



From December 11, 2009

After passing the much debated rail infrastructure bill, HB 1B Relating to Transportation by Senator Jeremy Ring (D-Margate), the Legislature adjourned Sine Die at 5:07 p.m. on Wednesday, December 8th, bringing the 2009 Special Session B to an official close. This new rail system will be led by a new entity known as the Florida Rail Enterprise, which will oversee and make recommendations to the Florida Department of Transportation regarding future rail projects such as SunRail and High Speed Rail. Although the official special session work concluded earlier than expected, a number of committees in both the House and Senate met Wednesday. Legislators returned to their respective districts Thursday morning.

Also included in this week's brief are reports on growth management, water, and education issues which were discussed. In addition, we have included a report on the Numeric Nutrient Criteria issue from Tuesday's Cabinet meeting.

Transportation

On Tuesday, December 8th, after extensive discussion and debate including numerous questions from Senator Paula Dockery (R-Lakeland) and Senator Gary Siplin (D-Orlando), and on the heels of an announcement of a deal between SunRail proponents and union leaders, the Florida Senate passed HB 1B Relating to Transportation by a vote of 27 to 10. The issue of union opposition to the bill was the last hurdle necessary for Senate President Jeff Atwater (R-North Palm Beach) to cross before arriving at the necessary number of votes needed for passage. According to union bosses, the legislation would lead to the potential loss of union jobs in the future. Opponents argued that the passage of the bill was fiscally irresponsible, especially at a time when the state is facing a major budget deficit. Proponents of the package, on the other hand, debated effectively calling on the need for the Florida Senate to establish a vision and a foundation for future transportation systems in Florida. Senate Minority Leader Al Lawson (D-Tallahassee) spoke passionately about the need for this legislation as a way to invest in the infrastructure of Florida. The bill was not amended in the Senate.

Earlier Tuesday, the bill was passed by the remaining two committees of reference (Judiciary and Transportation and Economic Development Appropriations). The bill passed out of each committee by the narrowest of margins (1 vote). Supporters of the bill, including Associated Industries of Florida, testified as to the potential for the bill to bring about much needed jobs and investment to our state.

Associated Industries of Florida supports passage of legislation creating a comprehensive rail transit system in Florida. At a time when so many Floridians are out of work, we must make the necessary infrastructure investments that will lead to the creation of jobs and bring about much needed investments to our state.

Water Quality

The Senate Select Committee on Florida's Inland Waters met early Monday, December 7th to hear a presentation by **Jerry Brooks** from the Florida Department of Environmental Protection (DEP) on the status of spring and watershed restoration activities. Mr. Brooks is the Director of the Division of Environmental Assessment & Restoration. The Florida Watershed Restoration Act was established in 1999 and sets up the Total Maximum Daily Load (TMDL) program. This program identifies impaired waters and how to reduce the pollution while focusing on pollutants that are toxic. Florida has the most extensive monitoring network in the country with approximately 47,000 monitoring stations in the state. There is a formal rule to determine impaired water where public workshops are held for local input and identify pollutants. Sources of pollution usually come from wastewater facilities and storm water treatment facilities.

Numeric Nutrient Criteria

At the request of **Attorney General Bill McCollum**, Department of Environmental Protection (DEP) **Secretary Mike Sole** gave a briefing to the Florida Cabinet on Tuesday, December 8th regarding the issue of numeric nutrient criteria. He explained that DEP uses good data to set standards for nutrients. Florida has a diverse set of water bodies and it is difficult to have a one size fits all. He used the analogy of speed limits. In a residential area 25 miles per hour is appropriate; however, you would not want to have a 25 miles per hour speed limit on the highways. The same applies to water bodies. Springs need a lower amount of nutrients whereas other bodies could handle higher levels.

Secretary Sole stated that work still needs to be done on the nutrient issue but we need the science to base the criteria. Florida leads the way and has spent millions of dollars to improve the quality of water.

Although several water management districts and the Department of Agriculture and Consumer Services intervened, **Judge Robert Hinkle** indicated that he plans to accept the EPA/Earth Justice consent agreement. However, Judge Hinkle also entered a motion last month granting the interveners' motions to allow a cross claim against the EPA regarding its failure to follow the federal Administrative Procedures Act in its determination of the necessity of numeric nutrient criteria only for the state of Florida.

According to Secretary Sole, the DEP process is very public and the federal process is not open and transparent. Therefore, Secretary Sold does not know exactly what they will propose for the numeric nutrient criteria. He is afraid that some of the standards may be more stringent than some natural waters.

Agriculture Commissioner Charlie Bronson stressed his concern about EPA setting the criteria. He is afraid that it will affect not only the economy in Florida, but the food supply for the rest of the country. One of the speakers stated that the cost for wastewater utilities could range between \$48 billion and \$99 billion. This means an individual's bill will increase anywhere from \$57 to \$118 a month. It could also mean certain water projects may be stopped and actually go backwards.

Proponents of establishing these unattainable water quality standards have said that the lawsuit was necessary to clean up Florida's waterways. During today's Cabinet meeting they showed large photos of green algae in the St. John's River. They claimed that this pollution has led to health problems for residents and that tourism has been hurt by these high levels of nutrients.

CFO Alex Sink questioned Secretary Sole about the increase in nutrients in the water in 2004 and 2005. Florida had made great strides in earlier years. Sole said the hurricanes Florida experienced in 2004 and 2005 caused the nutrient levels increase due to storm water runoff.

Governor Charlie Crist said that the parties involved still have the ability to appeal the recent court rulings on this issue. Attorney General McCollum also stated that the state of Florida may need to go to court as well over this issue.

On Wednesday, December 9th, the Senate Committee on Environmental Preservation & Conservation committee heard presentations about the numeric nutrient criteria standards issue. **Jerry Brooks**, Director – Division of Environmental Assessment & Restoration for the Department of Environmental Protection gave background information about importance of having a nutrient criteria and how DEP is progressing in setting those standard. FEDP stated developing numeric criteria for phosphorus and nitrogen in 2001. Unfortunately, the process has been interrupted because of the recent decree by EPA to settle the Earth Justice and other environmental organizations law suits.

Agriculture Commissioner Charlie Bronson addressed the committee about his concerns that the new EPA numeric nutrient criteria may have on Florida's economy and especially agriculture. The second largest industry in Florida is agriculture. Commission Bronson has a Bachelor of Science degree in agricultural education, as well as animal and meat sciences, from the University of Georgia. He has worked in the fertilizer, chemical and sod business so he has a great detail on expertise on the issue of numeric nutrient criteria. According to Commissioner Bronson, the Clean Water Act mandates that individual states set standards for water quality and then EPA approves. This will not happen now that EPA has settled the suit and plan to issue their own standards.

The Sierra Club testified that toxic algae are a serious threat to public health and tourism again showing photos of polluted waters. The Audubon Society stated that Florida is moving towards the goal of better water quality but improvements are still needed.

Barney Bishop, President of Associated Industries of Florida testified about the concerns the business community has with the new EPA numeric nutrient criteria and what it may potentially do to Florida's economy.



Ephraim King, Director of the Office of Science and Technology for the U.S. Environmental Protection Agency also participated via conference call. He informed the committee of the process EPA plans to use and that there would not be a single statewide standard. Instead, EPA will be working with DEP to set the standards. EPA will issue their recommendation on January 14, 2010 and the public would have 60 days to comment. EPA in conjunction with DEP will hold 2 to 3 public hearings around the state. EPA is will issue their final rule in October 2010. EPA wants the process to be open and transparent. Although EPA said Florida can choose to set its own standards, it will be EPA who will have to approve them.

Education

Early Tuesday morning, both the House and Senate higher education committees heard presentations on higher education coordination. In the Senate Committee on Higher Education Appropriations, **State University Chancellor Frank Brogan** and **Florida College System Chancellor Will Holcombe** presented a view of the current landscape of higher education access in Florida as well as suggestions for improving cross sector planning and better alignment with the needs of business and employers.

Later Tuesday afternoon, the House held a joint meeting of the Education Council and the Committee on State Universities and Private Colleges, which heard the two chancellors' presentations, along with a history of higher education governance in Florida from OPPAGA, and presentations from **Ed Moore**, Executive Director of the Independent Colleges and Universities of Florida, and **Kathy Mizerek**, Executive Director of the Florida Association of Post secondary Colleges and Schools.

AIF has long been engaged in the discussion of higher education collaboration and supports greater statewide planning for degree needs as long as this process is balanced with the ability of locally governed educational entities (both private and public) to be responsive to local employment demands.

Growth Management

The House Governmental Accountability Act Council met Tuesday and heard presentations from a number of agencies currently under review under the Sunset Review process. The Sunset Review process was established and written into law a few years ago. It lays out a process for the Legislature to review all state agencies in order to determine whether they should be allowed to continue to exist or whether they should be abolished. The first to testify was Department of Community Affairs **Secretary Tom Pelham**. What started as a rather bland description of his agency's responsibilities, turned more exciting upon questions from the committee members.

When asked about Hometown Democracy (Amendment 4) the Secretary opined that an attempt - or success - at abolishing his agency this year would likely only embolden the proponents of this constitutional amendment. Later in his testimony, when asked about Regional Planning Councils, Secretary Pelham said that they really served no purpose anymore, and the state could do just as well without them-- this promises to be a fight this session, as many private interests and legislators alike will rally behind the idea.

Energy

The Senate Communications, Energy and Public Utilities Committee met Wednesday, December 9th to receive a brief overview of the programs being overseen by the Florida Energy and Climate Commission, and to receive an update on the stimulus funds for energy programs. This included a presentation on the grants, tax credits and rebates being offered to promote renewable energy and energy efficiency.

The Committee also included a staff presentation on Issue Brief 2010-308 (a Senate interim project) entitled "Issues Involved in Providing an Economic Incentive to Enable Expansion of Renewable Energy." This largely centered on the issues contained in last session's bill by Senator Jim King (referred to as the King bill - SB 1154). Chairman Diaz de la Portilla (R-Miami) said that this issue would be on the agenda for the next meeting of the Committee.

On Wednesday, December 9th, the Senate Community Affairs Committee met and heard presentations from an FSU planning professor and a law firm's planner on growth management to discuss when a "need" for more development could be justified. In largely esoteric terms, the planners described the justification for a transition from urban to suburban land uses and the considerations involved.

After those two presentations, the committee staff provided an update on their interim project, "Population Need as a Criterion for Changes to a Local Government's Future Land Use Map." According to staff, they were still "monitoring" the Department of Community Affairs' progress in developing a rule on the same subject.