate, the court may determine that the summary procedure does not apply.



## CS/CS/HB 7103—Summary Proceedings and Attorney's Fees

- The prevailing party in a consistency challenge to a development order is entitled to recover attorney's fees and costs in challenging or defending the order, including reasonable appellate attorney fees and costs.



## CS/CS/HB 7103—Limits Extension of Permits to “Natural” Emergencies

- ▶ Revises s. 252.363, F.S., to provide that only the declaration of a state of emergency by the Governor for a “natural” emergency tolls and extends the time remaining on certain development orders, building permits, environmental resource permits and buildout dates of DRIs.





# CS/CS/HB 7103—Impact Fee Provisions

- Prohibits the collection of impact fees by local governments prior to the date of issuance of the building permit for the property subject to the fee.
- Codifies provisions of dual rational nexus test—impact fee must be proportional to the need for additional capital facilities and the increased impact generated by new residential or commercial construction; the expenditure of funds collected and benefits accruing to the new construction.

# CS/CS/HB 7103—Impact Fee Provisions

- Revenues generated from impact fees cannot be used to pay existing debt for previously approved projects.
- Local government must credit against the collection of an impact fee, contributions of lands or construction that must be credited on a dollar for dollar basis at fair market value and the government has the burden of proving that the imposition of the fee meets statutory requirements.

# CS/CS/HB 7103—Mobility Fees

- Mobility fee funding systems for transportation concurrency must comply with the criteria that apply to impact fees set forth in s. 163.31801, F.S.
- A local government may provide an exception or waiver for affordable housing.
- Impact fee provisions do not apply to water and sewer connection fees.
- The Governor signed the bill on June 26, 2019, and it became effective upon becoming law. Chapter [2019-165](#) L.O.F.

# CS/HB 207—Impact Fees

- ▶ Prohibits a local government from requiring the payment of an impact fee before the date of issuance of the building permit for the property that is subject to the fee.
- ▶ Codifies the dual rational nexus test—The impact fee must be reasonably connected to, or have a rational nexus with the need for additional capital facilities and the increased impact generated by the new residential or commercial construction and the expenditures of the revenues generated and the benefits to new development.
- ▶ Signed by the Governor on June 18, 2019, and it became effective July 1, 2019. Chapter [2019-106](#), L.O.F.

# CS/SB 7068—Multiuse Corridors

- Creates the Multi-use Corridors of Regional Economic Significance Program with FDOT to advance the construction of regional corridors
  - Southwest-Central Florida Connector (Collier to Polk County)
  - Suncoast Connector (Citrus to Jefferson County)
  - Northern Turnpike Connector (Northern Turnpike to Suncoast Parkway)



**SUNCOAST PARKWAY EXTENSION**

**FLORIDA TURNPIKE EXTENSION**

**POLK-COLLIER CORRIDOR**



# CS/SB 7068—Multiuse Corridors

- The purpose of the program is to “revitalize rural communities, encourage job creation, and provide regional connectivity while leveraging technology, enhancing quality of life and public safety, and protecting the environment and natural resources.”
- Projects will be Turnpike projects and are subject to statutory economic and environmental feasibility criteria, as well as additional environmental and other evaluation requirements set out in the bill.
- Decisions on corridor configuration and alignment must be determined in accordance with the FDOT’s rules, policies, and procedures.

## CS/SB 7068—Multiuse Corridors

- ▶ Each task force must issue a written report by **October 1, 2020**.
- ▶ To the maximum extent feasible, the bill requires project construction to begin no later than December 31, 2022, with projects open to traffic no later than **December 31, 2030**.
- ▶ The Governor signed the bill on May 17, 2019, and it became effective on July 1, 2019. Chapter [2019-43](#), L.O.F.





# HB 6017—Small-Scale Comprehensive Plan Amendments

- Removes the cumulative acreage cap of 120 total acres on small scale amendments to local comprehensive plans.
- Does not change the 10-acre cap on each small scale amendment.
- The Governor approved the bill on June 26, 2019, and it became effective on July 1, 2019. Chapter [2019-157](#), L.O.F.



# CS/HB 1159—Private Property Rights/Trees on Private Property

- Prohibits a local government from requiring a notice, application, approval, permit, fee, or mitigation for the pruning or removal of a tree on residential property if the property owner has obtained documentation from a certified arborist or a Florida licensed landscape architect that the tree presents a danger to persons or property.
- A local government may not require the property owner to replace a tree removed pursuant to the bill.



# CS/HB 1159—Private Property Rights/Trees on Private Property

- Requires each property appraiser office to post on its website a Property Owner Bill of Rights, the language of which is listed in the bill.
- The Governor approved the bill on June 26, 2019, and became effective July 1, 2019. Chapter [2019-155](#), L.O.F.



# CS/CS/CS/SB 1000—Communication Services

- ▶ The bill makes extensive changes to the law governing the use of public rights-of-way by providers of communication services.
- ▶ Among other things, the bill prohibits a local government from imposing permit fees for the use of public rights-of-way by communication services providers if it had not levied permit fees as of January 1, 2019.



# CS/CS/CS/SB 1000—Communication Services

- Creates a civil cause of action for any person aggrieved by a violation of the right-of-way statute. The court may grant temporary or permanent injunction and may award attorney fees to the prevailing party.
- Prohibits a local government from instituting a moratorium or other mechanism that would prohibit or delay permits for collocation of small wireless facilities or related poles.



# CS/CS/CS/SB 1000—Communication Services

- ▶ Deletes the authority for a local government to require performance bonds and security funds and allows it to instead require a construction bond limited to no more than 18 months after the construction is completed.
- ▶ The Governor approved the bill on June 25, 2019, and took effect on July 1, 2019. Chapter [2019-131](#), L.O.F.

# CS/SB 82—Vegetable Gardens

- Encourages vegetable gardens within residential developments by declaring any local ordinances or regulation prohibiting such gardens void and unenforceable.
- “Vegetable garden” means a plot of ground where herbs, fruit, flowers, or vegetables are cultivated for human ingestion. Arguably, if marijuana is being cultivated for ingestion in one’s back yard, a city or county can’t do anything about it. It is after all an herb.
- The Governor approved the bill on June 25, 2019, and it became effective on July 1, 2019. Chapter [2019-120](#), L.O.F.

# CS/CS/CS/HB 829—Attorney's Fees & Costs

- ▶ Provides that if a civil action is filed on or after July 1, 2019, against a local government to challenge the adoption or enforcement of an ordinance on the grounds the subject is preempted by the State Constitution or state law, the court shall award reasonable attorney's fees, costs and damages to the prevailing party.
- ▶ Attorneys fees and costs may not be awarded if the local government receives written notice that the ordinance is expressly preempted and the local government withdraws the proposed ordinance within 30 days or issues a notice of intent to repeal an adopted notice within 30 days of receipt of the notice and repeals the ordinance within 30 days thereafter.




## CS/CS/CS/HB 829—Attorney's Fees & Costs

- ▶ The bill does not apply to ordinances relating to comprehensive planning and growth management, the Florida Building Code, and the Florida Fire Code.
- ▶ Local governments may continue to enforce ordinances adopted before February 1, 2019 relating to application of Class B biosolids until the effective date of rules adopted by FDEP or repeal of the local government ordinance or rule, whichever occurs first.
- ▶ The Governor approved the bill on June 26, 2019, and it became effective on July 1, 2019. Chapter [2019-151](#), L.O.F.


# CS/HB 127—Permit Fees

- Requires counties and municipalities to post building permit and inspection fees and building permit and inspection utilization reports on their respective websites.
- Requires local governments to create building permit and inspection utilization report by December 31, 2020 that includes information from the most recent financial audit on the costs of administering building permit and inspection functions and costs of enforcing the Florida Building Code. After December 31, 2020, the report must be updated before the local government makes any adjustments to permit fee and inspection fee schedules.
- The Governor approved the bill on June 26, 2019, and took effect July 1, 2019. Chapter [2019-121](#), L.O.F.



# CS/CS/HB 437—Community Development Districts

- ▶ Allows a petition to create a new community development district of less than 2,500 acres to identify contiguous lands which the petitioner anticipates adding to the boundaries of the CDD within 10 years of the effective date of the ordinance establishing the district.
- ▶ Notice must be given to owners of parcels to be identified for future inclusion, including notice of the filing of the petition to establish the district, and a parcel may not be included within the district without the written consent of the owner.



# CS/CS/HB 437—Community Development Districts

- ▶ A person may petition the county or municipality to amend the boundaries of the CDD to include a previously identified parcel that was identified in the ordinance for future inclusion.
- ▶ A CDD may merge with another type of special district created by special act pursuant to the terms of the special act or the process for creating a new CDD pursuant to s. 190.005, F.S.
- ▶ The Governor signed the bill on June 25, 2019 and is effective upon becoming law. Chapter [2019-164](#), L.O.F.



# CS/HB 9—Community Redevelopment Agencies

- ▶ Community Redevelopment Agencies have been under legislative attack for the last several years for wasteful and possibly unlawful expenditures of redevelopment tax dollars which Chapter 163, Florida Statutes, specifies for use on redevelopment of slum or blighted areas.
- ▶ Requires all agency commissioners to take four hours of ethics training annually.



# CS/HB 9—Community Redevelopment Agencies

- ▶ Abolishes community redevelopment agencies as of September 30, 2039, or earlier if the agency charter has an earlier date for abolition unless the county or municipality that created the agency approves its continued existence.
- ▶ The Governor signed the bill on June 26, 2019, and the bill takes effect October 1, 2019. Chapter [2019-163](#) L.O.F.



# OTHER BILLS OF INTEREST PASSED



# CS/CS/CS/SB 796 — Public Utility Storm Protection Plans

- Requires each public utility to file, pursuant to Florida Public Service Commission rule, a transmission and distribution storm protection plan that covers the immediate 10-year planning period.
- Each plan must explain the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability.
- The PSC is required to adopt rules to specify the elements that must be included in a utility's filing.





# CS/CS/CS/SB 796 — Public Utility Storm Protection Plans

- In reviewing a proposed transmission and distribution storm protection plan, the PSC must consider the following:
  - The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability;
  - The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility's service territory, including, but not limited to, flood zones and rural areas;
  - The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan; and
  - The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.



# CS/CS/CS/SB 796 — Public Utility Storm Protection Plans

- If a utility-filed proposed plan contains all the elements required by commission rule, the PSC must determine whether it is in the public interest to approve, approve with modification, or deny the proposed plan no later than 180 days after the utility filing of the plan.
- At least every 3 years after approval of a utility's plan, the utility must file for PSC review an updated protection plan that addresses each element specified by rule.
- The PSC is required to conduct an annual proceeding to determine the utility's prudently incurred plan costs and allow the utility to recover such costs through a charge separate and apart from its base rates, to be referred to as the storm protection plan cost recovery clause.

# CS/CS/CS/SB 796 — Public Utility Storm Protection Plans

- The bill requires that, beginning December 1 of the year after the first full year of implementation of a transmission and distribution storm protection plan and annually thereafter, the PSC must submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report on the status of utilities' storm protection activities.
- The report must include, but is not limited to, identification of all storm protection activities completed or planned for completion, the actual costs and rate impacts associated with completed activities as compared to the estimated costs and rate impacts for those activities, and the estimated costs and rate impacts associated with activities planned for completion.
- The Governor signed the bill on June 27, 2019, and it became effective upon becoming law. Chapter [2019-158](#), L.O.F.

# CS/CS/SB 1020—State Hemp Program

- ▶ Authorizes the DACS to create a state industrial hemp program to administer and oversee the cultivation of hemp.
- ▶ Authorizes the distribution and retail sale of hemp extract, and defines it as a substance or compound intended for ingestion that is derived from hemp, and does not have a THC concentration exceeding 0.3 percent on a dry weight basis.
- ▶ Provides labeling requirements.
- ▶ The Governor signed the bill on June 25, 2019, and it became effective on July 1, 2019. Chapter [2019-132](#), L.O.F.

## HB 5—Ballot Initiatives

- ▶ Provides that ballot initiatives that propose a discretionary sales surtax must appear on the general election ballot; including the charter county and regional transportation surtax, the county public hospital surtax and the emergency fire rescue services and facilities surtax.
- ▶ If proposal to adopt a discretionary surtax is by initiative, the petition sponsor must file a copy of the final resolution with the Office of Program Policy Analysis and Government Accountability for the procurement of a performance audit, and the supervisor of elections must verify signatures.
- ▶ Failure of an initiative sponsor to comply with requirements render any referendum held to be void.



# HB 5—Ballot Initiatives

- ▶ Creates a new requirement that signature gatherers who collect signatures for compensation must be registered with the Secretary of State.
- ▶ All petitions collected by a paid petition circulator must sign an affidavit verifying that petition signed in their presence.
- ▶ A sponsor of an initiative is liable for certain fines if petitions are not promptly delivered within 30 days to the supervisor of elections.

## HB 5-Ballot Initiatives

- The Financial Impact Estimating analysis of proposed constitutional amendments is amended to include an evaluation of the estimated impact of a ballot measure on the state and local economy and the overall impact to the state budget. The time period for preparing the analysis is increased to 75-days and that deadline is tolled when the Legislature is in session.
- The word limit of the financial impact statement is increased to 150 words from 75.
- The ballot must include statement indicating estimated effect in bold font.

## HB 5—Ballot Initiatives

- The compensation of a petition circulator based on the number of petition forms collected is a first degree misdemeanor.
- A person who fails to register with the Secretary of State as a petition circulator commits a second degree misdemeanor.
- The provisions of the act apply to all amendments to the State Constitution by initiative that are proposed for the 2020 election ballot except for petition forms gathered before the effective date of the act.
- The Governor signed the bill on June 7, 2019, and it became effective upon becoming a law, with the exception of Section 1 of the bill which takes effect on January 1, 2020. Chapter [2019-54](#), L.O.F.





# Water and Environmental Bills That Failed




# SB 314—Advanced Well Stimulation Treatment

- ▶ Defines “High-pressure well stimulation” and “matrix acidification.”
- ▶ Prohibits “high-pressure well stimulation” and “matrix acidification” in Florida.
- ▶ Requires the DEP to conduct a study on high-pressure well stimulation and matrix acidification that must be submitted to the Governor, President of the Senate and Speaker of the House by June 30, 2021.




## SB 146/HB 239— Advanced Well Stimulation

- ▶ Defines “Advanced well stimulation treatment” to mean all stages of a well intervention performed by injecting fluids into a rock formation.
  - ▶ Prohibits advanced well stimulation in Florida.
- 



# HB 7029/SB 7064—Fracking

- ▶ These two committee bills proposed to ban a more limited definition of fracking that would have continued to allow matrix acidizing processes.



# CS/CS/SB 1278

## CS/CS/HB 405—Biosolids

- Would have regulated Class B and Class A biosolids management to minimize the migration of nutrients that impair waterbodies and to expedite the implementation of the Biosolids Technical Advisory Committee recommendations and implementation of biosolids processing innovative technologies.
- FDEP is now in the process of promulgating rules to achieve these same objectives.

# HB 1395/SB 1758—Water Quality Improvements

- ▶ Would have imposed numerous domestic wastewater collection system mandates, including advanced wastewater treatment, septic-to-sewer, and collection system infrastructure investments.

# HB 141/SB 216—Sanitary Sewer Overflows and Public Notice

- Would have required written, first class mail public notification by wastewater treatment facilities that unlawfully discharge raw or partially treated sewage into any waterway or aquifer within 24 hours of discovering the discharge. The scope of customers to be notified is contingent on the volume of the spill and how far from the discharge the customer lives.
- Also would have imposed a new \$1 per gallon sewage spilt penalty (regardless of cause), and would have allowed this penalty to be lessened on a \$2 per gallon spilt in-kind project to remedy the cause of the spill.



# HB 105/SB 286—Blue Star Domestic Wastewater Collection System Assessment & Maintenance

- This legislation established in FDEP a voluntary, incentive-based “Blue Star” program for collection system assessment, investment, rehabilitation, & electric power outage mitigation planning.
- A utility participating in the program would have to demonstrate:
  - (1) a periodic collection system and pump station structural condition assessment program and the performance of as-needed maintenance and replacements;
  - (2) the rate of reinvestment into its collection system and pump station structural condition assessment and maintenance and replacement program;
  - (3) a program designed to limit the presence of fats, roots, oils, & grease in the system;



# HB 105/SB 286—Blue Star Domestic Wastewater Collection System Assessment & Maintenance

- (4) a code enforcement program in the service area of the utility that addresses private pump stations and lateral line maintenance;
  - (5) schedule for the utility to upgrade existing pump stations to meet FDEP performance standards for new systems adopted by rule applicable at the time of application or renewal of the certification program; and
  - (6) power outage contingency plan that addresses mitigation of the impacts of power outages on the utility's collection system and pump stations.
- CS/CS/HB 105 passed the Florida House unanimously on March 27<sup>th</sup>. Its Senate companion, CS/SB 286, died in its final committee stop.

# CS/SB 1022/HB 973—Onsite Treatment & Disposal Systems

- ▶ Would have transferred regulatory oversight over onsite treatment and disposal systems (i.e. septic tanks) from the Florida Department of Health to FDEP. It thereby empowered the same agency responsible for cleaning up our state waters to regulate a contributor of nitrogen loads.
- ▶ Also would have directed FDEP to engage in rulemaking to increase the availability of cost-effective, low maintenance, and reliable nutrient removing onsite sewage treatment and disposal systems in the marketplace.
- ▶ The bills were combined with other proposed legislation and ultimately died on the House and Senate floors.
- ▶ Other bills addressing septic tanks included HB 86 / SB 214 and HB 1241 / SB 1776.

## HB 85/SB 214—Septic Tanks

- Would have required DOH to identify all septic tanks in the state by January 1, 2021.
- Beginning July 1, 2022, owners of septic tanks must have systems inspected every 5 years.
- DOH directed to implement program and adopt rules that includes a county-by-county implementation plan with first priority given to septic tanks in spring protection areas, minimum standards for a functioning system, requirements for pump-out and repair and enforcement procedures.



## SB 282/HB 63—Property Assessed Clean Environment (PACE)

- Would have defined replacement of onsite sewage treatment and disposal systems with connection to a central sewerage system or advanced onsite sewage treatment as “qualifying improvements” for purposes of obtaining low cost financing from companies involved in providing such financing in return for placing non-ad valorem assessment liens on the improved property.

## HB 157—Fertilizers

- ▶ Would have required each county and municipal government to adopt and enforce the most recent version of the Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes.
- ▶ Would have required local governments within an estuary runoff area to identify setbacks from waterbodies and prohibit fertilizer application on residential lawns within those setbacks.
- ▶ Would have allowed local governments to establish more stringent standards, upon demonstration of need and consideration of relevant scientific information.




# SB 588/SB 1299—Preemption of Local Regulations

- ▶ Every year for at least the past five (5) years, members of the Republican majority in Florida's House and Senate have filed bills attempting to limit county and municipality constitutional authority known as "local home rule".
- ▶ The term means that a county or municipality has the constitutional and statutory authority to enact and administer any regulatory program, tax, etc., not prohibited by the constitution, a general law or special act.



## SB 588/SB 1299—Preemption of Local Regulations


- ▶ The preferred tool is to preempt a particular subject to the state. For example, HB 1299 would have preempted the regulation of single-use plastic straws, over-the-counter proprietary drugs, cosmetics, and requirements for alternate generated power sources to the state.



# HB 3/SB 1748—Preemption of Local Regulations


- HB 3/SB 1748 would have preempted local regulations licensing certain occupations currently licensed by a state agency, and HB 6033/SB 88 would have repealed an existing preemption for recyclable and polystyrene materials.
- HB 6033/SB 88 would have repealed an existing preemption for recyclable and polystyrene materials.





## SB 88/HB 6033—Preemption of Recyclable and Polystyrene Materials

- Would remove the preemption of local government rules and ordinances that restrict the use of disposable plastic bags set forth in s. 403.7033, F.S.
- Would remove the preemption of local government regulation over the sale of polystyrene products set forth in s. 500.90, F.S.
- Current law authorizes local governments to restrict the use of polystyrene on public property.

A decorative graphic on the left side of the slide. It features a dark blue vertical bar on the far left. A black arrow points to the right from the top of this bar. Below the arrow, several thin, light blue lines curve downwards and to the right, creating a sense of movement or flow.

## SB 824/HB 987—Vacation Rentals/Preemption

- Once again, bills were filed to preempt the regulation and control of vacation rentals to the state.
- Other bills would provide for state regulation of vacation rentals as well as hosting platforms. These include SB 812/SB 814/SB 1196.



# HJR 1273/SJR 1698-Legislation Preemption

These resolutions, if approved by referendum, would have created a constitutional provision prohibiting the Legislature from preempting a field of regulation to the state except by passage of a general law approved by a two thirds majority. Since the resolutions were sponsored by Democrats, they had no prayer.



# SB 222—Renewable Energy

- ▶ Would exempt from the definition of a public utility, property owners that generate and sell energy, produced by a renewable energy source device of up to 2.5 megawatts, to users located on their property.




# Growth Management/Land Use Bills That Failed

A decorative graphic on the left side of the slide. It features a dark blue vertical bar on the far left. A black arrow points to the right from the top of this bar. Several thin, light blue lines curve upwards and to the right from the bottom of the bar, overlapping the main content area.

## SB 428/HB 1091—Private Property Rights in Comprehensive Plans

- ▶ These measures would require local governments to address protection of property rights in their comprehensive plans, and they would require the plan to include a property rights element.



## HB 1383/SB 1720—Private Property Rights/Bert Harris

- ▶ Would require that when a residential property owner reaches a settlement of a Bert Harris claim with a local government, or receives a judgment declaring an inordinate burden, a rebuttable presumption is created that similarly situated property owners are entitled to the same relief.
- ▶ Would create a process for the similarly situated property owners to submit an appraisal and claim for relief.

A decorative graphic on the left side of the slide. It features a dark blue vertical bar on the far left. A black arrow points to the right from the top of this bar. Several thin, light blue lines curve downwards and to the right from the bottom of the arrow, creating a sense of movement or flow.

## HB 1019/SB 1694—Takings Claims Within Areas of Critical State Concern

- Provides that state and local governments located in an area of critical concern shall equally pay any award of compensation, costs and attorney fees associated with takings actions or other property-related actions.
- Identifies the criteria for invoking the requirement for the apportionment of fees and costs.





## SB 78/HB 169—Public Financing of Construction Projects / Sea Level Impact

- Would prohibit state-financed contractors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection study and having such study published and approved by DEP.
- Would require DEP to develop by rule standards for such studies and publish the same on its website.
- Senate Bill reported favorably by first two committees.



# OTHER BILLS THAT DIED



## HB 53/SB 74—Constitution Revision Commission/Single Subject Requirement

- The Commission was criticized for combining (“bundling”) multiple issues into a single proposal. (Think vaping and oil drilling.)
- These measures propose an amendment to the Florida Constitution to limit each revision or amendment to a single subject.



# SB 362/HB 249—Constitution Revision Commission/Repeal

- ▶ And then there are those who would simply abolish the CRC altogether.
- ▶ These measures propose an amendment to the Florida Constitution to repeal the provisions relating to the Commission.

A decorative graphic on the left side of the slide. It features a dark grey arrow pointing right at the top, with several thin, curved lines in shades of blue and grey extending downwards and outwards from its base.

## HB 57/SB 232—Constitution Revision Commission/Percentage Required

- ▶ These bills propose an amendment to the Florida Constitution to increase from 60 to 66 and  $\frac{2}{3}$  the percentage of electors required to approve an amendment or revisions to the Florida Constitution.



# HB 759/761 and SB 1414/1416—Trade Secrets

- ▶ These bills were designed to create a uniform trade secret exemption to the Public Records Act and to eliminate what is now a patchwork of sometimes inconsistent trade secret exemptions (including some in Chapter 403), as well as legislative intent language in Section 815.045, which the courts have construed to be a trade secret exemption to the Public Records Act.
- ▶ HB 759/SB 1414 would eliminate the existing trade secret exemptions and HB 761/SB 1416 would create the new uniform trade secret exemption.



## HB 759/761 and SB 1414/1416—Trade Secrets

- ▶ HB 761/SB 1414 would create a new public records exemption for trade secrets as defined in the Uniform Trade Secrets Act.
- ▶ The uniform definition is more narrow than the definition found in some other statutes in key respects.
- ▶ The House bills passed the House; the Senate bills passed the first of three committees of reference.
- ▶ Look for similar legislation to be filed again next year.

## HB 407/SB 602—Public Records

- ▶ Would prohibit an agency that receives a request to inspect or copy a record from responding to such request by filing a civil action against the individual or entity making the request.
- ▶ HB 407 passed the House. SB 602 passed the first of three committees of reference.



# SB 1670/HB 7063—Administrative Procedures JAPC Recommendations

- The Joint Administrative Procedures Committee developed a number of recommendations for changes to the APA to:
  - Increase transparency in rulemaking,
  - Provide a mechanism to ensure that agencies reduce unnecessary rules, and
  - Ensure that rulemaking costs are considered for every rule.
- Provides that if JAPC objects to a proposed rule, it may not take effect until ratified by the Legislature.



# 2020 Regular Session

- Interim Committee Meetings begin September 16, 2019.
  - Regular Session begins January 14, 2020.
- 