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Engineering
Society
July 2014

AGRICULTURAL ENGINEERING

Legislative Enactments

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Making Your Lunch**

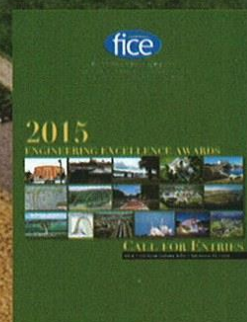
**Agricultural Engineers:
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LEGISLATIVE ENACTMENTS



By John L. Wharton, JD and Ashley E. Gault, JD

As Florida's economy slowly recovers, an awareness of legislation that addresses our state's regulatory, environmental, water resource and development framework is increasingly essential. All in all, this session did not result in many significant changes to Florida's water resource or environmental laws. Of the measures that were considered by the 2014 legislature, some passed, and some did not, but the 2015 session appears ripe for the consideration and passage of several such bills.

The most significant action taken by the 2014 legislature in relation to Florida's water resources was a bill that failed to pass. SB 1576, the Florida Springs and Aquifer Protection Act, died in the House after an amended version passed 38-0 in the Senate. The bill was opposed by business and industry groups, supported by environmental groups, and will almost certainly surface again, in some form, in the 2015 session. As filed, SB 1576 had an ambitious agenda, requiring that the Department of Environmental Protection (DEP) create "Springs Protection and Management Zone(s)" for each outstanding Florida Spring (as defined) requested to be delineated by July of 2015. These were to be subject to comprehensive plots and land development regulations which would be the collective product of state agencies, water management districts, and local government working together. The bill, as introduced, would have ramifications for wastewater facilities, local governments, agricultural producers, and owners of septic tanks within such designated zones. Finally, the establishment of minimum flows and levels for such springs would have been accelerated, at least in many cases, and regulatory oversight and restrictions, on many activities in proximity to such springs, would be put in place.

Bills that did pass addressed agricultural industry certifications, farm signs,

public utilities, certain permit durations, reclaimed water, and minimum flows and levels.

Agricultural industry certifications are on the horizon. Under HB 487 the Department of Agriculture and Consumer Services is now required to annually provide information to the State Board of Education and the Department of Education on industry certifications for farm occupations, and to adopt rules for implementing an industry certification process.

If the governor signs SB 272, higher standards for water quality can be enforced by water customers. The bill also provides for the conditions under which the certificate of authorization may be revoked by the Public Service Commission ("the PSC"). The bill creates a process for customers to file a petition with the PSC to require compliance with water quality standards. If the PSC finds it is in the "best interest of the customers," the PSC may revoke the certificate of authorization. The bill specifies how dissatisfied customers can hold a regulated water utility's feet to the fire, and gives the PSC more power to act in such cases. The PSC is required to consider the quality of water provided when fixing rates. Every PSC regulated water utility should be aware of these statutory changes.

As fresh water resources are becoming scarce, reclaimed water is becoming more valuable. The Department of Environmental Protection will study reclaimed water with an eye to expanding its beneficial use, in cooperation with stakeholders, if the governor signs SB 536. The study will result in a report which must address, among other subjects, various constraints on the use of reclaimed water (including utility rates); incentives for the use of reclaimed water; and the increased use of regional storage features.

An exemption for minimum flows and levels for water bodies surfaced during session. A bill passed the Legislature which exempts proposed rule 62-42.300 from legislative ratification. This establishes minimum flows and levels for the Lower Santa Fe and Ichetucknee Rivers and associated priority springs, and is pending final action by the governor (HB 7171). As stated in the House of Representatives Final Bill Analysis, "a 'minimum flow' is the limit at which further water withdrawals from a given watercourse would significantly harm the water resources or ecology of the area... and a 'minimum level' is the level of groundwater in an aquifer or the level of a surface water body at which further withdrawals will significantly harm the water resources of the area." The language of the bill indicates that this was done because of the perceived

importance that this rule would take effect as soon as possible. This bill could set a precedent for other minimum flows and/or levels to bypass legislative ratification in the future.

SB 846, if signed by the governor, will require persons who lobby water management districts to pay a fee, not to exceed \$40 for each principal represented, and to annually register with the district as a lobbyist. Currently, there is no such requirement for lobbyists going before water management districts (as defined by the rules of the Ethics Commission) to register.

HB 7023 provides that the duration of certain permits, and specifically any permit issued by DEP or by a water management district pursuant to part IV of Chapter 373, is automatically extended for two years if that permit would otherwise have expired in between January 1, 2014 and January 1, 2016.

The legislature also gave an important boost to water storage, which is bound to be a critical component in addressing Florida's paradoxical looming water shortage, despite nearly 50 inches of average rainfall. HB 7091 encourages the creation of water storage and water quality improvement on private agricultural lands by streamlining permit review, authorizes the property appraiser to grant an agricultural classification for land, and provides that lands participating in dispersed water storage programs can continue to be classified as agricultural lands for assessment purposes. Under the bill, landowners

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who implement agricultural best management practices may obtain a baseline determining the extent of wetlands and other surface waters on the property before any improvements are constructed. HB 7091 also amends the requirements for registration and distribution of discontinued pesticides and pesticide applications. ■

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