

HOUSE OF REPRESENTATIVES
RESOURCE AND LAND MANAGEMENT COUNCIL
1999 SUMMARY OF PASSED LEGISLATION



COMMITTEE ON AGRICULTURE

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Representative Irlo "Bud" Bronson, Vice-Chair

COMMITTEE ON ENVIRONMENTAL PROTECTION

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May 1999

RESOURCE AND LAND MANAGEMENT COUNCIL

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Committee on Agriculture

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 1143--Aquaculture

by Agriculture; Bronson & Others

(CS/SB 1118 by Natural Resources; Laurent & Others)

House Committee(s) of Reference: Agriculture; Water and Resource Management; General Government Appropriations

This bill requires the Fish and Wildlife Conservation Commission (FWCC) to adopt rules by March 1, 2000, to regulate the sale of farmed red drum and spotted sea trout. These rules must provide for the protection of the wild resource without restricting a certified aquaculture producer from being able to sell farmed fish. The FWCC is also required to develop procedures by July 1, 2000, to allow persons possessing a valid aquaculture certificate to sell and transport live snook produced in private ponds or private hatcheries as brood stock to private ponds or for aquarium display.

The bill allows reasonable quantities of brood stock to be taken for aquacultural purposes. The bill includes a provision prohibiting interference with live bait traps or cages of another person, firm, corporation, or association. Violation of this provision constitutes a misdemeanor of the first degree. The definition of an aquaculture producer is revised to reflect certification requirements and the term "marine product facility" is changed to "marine aquaculture facility."

The bill provides the purpose of and sets requirements for the Sturgeon Production Working Group. The bill removes the requirement for tagging cultured game fish. The bill allows certified aquaculture producers to export water hyacinths to countries other than the United States.

A Cultured Shellfish Theft Reward Program is established, to be administered by the Department of Agriculture and Consumer Services, for the purpose of granting rewards to persons who provide information leading to the arrest and conviction of individuals illegally possessing, harvesting, or attempting to harvest cultured shellfish.

And lastly, because of changes to s. 370.027, F.S., revising the Marine Fisheries Commission's rulemaking authority over snook, red drum, and spotted sea trout, and a question of whether those changes may be inconsistent with the intent of Revision #5 to the Florida Constitution creating the FWCC, a severability clause is included in this legislation to allow passage of the various provisions of this legislation independently of one another.

The effective date of this bill is July 1, 1999.

CS/1ST ENG/HB 1535--Wildfires
by General Government Appropriations; Agriculture; Putnam & Others
(CS/SB 780 by Agriculture and Consumer Services)

House Committee(s) of Reference: Judiciary; General Government Appropriations

This bill amends portions of Chapter 590, F.S., to clarify the authority of the Division of Forestry, within the Department of Agriculture and Consumer Services, and charging it with primary responsibility for providing prevention, detection, and suppression of wildfires wherever they may occur, on public or private land. This is not an increase in duties for the division, rather a clarification. The bill also includes the substance of CS/HB 569, which relates to the management of conservation and recreation lands.

Under this bill, employees and firefighting crews under the division's control and direction may enter upon any lands for the purpose of preventing and suppressing wildfires and investigating smoke complaints or open burning not in compliance with an authorization. The division is authorized to reimburse public and private entities which the division engages to assist in wildfire suppression, and the bill directs the division to undertake privatization alternatives for fire prevention activities. The bill also creates the Florida Center for Wildfire and Forest Resources Management Training, which will be located in existing infrastructure at the Withlacoochee Forest Center.

The bill authorizes the Commissioner of Agriculture to declare when severe drought emergencies exist (formerly the Governor had to declare such situations). It prohibits any person from setting fires within the designated area of a severe drought emergency, unless a written permit is obtained from the division. If the severe drought emergency continues until wild lands become so dry that an extraordinary fire hazard exists, the Governor, under the advisement of the Commissioner of Agriculture, may declare the extraordinary fire hazard's existence and describe the boundaries in a proclamation. In areas determined to be within the boundaries of extraordinary fire hazards, activities, other than specific work-related activities by the landowner, are restricted.

The bill authorizes the division to maximize the opportunities for prescribed burning conducted during its daytime and nighttime authorization process. A property owner or his or her agent who is conducting a certified prescribed burn will not be held liable for damage or injury caused by the fire or resulting smoke unless "gross" negligence is proven. The "Hawkins Bill", also commonly referred to as the "Hawkins Act," currently allows the division to prescribe burn any area of wild land within the state reasonably determined to be in danger of wildfire. HB 1535 clarifies procedures for landowners objecting to the prescribed burning of his or her property.

If a person permits any authorized fire to escape the boundaries or time limit of a burn authorization, cost and expenses (or \$150, whichever is greater) incurred by the division shall be paid within thirty days and costs incurred by an agency acting at the division's direction are recoverable by that agency.

The bill specifies that any equipment, including equipment for fire control uses, purchased with Conservation and Recreation Lands (CARL) funds may be used for any CARL lands managed by a state agency. The bill authorizes owners of nonconforming structures which were burned during the June and July, 1998 wildfires to repair or rebuild in like-kind, unless prohibited by Federal law or regulation.

The bill pulls together all open burning laws that the division is responsible for and puts them all in one section so citizens can go and look in one area to obtain answers. The funding necessary to implement this legislation is \$140,000 in FY 1999-2000, \$805,998 in FY 2000-2001, and \$653,446 in FY 2001-2002 for the Florida Center for Wildfire and Forest Resources Management Training. Anticipated recurring revenues are \$284,440 for FY 2000-2001, and \$298,662 for FY 2001-2002. The bill appropriates \$140,000 to implement the provisions of the bill.

The effective date of this bill is upon becoming law.

2ND ENG/HB 1639--Ad Valorem Tax Assessment/Irrigation by Alexander & Others (SB 1582 by Laurent)

House Committee(s) of Reference: Agriculture; Finance and Taxation; General Government Appropriations

Section 193.461, F.S., provides requirements and directions to property appraisers for the assessment of agricultural lands. There are listed criteria for assessment, one of which is the income methodology approach which uses actual agricultural production on a parcel of property as a measure of the value of that particular property. Under this approach, productive agricultural property is assessed in a manner that reflects the rise and fall in the agriculture business by using a five-year moving average to establish the property's value.

For purposes of using the income methodology to assess agricultural properties, the bill provides irrigation systems physically attached to land used for agricultural purposes shall be considered a part of the average yields per acre and shall have no separately assessable contributory value.

The effective date of this bill is January 1, 2000.

**CS/2ND ENG/HB 1855--Agriculture and Consumer Services
Department
by General Government Appropriations; Agriculture; Putnam &
Others
(CS/1ST ENG/SB 2066 by Agriculture and Consumer Services;
Thomas)**

House Committee(s) of Reference: Business Regulation and Consumer Affairs;
Finance and Taxation; General Government Appropriations

Many of the changes in the bill are of a technical nature. The definitions of "farm product" and "agricultural emergency" are clarified to more accurately state the original intent. A reference to a quorum for the Florida Agriculture Center and Horse Park Authority is deleted because it is duplicative in nature. The acreage allowance that the horse park-agricultural center may use is increased from 250 to 500 acres. References to the Consumer Products Testing Laboratory, which was dissolved last year, are removed. A name change, brought about by the United States Department of Agriculture (USDA) reorganization, is authorized. In regard to Withlacoochee and Goethe State Forests and gross receipts from timber harvest, the bill removes individual county names and inserts "each county in which a portion of the respective forest is located" to prevent any one county from losing revenue as the forests are expanded. The bill clarifies the definition of a legal fence and procedures for handling livestock at large are revised. The bill clarifies that unless a mortgage includes a promissory clause, it is not evidence of indebtedness.

More specifically, the bill clarifies information required on an antifreeze label, establishes product liability, and redefines the penalties for violating the antifreeze act.

A Pest Exclusion Advisory Committee is created to look at plant and animal pest infestations, both present and future, and offer solutions and recommendations, in report form, to the Commissioner of Agriculture, the Governor, the Speaker of the House of Representatives, and the President of the Senate by January 1, 2001.

The Department of Agriculture and Consumer Services (Department) is permitted to create a buffer zone to slow the spread of citrus canker from infected areas. A compensation program for trees removed from the buffer zone will be developed, subject to annual legislative appropriation.

The bill restricts the proximity and dates of operation of temporary amusement rides to public fairs and expositions, except with the written consent of the affected fair association. The bill requires public fairs and expositions to forward a copy of the application for a permit to fair associations within 50 miles of the site of a proposed fair when an application is presented to the department. The Department is given

authority to determine which, if any, fairs or expositions may compete with one another. The bill declares public fairs and expositions exempt from special assessments.

The bill allows owners of amusement rides to submit copies of current manufacturer's operating instructions to the Department only upon the Department's request but at no cost to the Department. It also prohibits bungy catapulting or reverse bungy jumping. The length of time between the execution of the Affidavit of Nondestructive Testing (NDT) and the time the inspection is done and the permit is issued is reduced to 60 days. If general revenue is insufficient to cover the costs associated with the Bureau of Fair Rides Inspection, the industry shall pay for the remaining cost of the program. And lastly, amusement ride owners are required to post signs at patron entrances to advise or warn of age, size, and health restrictions, weight limits or other special considerations recommended by the manufacturer.

The bill provides a penalty for any person who intentionally trips, fells, ropes, or lassoes the legs of a horse for the purpose of wagering for entertainment or sport. The legislation provides penalties for violation of "Fresh from Florida" logo regulations.

The effective date of this bill is July 1, 1999.

HB 1921--Corporate Income Tax

by Spratt (1ST ENG/SB 676 by Horne)

(Passed as part of CS/CS/1ST ENG/SB 888 by Commerce and Economic Opportunities; Fiscal Resource; Horne)

House Committee(s) of Reference: Agriculture; Finance and Taxation; General Government Appropriations

This bill amends Chapter 220, F.S., to allow citrus processing companies, as defined in the bill, to elect to use a single factor sales formula to calculate their Florida apportionment factor for corporate income tax. This allows the processing companies to eliminate payroll and property factors from their apportionment formula. Proponents of the measure believe it will enhance the business climate in Florida by allowing companies to adjust their corporate income tax formula.

The effective date of this bill is upon becoming law.

Committee on Environmental Protection

1999 End-of-Session Summary

Bills that Passed Both Houses

1ST ENG/HB 269--Lead-acid Battery Fee

by Albright
(SB 1122 by Silver)

House Committee(s) of Reference: Environmental Protection; Finance and Taxation; General Government Appropriations

The bill amends ss. 403.717 and 403.7185, F.S., to specify that the \$1.50 lead-acid battery fee currently assessed on every retail sale of these batteries shall only be imposed on the sale of new or remanufactured batteries and may only be imposed one time on any battery. An amendment adopted by the Finance and Taxation Committee appropriates \$600,00 in fiscal year 1999-2000 and \$800,000 annually thereafter from the General Revenue Fund to be transferred to the Water Quality Assurance Trust Fund to offset the revenue reduction resulting from the bill.

The effective date of the bill is October 1, 1999.

1ST ENG/HB 329--Miami-Dade County Lake Belt Area

by Villalobos & Others

(CS/CS/SB 2238 by Fiscal Resource; Comprehensive Planning, Local and Military Affairs; Diaz-Balart & Others)

House Committee(s) of Reference: Environmental Protection; General Government Appropriations

This bill provides a legislative finding that the impact of mining within the rock mining areas of the Miami-Dade County Lake Belt Area (Lake Belt Area) can best be offset by the implementation of a comprehensive mitigation plan. The Lake Belt Mitigation Plan, as set forth in s. 373.4149, F.S., imposes a five cent mitigation fee on each ton of limerock or sand sold from within the Lake Belt Area. As of October 1, 1999, this fee will apply to limerock or sand in raw, processed, and manufactured form, including: sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. Proceeds of the fee, less administrative costs, are to be used exclusively for the purpose of conducting mitigation activities that offset the loss of the value and functions of wetlands as a result of mining in the Lake Belt Area. Payment of the mitigation fee will satisfy any mitigation requirements imposed by ss. 373.403-373.439, F.S., or by any applicable county ordinance.

This bill also redefines the Lake Belt Area by deleting areas that are currently within its boundaries. It also provides that local land use jurisdiction shall not be preempted for areas within the Lake Belt Area, provided the exercise of local land use jurisdiction strongly considers limestone mining activities and related operations within areas designated for rock mining by the Lake Belt Plan.

This bill provides additional requirements for the Phase II Lake Belt Plan. In developing the plan, the Lake Belt Committee must consider the feasibility of a common mitigation plan for nonrock mining uses, including a mitigation fee. The committee must also analyze the hydrological impacts resulting from future mining anticipated in the Lake Belt Plan and recommend any appropriate, necessary mitigation measures to be included in the Lake Belt Mitigation Plan.

The effective date of this bill is upon becoming law.

CS/HB 569--Conservation & Recreation Lands by General Government Appropriations; Putnam

(Passed as part of CS/CS/1ST ENG/SB 908 by Fiscal Policy; Natural Resources; Latvala & Others)

House Committee(s) of Reference: Environmental Protection; Water and Resource Management; General Government Appropriations

This bill provides that a percentage of the funds deposited into the Preservation 2000 Trust Fund are available for the management, maintenance and capital improvements to lands acquired under Preservation 2000 or previous land acquisition programs. The bill also provides that any equipment purchased with monies from the Preservation 2000 Trust Fund may be used on any conservation and recreation lands managed by a state agency.

The effective date of this bill is upon becoming law.

1ST ENG/HB 1515--Water Pollution Operation Permits by Constantine; Merchant

(CS/SB 1180 by Natural Resources; Bronson & Others) (**Chapter 99-11, L.O.F.**)

House Committee(s) of Reference: Environmental Protection

The act makes two changes in the process for issuing water pollution operation permits as required under s. 403.088, F.S. First, it makes discretionary the requirement that a

permit specifically incorporate an accompanying administrative order that contains a compliance schedule. Second, this bill provides for administrative procedures in granting a contested motion for interim construction, operation, or maintenance of a facility being constructed pursuant to the Everglades Forever Act (s. 373.4592, F.S.).

The effective date of this bill is upon becoming law.

**CS/HB 1699--SFWMD/Central & Southern Project
by General Government Appropriations; Putnam & Others
(Passed as CS/CS/1ST ENG/SB 1672 by Fiscal Policy; Natural
Resources & Laurent) (Chapter 99-143, L.O.F.)**

House Committee(s) of Reference: Environmental Protection; General Government Appropriations

This bill authorizes the South Florida Water Management District (District) to participate as local sponsor for the Comprehensive Review, or Restudy, of the Central and Southern Florida (C&SF) Project. Legislative intent is provided that the Restudy project components be implemented in a manner consistent with Chapter 373, F.S. The District is specifically authorized to exercise eminent domain authority in acquiring lands necessary for the Kissimmee River Restoration Project, the Ten Mile Creek Project, the Water Preserve Areas, and the C-111 Project; in the absence of willing sellers, such lands must be acquired using state condemnation law. The bill also provides specific requirements for the design and development of project components resulting from the Restudy. The District and the Department of Environmental Protection (Department) are directed to expeditiously pursue currently authorized projects and to coordinate project components with previously authorized projects. The Department is required to approve, or approve with amendments, all project components, with such approval based upon a determination that the District has complied with the specified requirements for the design and development of project components. It also requires that requests for any state funding needed for a project component be submitted to the Department for inclusion in the Department's budget request.

The effective date of this bill is upon becoming law.

**1ST ENG/HB 1765--Greenways & Trails
by Dockery; Constantine & Others
(Passed as part of CS/CS/1ST ENG/SB 908 by Fiscal Policy; Natural
Resources; Latvala & Others)**

House Committee(s) References: Environmental Protection; General Government Appropriations

This bill provides that the Florida Greenways Coordinating Council and the Florida Recreational Trails Council are to be abolished and, in their place, a single body is created--the Florida Greenways and Trails Council. This council is to advise the Department of Environmental Protection in the execution of its powers and duties under Chapter 260, F.S. Provisions of this bill provide for the Florida Greenways and Trails Council's membership, duties and powers. In addition, this bill grants the rulemaking authority needed in order to implement Chapter 260, F.S.

The effective date of this bill is upon becoming law.

**1ST ENG/3RD ENG/HB 1849--Lead-acid Battery Fees
by Wallace & Others**

(Passed as CS/1ST ENG/SB 1434 by Natural Resources; Hargrett)

House Committee(s) of Reference: Environmental Protection; Finance and Taxation; General Governmental Appropriations

The bill authorizes the Department of Environmental Protection to appropriate up to \$400,000 from the Solid Waste Management Trust Fund, if available, for fiscal year 1999-2000 and to seek continued funding on an annual basis through fiscal year 2004-2005. The purpose of the funding is to create a grant program for Florida-based businesses that recycle lead-acid batteries and other materials containing lead, such as televisions and certain computer products. The bill also directs the department to work with the Department of Management Services to implement a pilot program to collect products containing lead from state agencies. A final provision of the bill increases the number of tires from 1,000 to 1,500 which may be held at a waste tire collection center or waste tire site provided these sites had certain permits.

The effective date of this bill is July 1, 1999.

**CS/CS/1ST ENG/HB 2021--State Land Acquisition & Management;
by General Government Appropriations; Water and Resource
Management; Environmental Protection; Dockery; Constantine;
Alexander & Others**

(Passed as CS/CS/1ST ENG/SB 908 by Fiscal Policy; Natural Resources; Latvala & Others)

House Committee(s) of Reference: Water and Resource Management; General Government Appropriations

This bill creates the *Florida Forever* program which authorizes the issuance of bonds in an amount not to exceed \$3 billion for acquisitions of land and water areas. This revenue is to be used for the purposes of restoration, conservation, recreation, water resource development, historical preservation and capital improvements to such lands and water areas. This program is intended to accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.

The bond proceeds are to be distributed as follows: 35 percent for the acquisition of lands and capital projects (capital projects may not exceed 10 percent of the funds allocated pursuant to this section); 35 percent for acquisition of lands and capital project expenditures necessary to implement the water management districts priority lists (of this amount, a minimum of fifty percent shall be used for the acquisition of lands); 20 percent to Florida Communities Trust Program; 1.5 percent for purchases of inholdings and additions to state parks; 1.5 percent to fund state forest inholdings and additions and implement reforestation plans or management practices; 1.5 percent to the Fish and Wildlife Conservation Commission for inholdings and additions; and 1.5 percent to the Florida Greenways and Trails Programs.

Effective July 1, 2001, provisions of this bill would distribute documentary stamp tax revenues in the following manner: both the Conservation and Recreation Lands and Water Management Lands Trust Funds are reduced from 5.84% to 4.20%; 2.28% shall be paid into the Invasive Plant Control Trust Fund; 0.05% of the remaining taxes collected shall be paid into the State Game Trust Fund for lake restoration; and 0.05% shall be paid into the State Treasury and divided equally to the credit of the Department of Environmental Protection and the Department of Agriculture and Consumer Services for water quality research.

This bill also modifies current statutory provisions relating to surplus lands and payment in lieu of taxes. Surplus language is amended to conform with the Revision #5 to the Florida Constitution which directed that lands purchased for conservation purposes may only be surplus upon a two-thirds vote of the entity holding title. In addition, a process for requesting and undertaking the surplus of lands was provided. The payment in lieu of taxes statutes were simplified. Current millage and population requirements were replaced with the requirement that a county have a population of less than 150,000 and the total acquisitions under Preservation 2000 (P2000) and Forever Florida programs exceed 0.01% of total ad valorem tax collections.

A new provision concerning the alternative uses of state-owned lands was created. For uses such as natural gas or petroleum pipelines, sustainable forestry or agriculture, and linear facilities, a set of criteria is established. The entity holding title is to review the criteria and determine whether or not the proposed use meets such criteria and therefore shall be allowed.

Certain provisions of this bill are substantially similar to CS/HB 569, which died on the House Calendar. These provisions set forth the purposes of the Conservation and Recreational Lands Trust Fund (CARL), how the fund is to be credited and the reasons for its distribution. The current funds in the CARL Trust Fund and the P2000 Trust Fund are to be used for land management on other state lands. These lands are required to be managed by a state agency for conservation and recreation purposes.

Other provisions of this bill are substantially similar to 1ST ENG/HB 1765, which died in the Senate Committee on Natural Resources. This bill provides that the Florida Greenways Coordinating Council and the Florida Recreational Trails Council are to be abolished and, in their place, a single body is created--the Florida Greenways and Trails Council. This council is to advise the Department of Environmental Protection in the execution of its powers and duties under Chapter 260, F.S. Provisions of this bill provide for the Florida Greenways and Trails Council's membership, duties and powers. In addition, this bill grants the rulemaking authority needed in order to implement Chapter 260, F.S.

This bill also creates the Florida Forever Advisory Council, and the Acquisition and Restoration Council (ARC) and establishes their memberships, duties and compensation.

Effective July 1, 1999, the duties, powers and all other activities conducted by the Green Swamp Land Authority are transferred to the Department of Environmental Protection.

This bill sets forth numerous other substantive provisions, including those relating to: the procedures and guidance to be used when purchasing state owned lands for preservation, conservation and recreational purposes; requirements for the water management districts to use in order to evaluate and recommend projects; usage of funds within the Water Management Lands Trust Fund; lands managed for multiple use; and financial assistance programs to local governments.

This bill also amends current provisions regulating rigid coastal armoring structures and states that permits for present installations may be issued where the installation is between and adjoins rigid coastal armoring structures at both ends, follows a continuous and uniform armoring structure construction line and is no more than 250 feet in length.

Furthermore, this bill delegates rulemaking authority to the Department of Environmental Protection and the water management districts for implementation of this Act.

The effective date of this bill is upon becoming law.

**HB 2057--Coastal Zone Protection Act
by Argenziano**
(Passed as SB 934 by Brown-Waite)

House Committee(s) of Reference: Environmental Protection; Community Affairs;
General Government Appropriations

The bill amends s. 161.54, F.S., to modify the definition of “substantial improvement” by removing the 5-year cumulative total provision of the definition. If repairs or improvements to a structure within the coastal building zone meet the definition of “substantial improvement,” the structure must comply with the minimum standards for construction within the coastal building zone. The bill provides that a “substantial improvement” occurs only if the cost of a single improvement or repair equals or exceeds 50 percent of the structure’s market value.

The effective date of this bill is upon becoming law.

**HB 2151--Petroleum Contamination Site Rehabilitation
by Environmental Protection; Dockery**
(CS/SB 2536 by Natural Resources; Diaz-Balart)

House Committee(s) of Reference: Governmental Rules and Regulations; General
Government Appropriations

The bill provides up to \$5 million from the Inland Protection Trust Fund for source removal activities in advance of the priority ranking system. However, a prioritization schedule that is consistent with statutory requirements must be established for these activities.

This bill also requires, under the Petroleum Cleanup Participation Program, that the Department of Environmental Protection (Department) and the person responsible for site rehabilitation must complete their cost-sharing agreement negotiations within 120 days of commencement. If the parties are unable to complete negotiations, then the Department is to terminate negotiations, deem the site ineligible under this program, and revoke all liability protections. In addition, this bill eliminates the provision that any person who knowingly acquires title to contaminated property is not eligible for funding under this program.

The bill also directs the Department to select five sites for innovative technology pilot programs. The Department is to select innovative products and processes, based upon competitive bidding procedures as set forth in statute, to use on the pilot projects.

This bill recognizes that it is appropriate for persons assuming responsibility for clean up of new discharges which occur after December 31, 1998 (at sites with existing contamination which was already determined to be eligible for state funded clean up) to share in the costs. Therefore, this bill authorizes the Department to enter into site rehabilitation agreements with such persons assuming responsibility for new discharges. The agreements are to include: allocation of the financial responsibilities of both parties; establish the method which will guarantee the applicant's commitment to pay; establish priority of the clean up; and pay any applicable deductibles, copayments or other program eligibility requirements. The application for a site rehabilitation agreement is to be submitted no later than 120 days from discovery of the new discharge and must include an assessment report and a certification that the applicant has the authority to enter into the agreement. This bill also provides for the requirements of this agreement and exclusions thereof. The parties must complete their negotiations within 90 days of commencement. If the terms of the agreement are not fulfilled by the applicant, then the applicant forfeits the right to funding and the Department or local government may compel enforcement of the clean up.

This bill also continues the Preapproved Advanced Cleanup Program, which was scheduled for repeal this year.

The effective date of certain provisions of this bill is retroactive to January 1, 1999, except as provided in s. 376.30714(11), F.S. The effective date of the remaining portions of this bill is upon becoming law.

Committee on Water and Resource Management

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/1ST ENG/HB 107--Administrative Procedure Act by Governmental Rules and Regulations; Pruitt; Wallace & Others (CS/CS/SB 206 by Governmental Operations; Fiscal Policy; Laurent)

House Committee(s) of Reference: Water and Resource Management;
Governmental Operations; Governmental Rules and Regulations

This bill reorganizes for clarity the definition of “agency” found in s. 120.52(1), F.S., and includes in the definition regional water supply authorities for purposes of the Administrative Procedure Act. Entities described in Chapter 298, F.S., relating to water control districts, are removed from that definition. This bill provides that district school boards do not have to adopt rules pursuant to the standard contained in ss. 120.536(1) and 120.52(8), F.S., but must instead adopt rules pursuant to the general powers described in s. 230.22(2), F.S.

The bill also clarifies the rulemaking standard adopted in the 1996 revisions to the Administrative Procedure Act. It provides that an agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling act. Moreover, an agency does not have authority to adopt a rule because it is within the agency’s class of powers and duties. Statutory language granting rulemaking authority is to be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the same statute. Agencies are again provided the opportunity to review existing rules to determine whether those rules have a valid statutory basis pursuant to the clarified standard. Those rules that are determined not to have adequate authority may be shielded from challenge as to validity and agencies may seek legislative ratification of those rules.

Other provisions provide that an agency may not adopt retroactive rules, including those intended to clarify existing law, unless expressly authorized by statute. When challenging a proposed rule, the petitioner has the burden of going forward in a challenge to a proposed rule. The agency then has the burden to prove by a preponderance of the evidence that the proposed rule is not an invalid exercise of delegated legislative authority.

Where the agency is to reject or modify a recommended conclusion of law or interpretation of administrative rule, it is to state its reasons for doing so with particularity and must also make a finding that its substituted conclusion of law is as or more reasonable than that for which it was substituted.

The effective date of this bill is upon becoming law.

1ST ENG/HB 467--Hunting & Fishing License Fees by Sembler

(Passed as part of CS/3RD ENG/HB 2067 by General Government Appropriations; Water and Resource Management; Alexander)

House Committee(s) of Reference: Water and Resource Management; Community Affairs; Finance and Taxation; General Government Appropriations

This bill repeals the \$5, 3-day nonresident freshwater fishing license currently authorized in s. 372.57(2)(b)2., F.S. It also calls for a review of fees for licenses and permits established in Chapter 372, F.S., including exemptions for those fees. The Legislature is required to conduct this review every five years, beginning with the year 2000 Regular Session.

The effective date of this bill is July 1, 1999.

HB 697--Watersports/Parasails by Edwards

(Passed as CS/SB 728 by Natural Resources; Sullivan)

House Committee(s) of Reference: Water and Resource Management; Governmental Rules and Regulations

This bill amends s. 327.37, F.S., to provide that operators of vessels towing a person attached to a parasail or similar device must have another person in the vessel, in addition to the operator, to observe the progress of the person being towed. The bill clarifies that a wide-angle rear view mirror is not acceptable for purposes of observation. The bill further prohibits persons from parasailing at any time between the hours of one-half hour after sunset to one-half hour before sunrise.

In addition, the bill provides that a person may not engage in parasailing or any similar activity without wearing a personal flotation device approved by the United States Coast Guard. The bill also provides exemptions from the requirements of the bill for certain persons. The operation or manipulation of a vessel, tow rope, or other device by which the direction and location of a parasail may be affected or controlled in such a way as to cause the parasail to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, or other object is prohibited.

The bill prohibits persons from operating any vessel towing a parasail, or from engaging in parasailing, within 100 feet of the marked channel of the Florida Intracoastal Waterway. Also, the bill provides noncriminal penalty provisions for

persons violating parasailing regulations. Multiple violations, or failure to pay penalties assessed for noncriminal violations, can result in misdemeanor charges.

The effective date of this bill is July 1, 1999.

**CS/HB 721--Sewage Treatment Facility Discharges
by Environmental Protection; Fiorentino & Others**
(Passed as CS/1ST ENG/SB 1424 by Natural Resources; Latvala)

House Committee(s) of Reference: Water and Resource Management;
Environmental Protection; Community Affairs

This bill prohibits new or expanded discharges to waters within Pasco County and requires elimination of existing discharges to waters within Pasco County by July 1, 2004. Exceptions to the provisions are provided if: 1) there is no other practicable alternative and the discharge will receive advanced waste treatment or a higher level of treatment and will not result in a violation of water quality standards; or 2) the discharge is a limited wet weather discharge serving as a backup to a reuse system and will not result in a violation of water quality standards.

The effective date of this bill is upon becoming law.

**HB 801--Septic Tanks/Suitability of Soils
by Putnam**

(Passed as part of CS/2ND ENG/SB 2380 by Comprehensive Planning,
Local and Military Affairs; Rossin)

House Committee(s) of Reference: Water and Resource Management; Community
Affairs

This bill states that the Legislature recognizes the Department of Community Affairs' (DCA) responsibility to review and evaluate comprehensive plan amendments proposing the location, installation or use of onsite sewage treatment and disposal systems (septic tanks). The bill further states that, except in areas of critical state concern, when reviewing comprehensive plan amendments, DCA shall not require standards, conditions or land-use restrictions that are more stringent than those specified in applicable statutes or rules adopted by the Department of Health, the Department of Environmental Protection, or any other relevant agency.

The effective date of this bill is upon becoming law.

HB 1087--Broward County/Old Plantation Water Control District by Wasserman-Schultz

(Passed as SB 2688 by Campbell)

House Committee(s) of Reference: Water and Resource Management; Community Affairs; Governmental Operations; Finance and Taxation

The bill codifies all prior special acts relating to the Old Plantation Water Control District in Broward County into a single act, and provides for minimum charter requirements. All prior special acts are repealed and no changes are made to substantive law.

The effective date of this bill is upon becoming law.

HB 1091--Broward County/ Hillsboro Inlet District by Wasserman-Schultz

(Passed as CS/SB 2672 by Campbell)

House Committee(s) of Reference: Water and Resource Management; Community Affairs; Governmental Operations

The bill codifies all prior special acts relating to the Hillsboro Inlet District in Broward County into a single act. The Hillsboro Inlet District bypasses sand, distributes sand on the beaches, and maintains the depth of the Hillsboro Inlet to allow the free flow of water for boat traffic. The District also serves a significant drainage function. In addition, the bill provides for minimum charter requirements, repeals prior special acts, and clarifies beach erosion provisions.

The bill does not make any substantive changes to current law.

The effective date of this bill is upon becoming law.

HB 1133--Water Management District Meeting Notices by A. Greene

(Passed as part of CS/CS/1ST ENG/SB 908 by Fiscal Policy; Natural Resources; Latvala & Others)

House Committee(s) of Reference: Water and Resource Management; Community Affairs; Governmental Operations

The bill gives water management districts (WMDs) the option of advertising in area newspapers, rather than in the Florida Administrative Weekly, staff meetings to evaluate and rank bids for goods or services. Being able to use newspapers as the

advertising medium is expected to speed up the WMDs' contracting process. The bill has an indeterminate fiscal impact.

The effective date of this bill is July 1, 1999.

**CS/HB 1829--Harmful-Algal-Bloom Task Force
by Water and Resource Management; Bradley & Others
(Passed as CS/2ND ENG/SB 2038 by Natural Resources; Carlton)**

House Committee(s) of Reference: Water and Resource Management; Governmental Operations; General Government Appropriations

This bill establishes a Harmful-Algal-Bloom Task Force to determine research and monitoring priorities and control and mitigation strategies for harmful algal blooms and make recommendations to the Florida Marine Research Institute (FRMI). The FRMI shall appoint the task force members from certain specified occupations and must include citizen group representatives and members of government.

The bill requires the FMRI to implement a program designed to increase the knowledge of red tide, and to provide funding and technical assistance to government agencies, research universities, coastal local governments, and organizations with scientific and technical expertise for research purposes. Criteria are provided for the procurement of contractual services under the program. The sum of \$3,000,000 is appropriated from the Coastal Protection Trust Fund to the FMRI. Of this amount, \$1,000,000 is to continue 10 specific contracts for promoting state, federal and private partnerships relating to harmful algal blooms, \$1,000,000 is for the Mote Marine Laboratory and \$1,000,000 is for the FMRI for research on red tide.

The effective date of this bill is July 1, 1999.

**HB 2023--Brevard County/Harvesting Clams
by Goode
(Passed as SB 2576 by Bronson)**

House Committee(s) of Reference: Water and Resource Management; Community Affairs; General Government Appropriations

The bill establishes a priority process by which the Department of Environmental Protection (DEP) will issue new Brevard County clamming licenses once the total number currently issued falls below 500. The current number of licenses is expected to fall below that threshold in the next 12 months. (NOTE: The newly created Fish and Wildlife Conservation Commission will take over this responsibility from DEP as of July 1, 1999.)

The bill also extends the clamming license program's existence another two years, until July 1, 2003.

The effective date of this bill is upon becoming law.

**CS/3RD ENG/HB 2067--Water Resource Management
by General Government Appropriations; Water and Resource
Management, Alexander & Others**

(Provisions of this bill are also included in CS/HB 2069, CS/2ND
ENG/SB 1250, and CS/1ST ENG/SB 2282)

House Committee(s) of Reference: General Government Appropriations

Within the Northwest Florida Water Management District (NFWFMD), wetlands activities are regulated under a different program than the environmental resource permitting (ERP) program used in the rest of the state. CS/HB 2067 would allow this interim wetlands permitting program to continue another four years, to July 1, 2003. Also, certain wetlands jurisdiction declarations that DEP has given to entities in anticipation of development remain valid until January 1, 2002.

The bill directs the Department of Environmental Protection (DEP) and the NFWFMD to develop a plan by which the permitting for activities proposed in surface waters and wetlands shall fully comply with the provisions of part IV, Chapter 373, F.S., by July 1, 2003. The plan would address such issues as the division of wetlands permitting responsibilities between DEP and the NFWFMD; the ability of the NFWFMD to implement federal permitting programs related to activities in surface waters and wetlands; and the Chapter 70, F.S. (Bert Harris, Jr. Private Property Rights Act) implications of implementing an ERP program within the district. DEP and the NFWFMD must submit a joint interim report on their progress in developing the plan to the Governor and the Legislature on March 1, 2001, and a final report on March 1, 2003.

Additionally, the bill includes the text of CS/1ST ENG/SB 2282, the Florida Watershed Restoration Act, which outlines a process for restoring Florida's impaired waterbodies through the establishment of "total maximum daily loads" (see discussion of CS/HB 2069); a guarantee that once local governments begin collecting payment-in-lieu of taxes on lands acquired through state conservation programs, they are entitled to 10 full payments; forgiveness of a \$3.2 million loan from DEP to one of its trust funds; a provision allowing prevailing parties in actions related to Chapter 373, F.S., to recover cost and attorney's fees; and the text of 1ST ENG/HB 467, which repeals the 3-day, \$5 non-resident freshwater fishing license and directs the Legislature to review the various hunting, freshwater fishing and wildlife management licenses and permits issued by the Fish and Wildlife Conservation Commission (currently known as the Game and Fresh Water Fish Commission).

The effective date of this bill is July 1, 1999.

**CS/HB 2069--Florida Watershed Restoration Act
by Governmental Rules and Regulations; Water and Resource
Management; Alexander & Others**

(Passed as CS/1ST ENG/SB 2282 by Natural Resources; Laurent)

House Committee(s) of Reference: Governmental Rules and Regulations; General Government Appropriations

This bill outlines a process for restoring Florida's waters through the establishment of "total maximum daily loads" (TMDLs) for pollutants of impaired water bodies as required by the federal Clean Water Act. Specifically, the bill addresses development of the s. 303(d) list and TMDL assessment, calculation, allocation and implementation. The bill calls for the TMDL process to be integrated with existing state, federal and local protection and restoration programs, and for coordination with state agencies and affected parties.

The implementation of the bill over the next decade will have a substantial fiscal impact that cannot be accurately determined at this time. This bill also passed as a provision of CS/HB 2067.

The effective date of this bill is upon becoming law.

**CS/1ST ENG/HB 2145--Fish & Wildlife Conservation Commission
by Environmental Protection; Water and Resource Management;
Alexander; Dockery & Others**

(Passed as CS/CS/2ND ENG/SB 864 by Fiscal Policy; Natural Resources)

House Committee(s) of Reference: Water and Resource Management; Environmental Protection; Governmental Rules and Regulations; General Government Appropriations

The bill addresses the requirements of Revision #5 to the Florida Constitution passed by a majority of the voters in the November, 1998 General Election. The bill transfers the Game and Fresh Water Fish Commission (GFC) and the Marine Fisheries Commission (MFC) to the Fish and Wildlife Conservation Commission (FWCC) by a type two transfer as authorized in s. 20.06, F.S. Effective July 1, 1999, the GFC and the MFC are abolished.

The administrative structure of the FWCC is created to include a Division of Freshwater Fisheries, a Division of Marine Fisheries, and a Division of Law Enforcement. The FWCC is authorized to establish the same bureaus and offices as exist within the GFC. The bill transfers bureaus and offices from the Division of Marine Resources and the

Division of Law Enforcement at the Department of Environmental Protection (DEP) to the FWCC. In particular, the Florida Marine Research Institute (FMRI) is transferred from the Division of Marine Resources at DEP and established as a separate budget entity within the Office of the Executive Director of the FWCC.

DEP is authorized to retain a Division of Law Enforcement to house the Florida Park Patrol and other enforcement bureaus and offices maintained at the department. A Division of Aquaculture is created at the Department of Agriculture and Consumer Services (DACS) to house the Bureau of Marine Resource Regulation and Development which is transferred from the Division of Marine Resources at DEP.

The bill requires that the FWCC implement a system of adequate due process procedures to be accorded to any party whose substantial interests will be affected by any action of the commission. The commission is encouraged to incorporate the provisions of s. 120.54(3)(c), F.S., when adopting rules in the performance of its constitutional duties. The bill also requires that the provisions of chapter 120, F.S., shall be accorded to any party whose substantial interests will be affected by any action of the commission in the performance of its statutory duties. In addition, comments submitted by the commission to a permitting agency on a proposed permit, license or authorization must be received by the permitting agency within a specified time, and must be based on credible, factual scientific data. Comments provided by the commission are not binding on the permitting agency.

The bill identifies funding sources for the FWCC and revises portions of the Florida Statutes to conform to the provisions of Revision #5. In sum, the bill authorizes the transfer of more than 1700 FTEs and more than \$150 million from the GFC, the MFC, and DEP to the FWCC.

The effective date of this bill is July 1, 1999.
