

# 2011 Session Summary

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## 2011 Session Overview

The 2011 Regular Session officially ended in the early hours of Saturday, May 7<sup>th</sup> after the House and Senate voted to extend in order to avoid calling a special session to finish its business.

For the first time in Florida's history, Republicans hold a supermajority in both the House (81-39) and in the Senate (28-12), which was the product of the national Republican and tea party domination during the 2010 elections. As a result, major themes revolving around a conservative agenda dominated the session including immigration, gun rights, school vouchers, and abortions. Pro-Republican groups such as business interests and insurance enjoyed many successes.

First year Republican Governor Rick Scott pushed for tougher immigration laws, which would have made illegal immigration a state crime, allowing police to question suspects about their immigration status and require employers to use a federal database to check the status of prospective hires. The measure was met with strong opposition from the agricultural and business communities. In the end, the legislature failed to pass any such immigration reform.

Several abortion measures are headed to the Governor's desk this year, including the requirement for women to undergo an ultrasound before getting an abortion; placing further restrictions on court waivers from Florida's parental notification law for minors seeking an abortion; loosening the spending requirements on revenues from the "Choose Life" license plates to help promote and facilitate adoption; and excluding abortions from policies obtained through insurance exchanges. One bill heading to the ballot will ask voters to approve banning public funding of abortions, which are already prohibited by law, and exempting abortion from the privacy act within the Florida Constitution.

Concealed weapons carriers also had a successful session. Three bills passed the legislature this year that expand the rights of gun owners. One bill prohibits doctors from asking patients about gun ownership, unless the doctor perceives it is in the interest of the patients' safety; another bill will bar local governments from passing gun laws stricter than the state's laws; and a third bill decriminalizes the accidental showing of a concealed fire arm by a person licensed to carry (known as the open carry).

Education reform was a top priority on the Republican agenda, passing bills that expand the McKay voucher program by adding persons with lesser disabilities; loosening the class size limits; establishing teacher merit pay, and removing tenure for school teachers. Other bills require school district to adopt more stringent dress codes; expand virtual learning options; allowing high performance charter schools expanded contracts; and allowing some private school students to join public school sports.

Perhaps one of the most significant pieces of legislation passed this year was an enormous overhaul of the Florida Medicaid system. In short, the 3 million disabled and low-income individuals will be forced to receive their health care through managed-care companies and hospital networks, which will all be subject to federal approval.

House Speaker Dean Cannon listed reforming the Supreme Court a top priority. Under his plan, voters would approve increasing the members of the Florida Supreme Court from seven to 10 justices and divide it into two, five-member panels, one each for criminal and civil cases. In the end, he was forced to accept a compromise that allows voters to require Senate confirmation of justices and give lawmakers a say on court rules.

Senate President Mike Haridopolos has pushed for a Colorado-style TABOR system, which limits revenues allowed by state government. This proposed Constitutional amendment must be approved by 60% of the voters.

Pill Mills were first brought to light by former State Senator Dave Aronberg and Lieutenant Governor Jeff Kottkamp as a growing problem, particularly in South Florida, where 48 of the 50 largest Oxycontin prescribers in the U.S. reside, killing approximately one in seven people daily. Attorney General Pam Bondi encouraged legislators to crack down on pill mills that sell prescription painkillers to drug dealers and addicts through provisions that include stiffer penalties for doctors who over-prescribe and tighter regulation of pharmacies. The legislation also retains a prescription tracking system that Governor Scott wanted to repeal, but bans pharmaceutical companies from funding it.

The only Constitutional requirement for the Legislature to pass is the budget, which was by far the toughest budget to pass. The \$69.7 billion budget, a loss of \$3.75 billion dollars, eliminated close to 5,000 state jobs and dramatically overhauled the Medicaid program, education spending, and state correctional facilities. The losses were many, the gains few.

Highlights of the budget include:

**Transportation: \$7.9 billion.**

Trust funds: A total of \$528 million will be transferred from trust funds into general state spending including \$150 million from the Transportation Trust Fund, which is supported by fuel taxes.

**Natural Resources and Environment: \$3 billion.**

Deepwater horizon oil spill: The development and implementation of an economic development plan for eight Panhandle counties — Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton and Wakulla — will get \$10 million in each of the next three budget years. *Vetoed by Governor*

Environment: Reduction of the Everglades restoration fund from its current \$50 million to \$29 million. No funding for the Florida Forever land-buying program

Water Management Districts: Property taxes levied by the five water management districts will be cut by \$210.5 million including \$126 million in the South Florida district

**General Government: \$4 billion.**

Public employees: Teachers, state employees and many local government workers will be required to contribute 3 percent of their pay to the Florida Retirement System, now fully funded by taxpayers. The contributions are expected to save state and local governments \$1.2 billion. Retirement ages will be increased for employees hired after July 1 from 62 to 65. For special risk employees such as police and firefighters hired after that date the retirement age will increase from 55 to 60. Cost of living raises for retirees will be eliminated for all service earned on or after July 1.

- \$3 million was restored late in the process to fund the Substance Abuse/Mental Health Public Safety Local Matching Grant of which \$750,000 is provided specifically for the Bob Janes Triage Center. However, the Governor vetoed the \$750,000 for the Bob Janes Center while retaining the \$2.25 million for the grant program. Bob Janes has been approved for a \$250,000 grant for FY 2011-12 but it is unclear currently how the veto will affect that award. We will work with the department to urge the funding stay whole for the upcoming budget cycle.
- Representative Williams was successful in diverting \$500,000 from the East Reclamation Facility to the Downtown Detention Basin Project.

**Education: \$21.2 billion (-\$1.3 billion)**

Pre-kindergarten: Class size requirements are increased the number for each teacher from 11 to 12 and from 18 to 20 for an instructor plus assistant.

K-12<sup>th</sup> Grade: An 8% reduction (-\$542 million) for each student in Kindergarten-12th grade. The rationale is that school districts can use other funding sources to reduce the spending cuts to about 1 percent. Courses covered by class size limits will be reduced from 849 to 304. Schools would be required to meet the limits of 18 students in kindergarten through third-grade, 22 in fourth through eighth grades and 25 in high school only when head counts are taken in October. After that classes can exceed the limits by up to three students in kindergarten through third-grade and by five in the other grades.

Higher Education: Community and state colleges are authorized to raise tuition by 8 percent. Community and state college spending will increase by 1.8%. University spending will drop by 3.7%. Bright Futures scholarships will be cut by 20%.

**Criminal Justice and Corrections: \$4.5 billion.**

Correctional Facilities: Prisons in an 18-county area of South Florida will be turned over to private contractors. That's expected to save the state at least 7 percent and result in laying off up to 1,751 state employees. Department of Corrections health services also will be privatized.

**Court Funding: \$459 million**

**Reserves: \$2.28 billion**

**Health and Social Services: \$30 billion**

Medicaid Rates: Hospital reimbursement rates will be reduced by 12% except for rural and children's hospitals, which will be cut 3%. Nursing home rates will be cut 6.5%.



The overall health care budget included in SB 2000 appropriates nearly \$30 billion for health care and human services, or a 5 percent increase. The final budget includes funding for the Medically Needy and MEDS-AD program, while also providing a \$36.2 million increase for Florida KidCare and a reimbursement rate increase for dentists who serve children. But there are also plenty of cuts in the final budget. Hospitals will have their Medicaid reimbursement rates cut by 12 percent, county health departments' rates will be cut 10 percent, nursing home rates will be cut by 6.5 percent and development disabled providers will receive a 3 percent rate cut. The budget also cuts money set aside for biomedical research from \$50 million to \$30 million.

**Tax Breaks**

Consumers will get a \$25.6 million, three-day sales tax holiday on clothing and other back-to-school items in August.

Tax credits totaling \$9 million will be available to businesses for research and development, \$10 million for space projects and \$3 million for contaminated site development. The state's film industry tax credit would be increased by \$12 million.

Governor Scott made it clear that the Legislature should focus on tax cuts to promote growth in the economy. After pushback, the Legislature finally included a \$30 million annual corporate income tax by increasing the exemption from \$5,000 to \$25,000, which would save each company approximately \$1,100.

**Gubernatorial Vetoes**

Gov. Rick Scott axed \$615 million from the new state budget sent to him by the Legislature.

Scott's budget vetoes hit hard at university and community college construction projects or so-called PECO funding (Public Education Capital Outlay). Scott vetoed more than \$164 million that had been set aside, including \$11 million but not all \$46 million included in the budget for the University of South Florida Polytechnic campus in Lakeland. He also vetoed a combined \$9.5 million for Florida Gulf Coast University.

Another casualty of the veto pen was \$750,000 directed to the Bob Janes Triage Center. Unfortunately, the hard work of Lee County and others went for not with the stroke of the veto pen. The grant program which funds the Triage Center was zero funded or cut out of the budget during budget conference. We were able to restore the funding at the full \$3 million amount with hard work by the County at the 11<sup>th</sup> hour. However, the budget item was inserted into the appropriations bill specifying \$750,000 be directed to the Bob Janes Center with the remaining \$2.25 million for the grant program. The language was literally inserted the day the budget went to press not allowing time to correct the oversight. The Governor viewed the item as a special project and vetoed the Triage Center funding, but retaining the \$2.25 million for the grant program.

We will work with the County and Department of Children and Families to ensure the grant award of \$250,000 for FY 2011-12 will remain intact.

The governor's pen touched projects from one side of the state to another as he axed everything from money for a center that helps the developmentally disabled in Sarasota to more than \$300 million intended for the purchase of environmentally sensitive lands, zero funding the Florida Forever program.

He vetoed many of the items pushed by legislative leaders, including a \$400,000 study on the Supreme Court pushed by the House Speaker.

### **Ballot Measures Approved by the 2011 Legislature**

**SJR 958:** A proposed constitutional amendment that would limit the growth of state revenues to a new formula based on changes in population and inflation.

**HJR 381:** A proposed constitutional amendment that would offer first time homebuyers a property tax break and would put a cap on how much the value of non-homesteaded and commercial properties can change each year.

**HJR 1179:** A proposed constitutional amendment that would prohibit public funding of abortions.

**SJR 592:** An amendment that expands a property tax discount for veterans who became disabled as the result of a combat injury.

**SJR 2:** A constitutional amendment that would ban health insurance mandates as part of an effort to blunt the impact of federal health care reform.

**HJR 1471:** A repeal of a ban on state money going to religious institutions.

**HJR 7111:** An overhaul of the state's court system including giving the Legislature power over court rule-making and subjecting Supreme Court justices to Senate confirmation.

Florida lawmakers approved a sweeping revamping of the safety net care program that provides health care for nearly 3 million Floridians this Session. After two years worth of discussion, votes and public meetings, the final compromise bills, HB 7107 and HB 7109, will be sent to Gov. Rick Scott.

The proposals would require Medicaid patients, including nursing home individuals and the developmentally disabled, to enroll in managed care plans and the bills contain lawsuit protections for doctors and hospitals that treat Medicaid patients.

Under the deal, non-economic damages would be limited to \$300,000 per claimant and a doctor would not be liable for more than \$200,000. Nursing homes were left out of the lawsuit limits.

Long-term care is the first Medicaid component rolled into managed care plans. Long-term care would be transformed into a managed care program effective July 1, 2012, and full implementation would be completed by October 1, 2013. Other Medicaid patients would be enrolled in the statewide managed medical assistance program that comes on line next with a January 1, 2013 startup date and a full implementation no later than October 1, 2014.

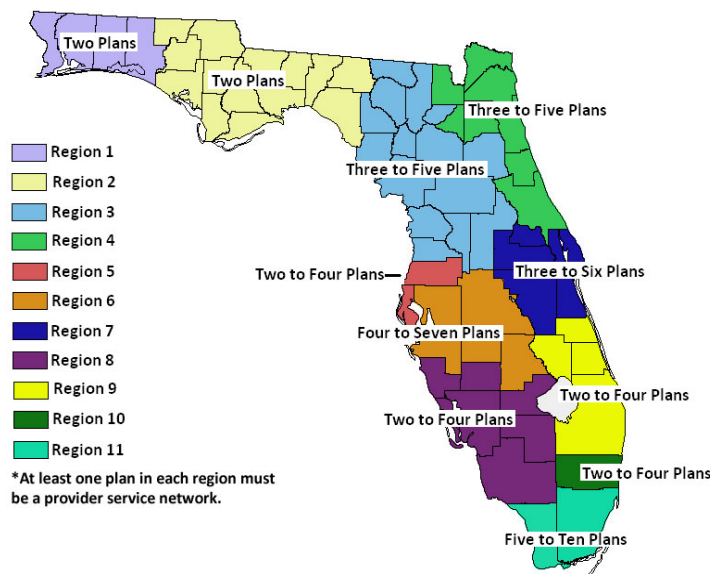
A central feature of the House plan that the state be divided into regions and bid among a limited number of managed care plans is also in the compromise legislation. Florida will be divided into 11 regions and there is a requirement that in each region a Provider Sponsored Network be given a contract. Region 11,

in heavily populated Miami Dade and Monroe counties, will be authorized to have as few as five managed care plans but as many as 10. The bill allows for up to seven plans for Region 6 and up to six plans for Region 7.

The regions with the least number of plans are Regions 1 and 2, which, combined, cover the Florida Panhandle from Tallahassee to the Alabama border.

**Medicaid Managed Care Regions and Amounts of Eligible Plans\***

As Presented in HB 7107



The bill would not put the developmentally disabled population into the managed care program until after 2015, which is when the authority for the I-Budget expires.

The legislature failed to include medical loss ratios in the bills, which CMS indicated were necessary components of a new waiver, so it is uncertain on whether the federal government will approve the plan as passed by the Legislature.

Provider Service Networks (PSNs) will have to become risk bearing within two years transitioning from fee for service to capitated plans. Originally the bill allowed for a 3-year transition.

The hospitals would have preferred the PSNs to remain operating on a fee for service basis longer and argue that since the regions are much larger than the areas where the current PSNs operate more time is needed before they are required to take risk.

The bill mandates a 5% savings in Medicaid expenditures to the state, but allows managed care plans to

share any savings up to 10% evenly with the state resulting in 7.5% plans can take off the top. It is unclear where the savings will be found other than a reduction to services.

Florida hospitals are extremely concerned with a provision of the bill that changes the rate setting practice for Florida hospitals from a twice a year process based on cost reports to a once a year process which will make it difficult for hospitals to “buy back” their rate cuts. This year hospitals took a 12% cut in Medicaid reimbursement rates with the exception of children’s and rural hospitals, which got a 3% cut. There was an attempt on the Senate floor to amend a separate health care bill to override this provision.

The Agency for Health Care Administration will set nursing home rates and managed care plans will be required to pay claims electronically submitted by nursing homes within 10 days.

The program will require a new federal waiver and the Agency for Health Care Administration is required to hold public meetings and give opportunity for public comment. AHCA must submit the new waiver request no later than Aug. 1<sup>st</sup>.



## 2011 Lee County Legislative Priorities

### 1. Oppose Taxpayer Bill of Rights platform (TABOR).

Early in Session it became clear that the leading proponent of TABOR, Senate President Haridopolos, would remove local government revenues from the provisions of the bill. Very early in Session, the bill (SJR 958) was drafted to only apply to state revenues. Fierce opposition from counties, including Lee County, and FAC contributed to this development. Counties and municipalities remained neutral on the legislation with the local government revenues unaffected. SJR 958 ultimately passed the legislature and will be placed on the 2012 ballot for voters to decide.

**SJR 958 or ‘Smart Cap’** passed this Session, which proposes a constitutional amendment to limit state revenue only by population and inflation. Again, the bill does not apply to local revenues as the sponsor took out local governments upon introduction of the bill.

The joint resolution:

- Replaces the existing state revenue limitation based on Florida personal income growth with a new state revenue limitation based on changes in population and inflation.
- Requires excess revenues to be deposited into the Budget Stabilization Fund, used to support public education, or returned to the taxpayers.
- Adds fines and revenues used to pay debt service on bonds issued after July 1, 2012 to the state revenues subject to the limitation.
- Authorizes the Legislature to increase the revenue limitation by a supermajority vote.
- Authorizes the Legislature to place a proposed increase before the voters, requiring approval by 60 percent of the voters.

### 2. Support strategic lobbying on unfunded mandates issues (Medicaid increases to Counties)

No county Medicaid cost sharing increases specifically passed the legislature this year. However, after Session the Agency for Healthcare Administration (AHCA) announced there is a shortfall of \$45 million in Intergovernmental Transfers or IGTs related to the Low Income Pool (LIP) program for safety net hospitals. The shortfall could impact counties that donate tax dollars for the Medicaid LIP plan for the purpose of pulling down Federal matching dollars at an enhanced return rate.

There were more issues introduced this Session which preempt local government authority (Fertilizer, Aggregate Mining Permitting-preemption *failed*, but 3<sup>rd</sup> party challenges passed in HB 993, repeal of Red Light Cameras- *failed*, and preemption of Rental Property Ordinances-*passed*) rather than passing unfunded mandates to the County. However, the passage of HJR 381 Homestead ballot amendment, if passed by the voters, would have a severe negative impact on county ad valorem revenues.

This joint resolution proposes to reduce the annual growth in assessment limitation on certain non-homestead property from 10 percent to three percent upon voter approval of a constitutional amendment. The January 1, 2019, sunset of the non-homestead assessment limitation is repealed.

The resolution also proposes to allow the Legislature by general law to prohibit increases in the assessed value of homestead property and certain non-homestead property in any year where the market value of the property decreases. If created by general law, this provision would prevent what is commonly referred to as “recapture” in any year where the market value of a property decreases.



If approved by the voters with the 2012 presidential preference primary, the above two provisions will take effect on January 1, 2012. If approved by the voters with the 2012 general election, they will take effect on January 1, 2013.

### **Revenues: Implementation in 2012**

The Revenue Estimating Conference (REC) estimated that the provisions of the constitutional amendment, relating to the non-homestead assessment limit, if effective beginning in 2012, would have a negative revenue impact on non-school property taxes of \$121.6 million in FY 2012-13, growing to \$990.9 million by FY 2015-16, assuming current millage rates. The REC has not considered the current provisions in the bill relating to the additional homestead exemption.

The REC estimated that the prohibition of increases in assessments when market value declines, if effective in 2012, will have a negative revenue impact on non-school property taxes of \$16.9 million in FY 2012-13 and \$52.8 million recurring. The negative revenue impact on school property taxes is estimated to be \$10 million in FY 2012-13 and \$27.9 million recurring.

### **Implementation in 2013**

The Revenue Estimating Conference estimated that the provisions of the constitutional amendment, relating to the non-homestead assessment limit, if effective beginning in 2013, would have a negative revenue impact on property taxes of \$225 million in FY 2013-14, growing to \$903.9 million by FY 2015-16, assuming current millage rates. The REC has not considered the current provisions in the bill relating to the additional homestead exemption.

The REC estimated that the prohibition of increases in assessments when market value declines, if effective in 2013, will have a negative revenue impact on non-school property taxes of \$10.3 million in FY 2013-14 and \$32.5 million recurring. The negative revenue impact on school property taxes is estimated to be \$6.2 million in FY 2013-14 and \$17.7 million recurring.

## **3. Support the creation of Florida Renewable Energy Portfolio Standards (RPS)**

For the third straight year major legislation that would encourage the development of renewable energy failed to win support in the Legislature, as the bills failed to make it through their final committee stops.

Loading up the bills with various provisions killed renewable energy in 2011. Other energy and utilities legislation also went nowhere.

By mid-April, committee bills **HB 7217** and **SB 2078** had picked up an unusual combination of supporters and opponents as they passed their early committee votes.

The bills would have allowed the state's four largest utilities to recover up to \$375 million for renewable energy projects over five years. A similar bill made it through the House last year but it died without being taken up in the Senate amid concerns about rate increases. Both bills this year were supported by Florida Power & Light Co., the state's largest utility with 4.5 million customers. FPL said it was ready to develop 500 megawatts of renewable energy if the Legislature allowed customers to be charged separately for renewable energy.

But some renewable energy supporters said the bill gave the big utilities too much control. Groups opposed the bill without an amendment that would have required utilities to buy power from smaller renewable energy producers.

**Track:**

- **Support septic tank inspections (delayed implementation by 6 months in Special Session, may be changed again in regular Session)**

Efforts to repeal a septic tank inspection requirement passed last Session failed in 2011. However, the implementation date was moved back from January 1 to July 1, 2011 during last November's Special Session.

The Legislature considered repealing the septic tank inspection requirement that passed last year as the centerpiece of SB 550, the water quality bill. But the House and Senate took different paths towards the repeal. HB 13 would have simply repealed the requirement while allowing local inspection programs to remain. SB 1698 would have repealed the requirement but required inspections in 14 counties with larger "first-magnitude" springs and would have allowed local programs only with some restrictions.

HB 13 passed the House 110-3, but it died in the **Senate**. SB 1698 died on the special order calendar.

That could mean that the septic tank inspections will be required beginning on July 1, but DOH would need to resume rulemaking and may need approval from Gov. Rick Scott and the Legislature to proceed.

- **Track state agency rulemaking bills (HB 1565 vetoed by Gov./overturned by Legislature in Special Session. Requires any regulation with the cost of \$1 million statewide impact over 5 years to be ratified by the Legislature. May adversely effect water quality and environmental regulation. Applies to regulations before adoption or in the process of being amended.)**

HB 993 was passed this year, which makes various changes to the rulemaking process and attempts to clarify provisions of HB 1565, which was approved by veto override of the Legislature during Special Session.

The bill makes technical revisions to the rulemaking process: Requires an agency's notice of proposed rulemaking under s. 120.54(3)(a)1., F.S., to state whether the Legislature must ratify the rule before it takes effect

Requires submission of a revised statement of estimated regulatory costs at least 21 days before the rule is filed for adoption, instead of 45 days; and

Reverts from 44 to 20 days the time for challenging a proposed rule after the agency provides a statement of estimated regulatory costs or a revised statement of estimated regulatory costs.

The bill makes amendments addressing issues arising from the passage of HB 1565 in 2010:

Expands an agency's authority to modify or withdraw proposed rules in response to: An objection by the Joint Administrative Procedures Committee; A final order, not subject to further appeal, entered in a rule

challenge brought after adoption of the rule but before the rule takes effect; If the rule requires ratification, and more than 90 days have passed since the rule was filed for adoption without the Legislature ratifying the rule, the agency may withdraw but not modify the rule; and A notice from the Joint Administrative Procedures Committee that it is considering an objection to the rule, in which case the rule may be modified to extend the effective date by not more than 60 days.

Expressly includes legislative ratification in the statutory description of those contingencies affecting when a rule goes into effect.

The bill exempts specific categories of rulemaking from required legislative ratification to clarify both emergency rulemaking and rulemaking under s. 120.54(6), F.S., to adopt federal standards are exempt from the requirements to prepare a statement of estimated regulatory costs and for legislative ratification;

The bill adds s. 120.745, F.S., creating a three-year process during which agencies shall review all rules in effect prior to the passage of HB 1565 on November 16, 2010, applying the economic thresholds created in that law. Agencies shall prepare an economic analysis for those existing rules meeting the statutory thresholds and report the results to the Legislature. This specific review section is repealed on July 1, 2014.

The bill creates s. 120.7455, F.S., providing for a legislative survey requesting information from the public about burdensome rules and regulations. The section also provides limited use immunity and protection from retaliatory prosecution for members of the public who respond to the survey.



**Major Legislation that *PASSED*****HB 19 Compensation of County Officials – *Passed***

Current law does not permit a county commissioner, clerk of the circuit court, county comptroller, property appraiser, tax collector, sheriff, or supervisor of elections to reduce his or her salary or salary rate. In 2009, the law was amended to allow local school board members to reduce their salary rate on a voluntary basis.

This bill amends chapter 145, F.S., to authorize each member of a board of county commissioners, clerk of the circuit court, county comptroller, sheriff, supervisor of elections, property appraiser, and tax collector to voluntarily reduce his or her salary rate.

**HB 45 Regulation of Firearms and Ammunition - *Passed***

The bill removes the statutory language that authorizes counties to adopt an ordinance requiring a waiting period of up to three working days between the purchase and delivery of a handgun. The bill replaces this provision with language prohibiting specified local governmental entities from regulating or attempting to regulate firearms or ammunition in any manner (except as specifically authorized by s. 790.33, F.S., by general law, or by the Florida Constitution) and provides exceptions to this prohibition.

Counties still have the authority, pursuant to Art. VIII, Section 5(b) of the Florida Constitution, to require a criminal history records check and a 3 to 5-day waiting period in connection with the sale of any firearm occurring within such county.

The bill also sets forth various penalties for violating s. 790.33, F.S., including provisions that:

- Make it a noncriminal violation for any person or entity to knowingly and willfully violate s. 790.33, F.S.;
- Specify that an official under whose jurisdiction a provision of the statute is violated shall be assessed a fine of not less than \$5,000 and not more than \$100,000 if the court determines that the violation was knowing and willful;
- Specify that a knowing and willful violation of the statute by a person acting in an official capacity is cause for immediate termination of employment; and
- Authorize a person or organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated or enforced in violation of the statute to file suit for declaratory and injunctive relief and for all actual and consequential damages attributable to the violation.

The damages and attorney's fees which may be awarded to prevailing plaintiffs could have a negative fiscal impact on state and local governmental entities that willfully violate the statute.

**SB 88 Relating to Public Employee Compensation - *Passed***

This bill revises existing law that prohibits extra compensation made to a public employee after service has been rendered or the contract made by deleting current provisions allowing counties, municipalities, special districts, and clerks of the circuit court from giving bonuses as long as they had policies in place.

The bill creates requirements for any policy, ordinance, rule, or resolution designed to implement a bonus scheme.

Governments that enter into a contract/employment agreement, or renews/renegotiates an existing contract/agreement must include in the contract a limitation on the compensation of not greater than 20 weeks, unless the unit of government approves the amount by a two-thirds voted of the membership of the approving body. Also, severance pay is prohibited (with exceptions) when the officer, agent, employee, or contractor has been fired for misconduct, as defined in s. 443.026(29), F.S., by the unit of government.

### **SB 224 Relating to Local Government Accountability – *Passed***

This bill requires that budgets and budget amendments of each county, county constitutional officer, municipality, special district, water management district, and school district be posted on the governmental entity's website. If the local governmental entity does not have an official website, the local government must transmit the required budget information to the county or counties in which it is located or to the relevant governing authority for posting.

The bill also requires that budgets be prepared in a similar level of detail required by the annual financial reports. Within nine months of the end of the fiscal year, counties, municipalities, and special districts must file their annual financial reports with the Department of Financial Services and their annual financial audit reports with the Auditor General.

With respect to the reporting process, the bill compels special district to provide certain information to the Legislative Auditing Committee and the Department of Community Affairs.

The mandates provision appears to apply because the bill requires counties or municipalities to spend funds or take an action requiring the expenditure of funds. However, the amount of the expenditure is insignificant because most local governments have websites and, therefore, an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

### **HB 287 Relating to Economic Development - *Passed***

This bill revises and modifies the definition of "new business and "expansion of an existing business" to include qualifying "organizations." Any new jobs created by an eligible business or organization must now pay a wage above the average wage of the locality. Further, eligibility is expanded to include Qualified Target Industry businesses.

Specified criteria are listed for counties or municipalities to consider when reviewing applications for exemption, however, if a local government chooses, may authorize new qualifications for exemptions pursuant to voter approved referendum. Local governments will be able to enter into a written agreement with the applicant to cover additional details or requirements.

The bill clarifies that counties and municipalities can authorize these new qualifications for exemptions pursuant to a voter approved referendum held after July 1, 2011.

The Revenue Estimating Conference estimated that this bill will have a negative indeterminate impact on local government revenues if local governments choose, after a locally approved voter referendum, to provide these additional exemptions.

**HB 311 Local Business Taxes – Passed**

This bill creates an exemption from local business taxes for an individual who engages in or manages a business, profession, or occupation as an employee of another person. The bill provides that the exempt employee is not required to pay a local business tax, obtain a local business tax receipt, or apply for an exemption from a local business tax. This will not apply to business taxes imposed by municipalities or counties on individual employees pursuant to a resolution or ordinance adopted prior to October 13, 2010, which means that the local authority may continue to impose and collect the tax.

The bill removes statutory language relating to the Department of Business and Professional Regulation and it expands the prohibition against local governments issuing a business tax receipt unless a practitioner exhibits confirmation of an active state certificate, registration, or license to include regulated professions. Local authorities that have imposed a local tax and had a classification system that was in compliance with chapter 205, F.S., resulting in individual employees paying a business tax may continue to impose the tax.

For purposes of the application of the provisions relating to renewal of local business tax receipts, the bill specifies that a person operating as a real estate broker associate or a real estate sales associate is considered to be an employee. The bill specifies that an employee does not include an independent contractor.

This bill may be a county or municipal mandate requiring a two-thirds vote of the membership to be enacted. The effective date of the bill is July 1, 2011, except that section 2, which creates the tax exemption, of the bill operates retroactive to October 13, 2010.

**HB 353 Relating to Drug Screening of Potential and Existing Beneficiaries of Temporary Assistance for Needy Families – Passed**

The bill creates statutes requiring DCF to drug test each individual applying for temporary cash assistance (covered by the TANF program) as a condition of eligibility for those benefits. DCF will provide a notice to each applicant allowing them opportunity to voluntarily disclose any prescription or over-the-counter medication the person is taking prior to the test.

An individual will be disqualified from receiving TANF benefits if that person tests positive for controlled substances. The initial disqualification is for one year from the date of the positive test. If an individual chooses, he or she can enter into a substance abuse treatment program. Upon showing proof of completing the program, the individual may reapply for TANF benefits within 6 months from the date of the positive test. This is a one-time option. If the person re-applies after the period of disqualification but again tests positive for controlled substances, that individual is disqualified from receiving TANF benefits for 3 years from the date of that positive test.

DCF may designate a statutory “protective payee” to receive funds on behalf of the child whose parent is disqualified from receiving TANF benefits under this section. Alternatively, a parent found ineligible under this section may designate an immediate family member, or an individual approved by DCF, to receive TANF benefits on behalf of the child. The bill does not require a statutory protective payee to submit to drug testing but does require testing for the immediate family member or other individual designated by the parent. The bill does not define “immediate family member.”

**HB 381 - Relating to Additional Homestead Exemption; Property Value Decline – *Passed***

This joint resolution proposes to reduce the annual growth in assessment limitation on certain non-homestead property from 10 percent to three percent upon voter approval of a constitutional amendment. The January 1, 2019, sunset of the non-homestead assessment limitation is repealed.

The resolution also proposes to allow the Legislature by general law to prohibit increases in the assessed value of homestead property and certain non-homestead property in any year where the market value of the property decreases. If created by general law, this provision would prevent what is commonly referred to as “recapture” in any year where the market value of a property decreases.

If approved by the voters with the 2012 presidential preference primary, the above two provisions will take effect on January 1, 2012. If approved by the voters with the 2012 general election, they will take effect on January 1, 2013.

Individuals who are entitled to a homestead exemption under s. 6(a), Art. VII of the State Constitution, and have not received a homestead exemption in the previous three years can now receive an additional homestead exemption on non-school property taxes equal to 50 percent of the median just value for homestead property in the county where the property at issue is located for a period of 5 years or less.

If approved by the voters with the 2012 presidential preference primary, this provision takes effect on January 1, 2012, and is available for properties purchased on or after January 1, 2011. If approved by the voters with the 2012 general election, the provision takes effect on January 1, 2013, and is available for properties purchased on or after January 1, 2012.

This bill will have a significant negative revenue impact on property taxes.

**HB 407 - Relating to Residential Building Permits – *Passed***

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act (Act).” The purpose and intent of the Act is to provide a mechanism for the uniform adoption, update, amendment, interpretation, and enforcement of a single, unified state building code.

This bill adds subsection (17) to s. 553.79, F.S., to provide that a local enforcement agency, and any local building code administrator, inspector, or other official or entity, may not require, as a condition of issuance of a one- or two-family residential building permit, the inspection of any portion of a building, structure, or real property that is not directly impacted by the construction, erection, alteration, modification, repair, or demolition of the building, structure, or real property for which the permit is sought.

The provision does not apply to building permits being sought for a substantial improvement; a change of occupancy; a conversion from residential to nonresidential or mixed-use; and an historic building. The bill clarifies that a local enforcing agency, or any local building code administrator, inspector, or other official or entity, from citing or inspecting under certain circumstances.

Subsection (17) of s. 553.79, F.S., is repealed when the Secretary of State receives written certification from the chair of the Florida Building Commission that the commission has adopted an amendment to the Florida Building Code, which substantially incorporates these provisions as part of the code and the amendment has taken effect.

**SB 408 Property Insurance – Passed**

This bill makes numerous changes to the laws related to property and casualty insurance, primarily residential property insurance. The bill addresses the following major issues:

**Florida Hurricane Catastrophe Fund**

The Florida Hurricane Catastrophe Fund is a tax-exempt trust fund created after Hurricane Andrew as a form of reinsurance for residential property insurers. The bill makes changes to the types of losses that can be reimbursed from the Florida Hurricane Catastrophe Fund. Specifically, the bill:

Defines "losses" as all incurred losses and specifies amounts paid as fees on behalf of or inuring to the benefit of a policyholder are included in the definition of "losses" and thus reimbursable by the Florida Hurricane Catastrophe Fund. Starting June 1, 2011, prevents the Florida Hurricane Catastrophe Fund from reimbursing insurers for certain types of losses paid on a property insurance claim (e.g., bad faith awards, punitive damages, homeowners/condo association loss assessments, liability coverage losses).

**Insurer Surplus Required**

The bill increases surplus requirements for property insurance companies to obtain and maintain a certificate of authority to transact insurance. The bill:

Requires an insurance company licensed after the bill takes effect to write residential property insurance must have \$15 million in surplus to obtain a certificate of authority, rather than the greater of \$5 million or ten percent of the insurer's liabilities. Requires residential property insurance company licensed after July 1, 2011, to keep the greater of ten percent of the insurer's liabilities or \$15 million, rather than \$4 million, in surplus to keep a certificate of authority.

**Public Adjusters**

The bill makes significant changes to the regulation of public adjusters in residential property and condominium unit owner property insurance claims.

Fee Cap Starting June 1, 2011, adds a 20 percent fee cap for public adjuster fees associated with reopened or supplemental property insurance claims.

**Advertising, Solicitation & Conduct For Property Insurance Claims**

Starting January 1, 2012, sets out specific statements that are deceptive or misleading and an unfair and deceptive trade practice, if the statements are contained in advertising or solicitation of public adjusters. Starting January 1, 2012, requires any written advertisements by public adjusters to contain a specific disclaimer in bold print and capital letters in a specific typeface that identifies the advertisement as a solicitation for business.

Requires the public adjuster to ensure:

Prompt notice of the claim is given to the insurance company; The public adjuster contract is timely given to the insurance company; The property insured is made available to the insurance company for inspection; and The insurance company is allowed to interview the policyholder about the claim.

Forbids a public adjuster from preventing the insurance company reasonable access to the policyholder or the damaged property to timely inspect the property. Requires the insurance company to give the policyholder or public adjuster 48 hours notice before meeting with the policyholder or inspecting the damaged property.



**Notice Period to File Hurricane Claim**

Starting June 1, 2011, the bill requires notice of an initial claim, supplemental claim, or reopened claim made against property insurance due to hurricane or windstorm damage to be filed within three years of the date of the hurricane causing damage. Currently, the law does not prescribe a time frame for a policyholder to give the insurer notice of a property insurance claim.

**Statute of Limitations For Property Insurance**

The bill changes the statute of limitations for property insurance claims to five years starting from the date of loss, rather than when the property insurance contract is breached. A statute of limitations is a time period after which no legal case can be brought relating to an injury or wrong.

**Rate Filing, Review and Approval Process**

The bill continues to require the Office of Insurance Regulation to review and approve rates to ensure the rates are not excessive, inadequate, or unfairly discriminatory. However, the bill makes a number of changes to the rate filing and review process.

**Expedited Rate Filing**

Allows all reinsurance costs to be included in an expedited rate filing, rather than only reinsurance costs related to the Florida Hurricane Catastrophe Fund. Increases the amount of a rate increase allowed in an expedited rate filing from 10-15 percent per policy. Repeals the prohibition in current law relating to the inclusion of insurance company expenses and profits in an expedited rate filing. Repeals current law preventing expedited rate filing if rate increase is implemented within six months preceding the expedited rate filing. Repeals current law preventing an annual base rate filing within six months after an expedited rate filing.

**Citizens Property Insurance Corporation**

The bill makes a number of changes to Citizens as follows:

Changes the name of the Citizens' High Risk Account to "Coastal Account." Allows a public adjuster representing Citizens' policyholders to be paid a maximum fee of 10 percent of the claim amount paid over the amount originally offered. Requires a feasibility study on outsourcing Citizens' claims functions.

Requires a Citizens' board member to abstain from voting on matters leading to personal gain or loss or gain or loss to persons related to the board member and provides procedures for voting abstention.

Exempts rates for sinkhole coverage written by Citizens from the Citizens' rate increase cap of 10 percent per policy per year. After January 1, 2012, requires sinkhole coverage by Citizens to extend only to the main structure. Thus, this coverage will not cover sinkhole losses to appurtenant structures, driveways, sidewalks, decks or patios.

**Notice of Nonrenewal, Cancellation or Termination**

The bill reduces the notice period an insurer must give to nonrenew, cancel or terminate a property insurance policy from 180 days to 120 days for policyholders insured by the same insurer for five years or more. Maintains a notice period of 100 days or notice by June 1, whichever is earlier, for policyholders insured for property insurance by the same insurer for less than five years.

For property insurance policies taken out of Citizens by a private insurer, reduces the written notice of nonrenewal to 45 days before the effective date of the nonrenewal. Allows a 45-day notice of cancellation

or nonrenewal, rather than the 100-day or 180-day notice required under current law.

The bill allows an insurer to require a mitigation discount form provided by a policyholder or insurance agent be independently verified before accepting the form as valid and maintains current law requiring the insurer to pay for the independent verification.

### **Sinkholes**

The bill provides legislative findings relating to sinkhole issues and the impact of the increasing number of sinkhole claims and the severity of the claims on the property insurance market, on the local property tax base, and on the real estate market. Although the bill continues to require property insurers to cover catastrophic ground cover collapse and offer sinkhole loss coverage, significant changes are made to this area of law.

### **Required Offer of Catastrophic Ground Cover Collapse & Sinkhole Loss Coverage**

Maintains current law requiring property insurers to cover catastrophic ground cover collapse coverage and offer sinkhole loss coverage. Allows a property insurer to restrict catastrophic ground cover collapse coverage and sinkhole loss coverage to the principal building. Allows an insurer to inspect a property before issuing sinkhole loss coverage.

### **Requirements for Valid Sinkhole Claim Defines "structural damage" specifically using terms of the Florida Building Code.**

Nonrenewal of Insurance Policy Relating to Sinkhole Coverage Or Claim Allows property insurers to nonrenew policies to exclude sinkhole loss coverage from the base policy at the option of the insurer in order to offer sinkhole loss coverage as an endorsement, if the property meets the insurer's underwriting rules. Prohibits insurers from nonrenewing property insurance policy because a sinkhole claim is filed, if the sinkhole claim payment equals or is less than policy limits or if the property was repaired. Specifies an insurer can nonrenew a property insurance policy if policy limits or more are paid on a sinkhole claim.

Notice of Sinkhole Claim Requires notice of initial, supplemental, or reopened sinkhole claim to be given the insurer within two years after policyholder knew or reasonably should have known about the sinkhole loss.

### **Sinkhole Testing**

Requires sinkhole testing only if the policyholder has sinkhole loss coverage. Allows policyholder to demand testing if sinkhole claim is denied only if the policyholder has sinkhole loss coverage. Requires policyholder to demand testing within 60 days of sinkhole claim denial. Requires policyholder to pay part of testing costs up front if the sinkhole claim is denied without testing and the homeowner demands testing with reimbursement to the homeowner if testing reveals a sinkhole.

### **Filing of Sinkhole Report With Clerk of Court**

Requires the neutral evaluator's report indicating sinkhole activity caused property damage, the sinkhole report, and the amount of payment on a sinkhole claim to be filed with the clerk of court. Requires a policyholder to file sinkhole report prepared at policyholder's request with clerk of court, with the filing cost incurred by policyholder, in order for policyholder to get paid by insurer for sinkhole claim. Requires the engineer overseeing property repair under a sinkhole claim to file the report certifying repairs were properly performed with the clerk of court.

### **Notice of Change of Policy Terms**

The bill allows insurers to change property and casualty coverage by providing policyholders a "Notice"

of change in coverages as opposed to nonrenewing and rewriting a policy if coverages change.

### **Insurance Company Report Card**

The bill repeals law requiring the Insurance Consumer Advocate to prepare a report card grading property insurance companies.

### **SB 410 Relating to Impact Fees – Passed**

This bill reenacts existing law created by the Legislature in 2009 that codified the “preponderance of the evidence” standard of review for the government in a case involving an impact fee challenge.

Since that time, the law has been the subject of ongoing litigation regarding its constitutionality.<sup>1</sup> Specifically, allegations have been raised that the Legislature adopted an unfunded mandate and reduced the authority of counties and municipalities to raise revenues in violation of Article VII, section 18(a) and 18(b), enacted a court rule of practice and procedure in violation of Article V section 2, and violated the separation of powers provision in Article II, section 3 of the Florida Constitution.

This bill states that it fulfills an important state interest. If found by a court of last resort to be a mandate on counties and municipalities or to limit their ability to raise revenues, a two-thirds vote of the membership of each house of the Legislature would be necessary to have the legislation binding on counties and municipalities, in the absence of one of the other conditions provided for in the Florida Constitution.

### **HB 421 Relating to Agricultural-related Exemptions to Water Management Requirements - Passed**

Florida law has afforded an agricultural exemption to bona fide farm operators since the mid-1980s in regard to obtaining a permit from the water management districts (WMDs) for altering the topography of any tract of land as long as the alteration is not for the sole or predominant purpose of impounding or obstructing surface waters.

The bill revises the current agricultural exemption to specify that certain agricultural activities may impede or divert the flow of surface waters or adversely impact wetlands, as long as it is not the sole or predominant purpose of the agricultural activity or alteration. This exemption will only apply to lands classified as agricultural and to activities requiring an environmental resource permit.

The bill allows the WMD or a landowner to request a determination from the Department of Agriculture and Consumer Services (department) when a dispute regarding an exemption occurs. The bill further states that the determination by the department is binding. The bill authorizes the department and the WMDs to enter into a new memorandum of understanding (MOU), or amend an existing MOU, to propose procedures by which the department will undertake the review and determination process. The department is given rule-making authority to implement these processes.

The bill provides that mitigation to offset any adverse effects caused by agricultural activities that occurred before the conversion to a nonagricultural use is not required if the activities occurred in the last 4 years preceding the conversion.

### **SB 444 Relating to Scrutinized Companies - Passed**

This bill prohibits a company on the Scrutinized Companies with Activities in Sudan List or on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental

entity for goods or services of \$1 million or more. Agencies or local governmental entities may make case-by-case exceptions to the prohibition.

**SB 592 Relating to Veteran's Property Tax Discount – Passed**

This joint resolution proposes an amendment to the Florida Constitution to allow totally or partially disabled veterans who were not Florida residents at the time of entering military service to qualify for the combat-related disabled veteran's ad valorem tax discount on homestead property.

The joint resolution requires a 60 percent voter approval for a constitutional amendment to take effect. An approved amendment becomes effective on the first Tuesday after the first Monday in January following the election at which it is approved, or on such other date as may be specified in the amendment or revision.

**SB 650 Mobile Home Park Lot Tenancies - Passed**

The bill provides that local governments must cite the responsible party for violations of local codes or ordinances. The CS makes it clear that mobile home owners and mobile home *park* owners have distinct statutory obligations and can only be penalized for violations of their respective obligations (i.e., mobile home owners should not be punished for statutory violations applying to mobile home park owners and vice versa).

The bill provides mobile home park homeowners' associations a right of first refusal to purchase a mobile home park in situations in which a mobile home park is subject to a change in land use. The bill also establishes notice procedures.

**HB 701 Relating to Property Rights - Passed**

The bill amends the Bert J. Harris, Jr., Private Property Rights Protection Act (act), to provide that a temporary impact on development, which is in effect for longer than one year may, depending on the circumstances, constitute an "inordinate burden."

Among other things, the bill modifies the required time period for notice to a governmental entity before an action may be filed under the act. A property owner seeking compensation must present, at least 150 days (rather than the present requirement of 180 days) prior to filing an action under the act, a written claim to the head of the governmental entity and a bona fide, valid appraisal that demonstrates the loss in fair market value to the real property.

The bill specifies that a law or regulation is "first applied" to the property upon enactment, if the impact of the law or regulation on the property is clear and unequivocal in its terms, and required notice is provided by mail to the affected property owner or registered agent. Any other law or regulation is first applied to the property when there is a formal denial of a written request for development or variance.

**SB 844 Relating to Violations/Probation/Community Control/Widman Act - Passed**

The bill amends statutes to allow a court to order the arrest of a probationer pursuant to the court's finding of probable cause that the probationer has committed a new law violation and that there exist reasonable grounds to believe that the probationer has therefore violated his or her probation in a material respect.

The court will advise the probationer of the charge of the violation upon arrest and at first appearance on the violation and may order the probationer to be brought before the court that granted the probation.

However, if the violation is not admitted, the court may commit the probationer or release him or her with or without bail to await further hearing.

The Governor approved the bill in a signing ceremony on May 9, 2011.

### **HB 883 Public Lodging Establishments - *Passed***

The bill amends laws relating to public lodging establishments and public food service establishments, regulated by Division of Hotels and Restaurant of the Department of Business and Professional Regulation (DBPR).

Generally, the bill preempts local regulation of matters relating to nutritional content and marketing and provides that the DBPR can impose mandatory remedial training for food safety violations.

As to vacation rentals, the bill:

- Reclassifies resort condominiums and resort dwellings as "vacation rentals," a newly defined class combining the two previous classes.
- Revises the membership of the advisory council for the division.
- Preempting new local regulations of vacation rentals based solely on classification, use or occupancy. Regulations adopted by June 1, 2011, would be exempt.
- As to handbill distribution, the bill creates the "Tourist Safety Act of 2011," which amends current law to:
  - Require written permission for the distribution of handbills in public lodging and food service establishments.
  - Provide that certain protected communications are not subject to the restrictions.
  - Provide for fines and forfeiture for violations
  - Permits a law enforcement officer to issue a notice to appear on probable cause of a violation.

### **SB 958 Relating to State Revenue Limitation – *Passed***

This joint resolution proposes an amendment to the Florida Constitution that replaces the current state revenue limitation by using growth based on population and inflation, rather than use of personal income. The base year is updated to Fiscal Year 2013-14;

"State revenues" subject to the limitation is expanded to include fines and revenues that are used to pay debt service for bonds issued by the state after July 1, 2012; but explicitly excludes the receipts of Citizens Property Insurance Corporation, public universities and colleges.

Over time, the proposed state revenue limitation is more likely to constrain growth in state revenues than the current limitation. This requires 60 percent voter approval for a constitutional amendment to take effect. If approved by 60 percent of the electors voting on the measure in the next general election, the amendment will take effect upon approval.

**HB 993 Rulemaking – *Passed***

The bill amends agency rulemaking procedures under the Administrative Procedure Act and revises various provisions to align with legislative ratification requirements enacted in 2010. Certain rulemaking timeframes are conformed to other periods required in the statutory rulemaking process. The bill also provides for withdrawal of rules that are not effective because they were not ratified by the Legislature, and it exempts certain rulemaking from ratification requirements. The bill includes controversial language that requires an individual challenging a permit issued under Chapters 373, 378 or 403, Florida Statutes, to prove that the permitted project would harm the environment.

**SB 1128 Local Pension Retirement Plans - *Passed***

The bill makes several changes to the firefighters' and police officers' pension trust funds. Effective July 1, 2011, the bill revises the definition of "compensation" and "salary" to allow for the inclusion of payments for overtime compensation, up to 300 hours per year, in the calculation of retirement benefits as specified in the local plan or the collective bargaining agreement. Unused sick and annual leave may not be included in the calculation. The bill extends these requirements to general employees of local pension plans.

The bill allows for the increase of member contributions to a firefighter or police pension plan without an increase in member benefits. The increase must be approved by the collective bargaining representative or by a majority of the members if there is no representative.

The bill allows a municipality, by ordinance, to change its representation on the board of trustees operating the pension plan. The change may not reduce the membership percentages of firefighters, police officers, and municipal representatives

The bill revises the actuarial reporting requirements to require each pension plan to disclose the present value of its accrued vested, non-vested, and total benefits as adopted by the Financial Accounting Standards Board, using the Florida Retirement System assumed rate of return.

The bill prohibits the use of an actuarial or cash surplus for expenses outside of the plan. Additionally, it prohibits local pension plans from reducing contributions required to fund the normal cost of the plans. The Department of Management Services must post a fact sheet for each pension plan that contains the plan's most current actuarial data, minimum funding requirements, and a five-year history of each local plan's funded ratio on its website. Local plans must provide a link on their website to the Department of Management Services website. It also requires Department of Management Services to develop a plan to create a standardized rating system to classify the financial strength of each local pension plan. The plan must be submitted to the Governor, Legislature, and Chief Financial Officer by January 1, 2012.

Lastly, the bill creates an 8 member Task Force on Public Employee Disability Presumptions to develop findings and issue recommendations on disability presumptions. The Task Force on Public Employee Disability Presumptions must submit a report to the Governor, Legislature, and Chief Financial Officer, by January 1, 2012. The Task Force is dissolved once the report is submitted.

**SB 1292 Relating to the Chief Financial Officer - *Passed***

CFO maintains two different kinds of charts of accounts, one for state agencies and one for local governments, but does not maintain the accounting structures for the State's educational entities or institutions of higher education.

This bill defines several entities as state agencies, including the Florida Housing Finance Corporation, the State Board of Administration, as well as all local governments, and education entities, do not use the state's accounting system, Florida Accounting Information Resource (FLAIR). The entities listed above have their own accounting systems with their financial data management codes that are unique to their operations. In addition, some entities are governed by and audited under accounting and auditing standards different from the state.

This legislation was passed in order to develop and provide uniform reporting requirements to promote accountability and transparency.

Beginning October 1, 2011, the CFO will begin conducting workshops with state agencies, local governments, educational entities and entities of higher education to gather information for the development of a uniform chart of accounts. A draft chart of accounts will be prepared by July 1, 2013. The CFO shall accept comments and input from state agencies, local governments, educational entities and entities of higher education regarding the draft chart of accounts through November 1, 2013.

By January 15, 2014, the CFO will present a report to the Governor, President of the Senate and the Speaker of the House of Representatives recommending a uniform chart of accounts which requires specific enterprise-wide information related to revenues and expenditures of state agencies, local governments, educational entities and entities of higher education. The report will include the estimated cost of adopting and implementing a uniform enterprise-wide chart of accounts.

#### **SB 2100 Relating to Retirement— *Passed***

Beginning with the upcoming fiscal year, all FRS Employees will contribute 3% towards the pension until retirement or entry into DROP. The 3% contribution is pretax and it is an offset to your employer's contribution to the total contribution amount; meaning the employer gets a 3% reduction to the total contribution. An employee can receive the employee contribution portion of his or her retirement account if the employee separates from employment regardless of vesting minimums. The COLA accruals for active members will be suspended from July 1, 2011 to June 30, 2016. After July 1, 2016, the COLA accruals may resume for the 3% annual increase in retirement. This provision does not apply to current retirees or current DROP participants. Also after enrolling in DROP or upon retirement, the suspension will no longer apply. For the five year period from July 1, 2011 to June 30, 2016, actively employed members will not accrue a COLA credit. While a compromise continued to keep the DROP program, new interest rates for members entering DROP on or after July 1, 2011 will apply (1.3%). Enrollees who enter into DROP or are currently in DROP prior to July 1, 2011 will continue to receive the 6.5% interest. New hires on or after July 1, 2011 will vest after 8 years and will have a best 8 years of salary to calculate the AFC. Those new hires will be required to work 33 years or until age 65 after vesting, except for special risk employees, who will be required to work 30 years or until age 60 after vesting.

FRS "Investment Plan" Changes: The 3% Employee Contribution applies to all participants of the FRS Investment Plan. An employee is immediately vested to receive their full employee contribution plus interest and earnings if that employee separates from employment. The employer contribution is not available until the employee completes one "work" year with an FRS employer, to when then will be able to receive the full employer contribution plus interest and earnings.

**SB 2156 Governmental Reorganization – Passed**

The bill creates and transfers several government agencies under the office of Governor for the purposes of economic development.

The bill:

- Creates the Department of Economic Opportunity (DEO):
  - Agency head, known as the “executive director,” appointed by the Governor and confirmed by the Senate.
  - Transfers the Office of Tourism, Trade and Economic Development (OTTED), portions of the Department of Community Affairs (DCA), and portions of the Agency for Workforce Innovation (AWI) workforce functions to the new agency, effective October 1, 2011.
  - The Ready to Work program is transferred from the Department of Education (DOE) to the Department of Economic Opportunity.
  - Transfers the AWI Office of Early Learning to the Department of Education as a separate entity:
  - Director of the office appointed by the Governor, and confirmed by the Senate.
  - DOE may not impose requirements or standards on early learning programs beyond those authorized in law for voluntary prekindergarten (VPK).
  - Auditor General to review programs and delivery systems (including early learning coalitions) by December 31, 2011.
  - Consolidates public-private economic development partnerships:
  - Enterprise Florida, Inc., (EFI) President, known as the “Secretary of Commerce,” is appointed by and serves at the pleasure of the Governor.
  - EFI board remains largely as it is under current law, however new language requires certain private-sector representation (e.g., space, tourism, etc).
  - Space Florida retains special district status under the direction of appointed EFI board members.
  - VISIT Florida direct support organization is retained under contract with the EFI Board.
  - Black Business Investment Board (BBIB) and Florida Sports Foundation are merged into EFI, and related divisions are created in EFI.
  - Matching requirements for EFI and VISIT Florida (1-to-1 match) remain as required under current law.
  - Workforce Florida, Inc., maintains independent status as currently provided in law.
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**PURPOSE AND FUNCTIONS OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY**

Responsibilities of the department:

- Oversight and coordination of economic development, housing, growth management, community development programs, and unemployment compensation.
- Develop a single, statewide 5-year strategic plan to address the promotion of business formation, expansion, recruitment, and retention in order to create jobs for all regions of the state. The plan must address economic development, marketing and infrastructure development for rural communities.

**HB 4031 Relating to Local Government Services - *Passed***

This bill repeals statutes relating to efficiency and accountability in local government services, and providing a process that allows any county or combination of counties, and the municipalities therein, to develop and adopt a plan to improve the efficiency, accountability and coordination of the delivery of local government services.

**HB 7095 Relating to Controlled Substances - *Passed***

Known as the “Pill Mill” bill, it addresses the problem of prescription drug abuse in Florida by amending regulation of each entity in the supply chain: wholesale distributors, pain-management clinics, pharmacies, pharmacists, and physicians. It will create criminal violations, amends the prescription drug-monitoring program, and requires immediate action by law enforcement and regulators.

Some highlights of the legislation include:

- Amends the definition of “pain-management clinic” (exempting clinics owned by certain physicians from regulatory requirements) and sets standards for the operation of pain-management clinics and requires physicians practicing in the clinics to ensure they are met.
- Prohibiting dispensing Schedule II and Schedule III controlled substances by a physician and makes such dispensing both a third degree felony and grounds for licensure discipline.
- Requiring practitioners treating chronic, non-cancer pain with controlled substances to register with their boards, maintain a prescription log and make it available to DOH and the Department of Law Enforcement (FDLE).
- Creating a standard of care for all physicians prescribing controlled substances for treatment of chronic non-cancer pain, regardless of setting, and provides an exemption for physicians meeting certain requirements.
- Requires community pharmacies that dispense Schedule II and Schedule III controlled substances to be permitted on or after July 1, 2012 and to meet criteria set for in the legislation. The 5000 per month dispensing limit is no longer included in the bill, which passed.

The bill will be effective on July 1, 2011, although some provisions will not be effective until January 1, 2012.

**HB 7155/SB 1182 - Relating to State Financial Matters - *Passed***

The State Board of Administration (SBA or Board) is established by Article IV, Section 4(e) of the Florida Constitution, and is composed of the Governor, the Chief Financial Officer, and the Attorney General. The powers and duties of the Board include the management of 37 separate statutory investment portfolios, the largest one of which is the multi-employer Florida Retirement System.

The SBA also manages a program for local government entities known as the Local Government Surplus Funds Trust Fund, which provides local government entities with a low-risk, low-cost opportunity to invest its funds.

The bill authorizes the SBA to invest the assets of government entities in the Local Government Surplus Funds Trust Fund upon the completion of enrollment materials supplied by the Board. A separate trust agreement is no longer needed to grant the Board the ability to invest the funds. The investments are only subject to the limitations or restrictions of the trust agreement when there is a trust agreement.

### **HB 7207 Relating to Trust Funds (Growth Management) - *Passed***

HB 7207 is a conforming bill tied to the budget. This conforming bill adopted most of the growth management bill that was contained in SB 1122 and HB 7129. These two bills died in messages, but the conforming bill, as part of the budget, passed. It is worth noting that the growth management language is largely opposed by environmental groups and because it was included in the conforming bill, which becomes part of the Laws of Florida, as opposed to Florida Statutes, there may be some legal challenges.

The conference report provides instead for various provisions relating to growth management:

- Makes concurrency for parks and recreation, schools, and transportation facilities optional for local governments.
  - Applies and revises the expedited comprehensive plan amendment process statewide.
  - Deletes the requirement that comprehensive plans be financially feasible.
  - Deletes the twice a year limitation on comprehensive plan amendments.
  - Revises the small scale amendment process.
  - Specifies that population projections should be a floor for requisite development except for areas of critical state concern.
  - Allows additional planning periods for specific parts of the comprehensive plan.
  - Abolishes 9J-5 (DCA's growth management regulations and incorporates certain provisions into the bill).
  - Removes many of the state specifications and requirements for optional elements in the comprehensive plan, but allows local governments to continue to include optional elements.
  - Expands and revises the optional sector plan process.
  - Reduces the requirements of the evaluation and appraisal process.
  - Revises the rural land stewardship program.
  - Restricts the state's ability to interpret joint planning agreements.
  - Clarifies and broadens the window for permit extensions.
  - Creates a 4-year development of regional impact permit extension.
  - Removes industrial areas, hotels/motels, and theaters from the list of developments of regional impact.
  - Creates an exemption from the DRI process for mining projects and allows those mines to enter into agreements with the Department of Transportation.
  - Adds a new 2-year permit extension, but caps the maximum extension at 4 years.
  - Prohibits local governments from having referenda for local comprehensive plan amendments.
  - Encourages planning innovation technical assistance.
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- Sunsets the Century Commission in two years.
- Clarifies requirements for adopting criteria to address compatibility of lands relating to military installations.
- Allows a certain plan amendment to be readopted by a local government without being resubmitted to the state land planning agency.
- Clarifies when a local government can reject a proposed change to a development of regional impact.
- Encourages adaptation strategies.
- Requires DOT to study the proportionate share calculation.
- Allows DCA to have procedural issues on their website.

**HB 7215 - Relating to Department of Agriculture and Consumer Services – *Passed***

HB 7215 (House Agriculture and Natural Resources Subcommittee) addresses a variety of issues relating to agriculture and the powers and duties of the Florida Department of Agriculture and Consumer Services (DACS). Of primary importance to municipalities, the bill includes language that preempts local governments from regulating the sale, composition, formulation and distribution of commercial fertilizers. The bill includes a grandfather provision for counties that have existing ordinances regulating the sale of urban turf fertilizers.



**Major Legislation which *FAILED*****HB 13/ SB 1698 Relating to Onsite Sewage Treatment and Disposable Systems - *Failed***

The bill would have amended current law to remove language that directs the DOH to create and administer the statewide septic tank evaluation program and eliminated procedures and criteria for the evaluation program. The bill would have also repealed current law to terminate the grant program for repair of onsite sewage treatment disposal systems identified pursuant to the evaluation program, and eliminated provisions authorizing the DOH to collect an evaluation report fee.

**HB 89/SB 914 – Relating to Effective Public Notices by Governmental Entities – *Failed***

This bill would have allowed a local government to use its official website that is accessible on the Internet for required advertisements and public notices if the general public has free regular business hours access to the Internet. The local government would have to have notified the public of this service through traditional circulation annually and keep a registry of names of residents who request in writing that they receive advertisements and notices.

**HB 239/SB 1090 Numeric Nutrients – *Failed***

The bill prohibits state, regional, or local governmental entities from implementing or giving any effect to EPA's nutrient water quality criteria rules for the state's lakes and flowing waters in any program administered by a state, regional, or local governmental entity where the criteria are more stringent than necessary to protect the biological community and the designated use. The bill does not limit the ability of any water management district or any state, regional, or local governmental entity to:

- Apply for any pollution discharge permit
- Comply with the conditions of such permits, including NPDES permits
- Implement best management practices, source control, or pollution abatement measures for water quality improvement programs as provided by law

Notwithstanding the prohibition to give any effect to the EPA criteria rules, the bill authorizes the DEP to adopt numeric nutrient water quality criteria in accordance with s. 403.061, F.S., for a particular surface water body or group of surface waters. Such criteria may be expressed in terms of concentration, mass loading, waste load allocation, and surrogate standards, such as chlorophyll-a, and may be supplemented by narrative statements. The standards shall be based on objective and credible data, scientific studies and analysis. Implementation of the standard shall only require nutrient reductions where necessary to protect the biological community and the designated use.

The bill declares numeric nutrient total maximum daily loads developed by the DEP and approved by the EPA shall constitute the site specific numeric interpretation of the narrative nutrient water quality criteria.

The bill revises the current classification of surface waters in the state, which are provided for in ch. 62-302, F.A.C. The revised classification system will be implemented to establish the designated uses for state surface waters to more accurately reflect the range of uses that exist within the state and to allow appropriate expectations to be set for all water bodies. The effective date for the classification system is July 1, 2012. The bill provides for numerous statutory cross-reference changes, also effective in 2012.

**SB 268 Super Enterprise Zones - Failed**

This bill was re-introduced by Senator Bullard for the 2011 Session, but because of serious health issues, the Senator was only in Tallahassee for one week out of the two month Session. Her bill was subsequently never sponsored in the House and died in the first committee of reference. However, the Fort Myers language was included in the originally filed SB 268 which is a positive sign for next year.

The Enterprise Zone program is scheduled to Sunset in 2015 if not re-enacted. The Office of Program Policy and Government Accountability released a report on the program finding inconclusive data to support Enterprise Zones' effectiveness. Senator Detert, an opponent of the program, filed SB 1296 to repeal Enterprise Zones on July 1<sup>st</sup> this year. The bill was withdrawn from further consideration early in the process.

**SB 389/SB 934 Water Management Plans and Programs - Failed**

The bill amended current law to require that DEP and WMDs reduce or waive permit processing fees for an entity created by special act, local ordinance, or interlocal agreement of counties or municipalities meeting specified population limits.

The bill amended current law directing the DEP to initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities of airports. The permit applies statewide and must be administered by any WMD or delegated local government, with no additional rulemaking required. The bill also provided that the rules are not subject to any special rulemaking requirements related to small business. This change would allow the DOT to take advantage of grant money offered by the Federal Aviation Authority (FAA) to address the specific needs of stormwater management systems that serve airports.

The bill created s. 373.4131, F.S., which authorizes counties and municipalities that have created a community redevelopment area (CRA) or urban infill and redevelopment area to adopt a stormwater adaptive management plan addressing the quantity and quality of stormwater discharges for the area and allows those counties and municipalities to obtain a conceptual permit from the water management district (WMD) or the Department of Environmental Protection (DEP). The conceptual permit is established by the WMD in consultation with DEP.

**HB 457 Fertilizer - Failed**

HB 457 would have preempted local government authority to ban the sale of urban fertilizers and modified the process by which a local government could adopt fertilizer management practices that are more stringent than the statutory Model Fertilizer Ordinance created by the Florida Department of Environmental Protection and the Florida Department of Agriculture and Consumer Services. The bills included a grandfather provision protecting existing bans on the sale of fertilizers, provided such bans were adopted prior to July 1, 2011.

**HB 493/SB 376 Relating to Tax on Sales, Use and Other Transactions – Failed**

Legal disputes between online booking services such as Expedia, Travelocity, and Priceline and the local governments have risen regarding the application of the tourist development tax. These bills clarify that service fees for facilitating the booking of reservations for customers at transient accommodations is not taxable. Further, the bill states that amounts specifically collected as tax are county or state funds and must be remitted as tax. The bill will not affect any pending lawsuits.

**HB 619/SB 1448 Relating to the Sale or Lease of a County, Municipal, or District Hospital – *Failed***

This bill would have prevented a governing board of a county, district, or municipal hospital to enter into a sale or lease of a hospital facility without first receiving approval by majority vote of the registered voters in the county, district, or municipality or, in the alternative, approval from a circuit court. In order for the governing board to receive approval from the circuit court to sell or lease the hospital, the bill directs the governing board to file a petition with the circuit court where a majority of the physical assets of the hospital are located requesting the approval of the sale or lease of a public hospital.

**SB976/HB 943 Local Infrastructure fund Partnership – *Failed***

These bills would have created a new venture capital investment program--the Florida Infrastructure Fund Partnership (partnership). The partnership will award up to \$700 million in certificates for state tax credits for an equal amount in private investments in strategic infrastructure projects. The credits may be redeemed by the investors only to recoup losses of their capital investment. The earliest that the credits may be claimed is 2023.

**HB 991 Environmental Permitting - *Failed***

The bill prohibits municipalities from requiring that, as a condition of approval for a development permit, an applicant obtain a permit or approval from any other state or federal agency. Local governments would have been protected from liability if an applicant failed to meet state or federal standards and were authorized to include as a permit condition, a requirement that all applicable state or federal permits be obtained prior to development. The bills revised the criteria relating to third party standing in permit challenges by placing the burden on the petitioner initiating the action to prove the case in opposition to the license, permit or conceptual approval through the presentation of competent and substantial evidence. The bills also substantially revised the current process for agency requests for addition information.

**HB 1001/SB 1514 Consumptive Use Permits - *Failed***

The bills would have clarified that the term “alternative water supplies” as defined by statute does not include non-brackish groundwater supply development;

- Provided that if the Department of Environmental Protection (DEP) or the governing board of a water management district requires a compliance review of a permit holder’s compliance reports following issuance of a 20-year consumptive use permit (CUP) that the review must be completed within three months and with no more than one additional request for information during the review. It also reduces costly reporting requirements for 20-year permit holders by providing that quality assurance reports only have to be submitted every ten years, rather than every five years.
- Specified how water management districts (WMD) should evaluate CUP applications in mandatory reuse zones but exempts agricultural uses from this requirement.

**HB 1353/SB 1150 Department of Motor Vehicles - *Failed***

HB 1353 was amended to include provisions requiring local governments to fund studies and gain Department of Transportation approval to place red light cameras at dangerous intersections. The bill was also amended to prohibit local governments from issuing red light camera tickets for right-on-red violation, but this provision was removed by the Senate. The prohibition would have severely reduced revenues to trauma centers. HB 1353 and SB 1150 died in Senate messages.

**SB 1363 Department of Transportation - *Failed***

The bill included provisions adding sheriffs as a class of individuals who receive a portion of the local gas option tax. The bill also included provisions which specify that stop lights must have a green, yellow and red indication light. The bill mandated mandatory yellow light timing requirements. The bill provided that drivers of motor vehicles must transport children who are less than seven years of age and less than 4 feet 9 inches in a restraining device. That device may have included a vehicle manufacturer's integrated child seat, a separate child safety seat or a child booster seat.

**HB 1379/SB 1398 Pre Trial Detention – *Failed***

The bill created an unnumbered section of statute entitled "Eligibility criteria for government-funded pretrial release." The bill provided that a defendant is eligible to receive government-funded pretrial release only by order of the court after the court finds in writing, upon consideration of the defendant's affidavit of indigence:

- That the defendant is indigent or partially indigent as set forth in Rule 3.111, Florida Rules of Criminal Procedure; and
- That the defendant has not previously failed to appear at any required court proceeding.

The bill prohibited defendants from participating in a pretrial release program if the defendant's income is over 300 percent of the federal poverty guidelines prescribed for the size of the household of the defendant by the U.S. Department of Health and Human Services, unless the defendant is receiving certain financial assistance.

Defendants who do not meet the above criteria will be eligible for pretrial release 48 hours after the defendant's arrest. Additionally, the bill specifies that the income eligibility limitations applicable to pretrial release programs apply only to those counties with a population equal to or greater than 350,000 persons.

The bill specified that pretrial release programs are subject to the eligibility criteria outlined above, and that such criteria preempt all conflicting local ordinances, orders, or practices. The bill also requires:

- That defendants who seek to post a surety bond pursuant to a bond schedule established by administrative order as an alternative to government-funded pretrial release be permitted to do so without any interference or restriction by a pretrial release program.
- Pretrial release programs to certify annually, in writing, to the chief circuit court judge, that the program has complied with the reporting requirements in s. 907.043(4), F.S.

The bill specified that the above provisions do not prohibit a court from releasing a defendant on the defendant's own recognizance; or imposing upon the defendant any additional reasonable condition of release.

**SB 2078 Energy – *Failed***

The bill contained provisions relating to renewable energy, energy conservation, and economic development. In the short term, it allowed an investor-owned utility to recover the costs of renewable energy projects. If a utility chooses to do so, at least twenty-five percent of the total renewable energy capacity must be from renewable energy resources other than solar energy. Total costs for a utility in any calendar year cannot exceed two percent of the utility's total revenue from retail sales of electricity for the

calendar year 2010. Each utility receiving cost recovery must annually report on the costs and benefits of the projects, including the number of jobs created.

For the long term, the bill established a process for creating a state energy resources plan which will incorporate renewable energy into the existing planning process and electricity generation fleet in a strategic and economical way.

The bill required each public utility to conduct a free energy audit of the business structures of each commercial customer within its service territory. The bill required the Department of Management Services (DMS) to develop and implement a prioritized list of buildings on which to perform energy audits and economical, energy-saving retrofits.

#### **SB 2126 – Department of Management Services – *Failed***

A budget confirming bill that included issues on state aircraft, state purchasing of office furniture for state buildings, along with a major overhaul to the state employee health insurance system died amidst the confusion and meltdown in the Senate the last night of Session.

The bill would have been a multi-year transition of the state health insurance system. It would have allowed for increased coverage options for employees from Platinum to Bronze, with each plan having a different cost to the employee associated with it. DMS would have also had the authority to hire an independent benefits manager to help reshape the program.

#### **HB 4087/SB672 Red Light Cameras - *Failed***

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

#### **HB 5005 Relating to the Deregulation of Professions and Occupations - *Failed***

Another casualty of the 2011 legislative session was the removal of several professions from being regulated by DBPR including hair braiders, hair wrappers, body wrappers, interior designers, and sellers of “business opportunities”.

This legislation would have also removed the requirement for auctioneer apprenticeship licensure, but would allow out-of-state auctioneers to conduct motor vehicle auctions held for the purpose of sanctioned contests in this state.

Other requirements that would have been deleted relate to: access to and from public roads and other requirements that specifically apply to outdoor theatres; written terms of commission contracts; and removing the requirement that cathode ray tubes (CRT, or television picture tubes) be correctly labeled to indicate the new and used components and materials in such picture tubes.

The Senate last adopted the above conference amendment, but the House had already adjourned sine die before it would return in messages.

