



DAILY BRIEF

From December 8, 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. bringing the 2009 Special Session B to an official close. Although the official special session work has concluded, a number of committees in both the House and Senate will meet on Wednesday. Legislators will be heading home Thursday morning.

For a complete re-cap on today's developments regarding the rail bill please check out the "Transportation" section of today's *Daily Brief*. Also included in today'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 today's Cabinet meeting.

Transportation

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 of the bill 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.

Senators voting against the bill include Senators Carey Baker (R-Eustis), Charlie Dean (R-Inverness), **Dockery**, Arthenia Joyner (D-Tampa), Steve Oelrich (R-Gainesville), Durell Peaden (R-Crestview), Nan Rich (D-Weston), **Siplin**, Rhonda Storms (R-Brandon) and Alex Villalobos (R-Miami).

The bill was not amended in the Senate; therefore, it is on its way to Governor Crist for his review and likely signature.

Earlier in the day, 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.

Growth Management

The House Governmental Accountability Act Council met 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.

Senate Select Committee on Florida's Inland Waters

The Senate Select Committee on Florida's Inland Waters met this week 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. It focuses 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.

Florida has a watershed management system called the Basin Management Action Plan (BMAP) which is community driven. DEP works with communities to identify sources of pollution and restoration actions. It is an open, collaborative process that is science- based and serves as the primary mechanism for restoration. So far five, BMAPs have been adopted and four more are expected to be adopted next year. One example shown was of the lower St. Johns River. The Mainstream BMAP was adopted in 2008 and in the freshwater section of the river they have seen a reduction of 8% in phosphorous and 37% in nitrogen. The marine section of the river has seen 50% reduction in nitrogen. Significant bacteria reductions have already been seen since the TMDL were adopted in the tributaries.

Certain nutrients are not toxic but are natural components and essential for natural ecosystems. However, too much of a nutrient will cause a change in the natural structure. That is what is happening with some of Florida's springs. Springs are vulnerable due to sandy soils and sinkholes. Also, lime rock becomes porous and causes rapid travel of water below the surface known as underground rivers.

Florida has over 700 springs. Florida's 18 most popular state parks contain springs and have a direct economic impact of \$128 million in 2008.

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 today on 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.

He explained about the Earth Justice lawsuit stating that U.S. Environmental Protection Agency (EPA) is obligated to set numeric nutrient criteria according to the Clean Water Act. Secretary Sole has spoken with EPA and informed them DEP has the science to adopt numeric nutrient criteria. DEP had already held several workshops and had proposed rules ready to go to the Environmental Regulation Commission (ERC) for them to consider adopting. One day before the proposed rules were going before the ERC, EPA issued a consent order and stated they would set the numeric nutrient criteria. It seems as though EPA and DEP were working side by side until August when EPA decided to settle the Earth Justice lawsuit and decided to set the numeric nutrient criteria instead of working with DEP.

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 Sole 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.

Sole has asked EPA to come to Florida to talk with Floridians about their water before issuing the new criteria. He is hopeful they will do so. Unfortunately the time frame for the new numeric nutrient criteria is short as they will be issued in January 2010 and adopted in October 2010.

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.

It was also suggested that the Governor create a panel to review the numeric nutrient criteria and ask regulatory agencies to review the economic impact they will have on Florida's businesses.

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.

Commissioner Bronson was quick to respond that red tides and algae out breaks have been around for thousands of years and is nothing new.

Secretary Sole informed the Cabinet members that the bodies of water shown in the photos were already being cleaned up through the TMDL process.

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.

To learn more about AIF's opposition to the establishment of arbitrary water quality standards by the federal government read AIF's *Statement of Concern Regarding Proposed New Water Quality Standards for the State of Florida.*

Education

Today, 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.

In the House, there was 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.