



Florida Onsite Wastewater Association, Inc.

END OF SESSION WRAP-UP - May 12, 2011

Florida legislators ended the 2011 Legislative Session with a few bumps prior to adjourning at 3:35 a.m. Saturday morning. Legislators wrapped up the session, however, after accomplishing quite a lengthy list of priorities.

With supermajorities in both the House and Senate, Republicans were able to push through legislation that included a "transformational" reform of Medicaid, tighter restrictions on controlled substances and "pill mills," an overhaul of property insurance regulations, additional conditions on abortions, and major education system changes, as well as constitutional amendments to revamp the state court system and impose a cap on state revenues.

Legislators did this at the same time they struggled with a nearly \$4 billion budget shortfall that was filled by imposing deep cuts in health care, schools, and transportation, as well as privatizing prisons and eliminating roughly 5,000 public sector jobs. The budget shortfall was also filled by forcing public employees to pay 3 percent of their salaries toward pension costs.

Governor Rick Scott won legislative support for a substantial part of his agenda, including drug testing for welfare recipients, changes to environmental permitting and growth management rules, and new limits on lawsuits filed against doctors and hospitals. Governor Scott also won approval for a slimmed down version of his proposed \$500 million in tax cuts. Warned by Republican leaders that these cuts were too aggressive in the present budget climate, legislators ultimately approved a \$30 million corporate income tax break that will exempt roughly 15,000 small businesses from having to pay the tax.

Some major pieces of legislation -- including a measure aimed at state and private enforcement of federal immigration laws and a proposal to end dues deduction for unions -- did not pass. However, Republican legislators will be able to claim a long list of successes.

Throughout the session, the Legislature battled long and hard over a proposal to repeal the septic tank evaluation program that passed last year as part of SB 550, a comprehensive bill on water quality. Many legislators ran for election in the fall of 2010 on a campaign platform that included the repeal of the septic tank evaluation program. The House and Senate took different paths on the issue. The majority of House members supported repeal in keeping with the prevailing "less government" attitude in that chamber. Many Senators started out on the side of repeal, but, after intensive education efforts, most came to the view that a more nuanced approach was called for. In the House, HB 13 by Representative Marti Coley (R-Marianna) would have repealed the septic tank evaluation program provisions in SB 550. In the Senate, SB 1698 by Senator Charlie Dean (R-Inverness) would have repealed the program in SB 550 and replaced it with a standardized septic tank evaluation program, which would have been optional for local governments except in counties with first- magnitude springs. HB 13 passed the House, however, the Senate chose not to consider the bill. SB 1698 passed 3 Senate committees but did not receive a vote by the full Senate.

FOWA worked diligently to educate members of the House and the Senate on the importance of a standardized septic tank program to inventory, evaluate, and report on the status of septic systems in the state. FOWA formed a coalition with the Florida Home Builders Association, the Florida Association of Realtors, and Associated Industries of Florida to support SB 1698 as a good alternative to outright repeal.

At the conclusion of the session, the House and Senate were unable to compromise on the issue and nothing passed. This means that the current septic tank evaluation program passed last year in SB 550 remains intact. However, due to concerns over the Department of Health's (DOH's) exercise of its rulemaking authority thus far regarding the septic tank evaluation

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program, the Legislature included language in its budget implementing bill, SB 2002, which requires DOH to submit an implementation plan for approval by the Legislative Budget Commission (LBC) prior to moving forward. The plan must include an estimate of DOH's workload responsibilities and funding needs for the program. DOH is prohibited from expending any funds on the program before the plan is approved by the LBC. The LBC is a standing joint committee of the Florida House of Representatives and the Florida Senate that reviews proposed state agency budget expenditures and transfers.

It is also important to note that, last November, the Legislature overturned a veto by former Governor Crist of a law that requires legislative ratification of each new rule before it takes effect if the economic analysis accompanying the rule indicates that it is: likely to adversely impact economic growth, private-sector job creation or employment, or private-sector investment in excess of \$1 million over 5 years; likely to adversely impact business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million over 5 years; or likely to increase regulatory costs, including any transactional costs, in excess of \$1 million over 5 years. Through this new law, the Legislature hopes to limit state agency rulemaking and ensure the Legislature has the final say when it comes to rules that have significant economic impact.

Since DOH must now receive approval from the LBC on its plan to implement the septic tank evaluation program and DOH's final rules will likely trigger the need for ratification by the Legislature, it now appears clear that the septic tank evaluation program will not begin on July 1.

FOWA also worked diligently this Session to remove the ban on the land application of treated septage that was also included in SB 550. HB 1479 by Representative Coley would have repealed the ban, scheduled to take effect in 2016. HB 1479 passed the full House, but the issue was not taken up by the Senate. Several members of Senate leadership were opposed to removing the ban in light of the environmental community's concerns. FOWA will continue to educate legislators about this highly regulated and effective means of septage disposal.

The Legislature also considered bills during the Session that would have delayed heightened regulation on sewage discharge into the ocean and protected local governments from the U.S. Environmental Protection Agency's (EPA's) numeric nutrient criteria.

HB 613 by Representative Carlos Trujillo (R-Miami) would have delayed the deadline for South Florida utilities to upgrade the processing of wastewater discharged into the Atlantic Ocean. The bill passed the House, but it was not considered by the Senate. The bill would have delayed the 2018 deadline by 5 years for sewage plants in Dade, Broward and Palm Beach counties to upgrade treatment services. The bill was opposed by both the Florida Coastal and Ocean Coalition and the Sierra Club.

HB 239 by Representative Trudi Williams (R-Ft. Myers) would have prohibited local governments from implementing federal water quality standards in response to the numeric nutrient criteria adopted in December by EPA. The bill passed the House, but the issue was not considered by the Senate, despite two similar bills filed by Senator Dean and Senator Greg Evers (R-Crestview).

Please let us know if you have any questions about the 2011 Legislative Session or any of the bills the Legislature considered. We hope this update is helpful.

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