



2022
Legislative Session Review

www.florida-stormwater.org



Kurt Spitzer
Chief Lobbyist
Florida Stormwater Association
kurtspitzer@ksanet.net



Diana Ferguson
Lobbyist
Florida Stormwater Association
dferguson@rutledge-ecenia.com



Today's Overview

1. General Background for 2022 Session
2. Primary water-related Legislation of interest to local stormwater programs
3. What to look for in 2023



General Background for 2022 Session

1. Continued focus on resiliency but little interest in water quality
2. Culture Wars
3. Pronounced Preemption Philosophy



General Background for 2022 Session

1. Continued focus on resiliency but little interest in water quality

- ✓ Major legislation (SB 712) passed in 2020, after being debated/developed for two years

- ✓ Primary legislation for 2022
 - Preemptions of local authority
 - Exceptions to state WQ standards – SB 1000



General Background for 2022 Session

2. *Culture Wars*

- 2021 regulations limiting access to Senate withdrawn, although Omicron variant peaks during 2022 Session
- “Don’t Say Gay”
- Instruction on “Critical Race Theory”
- Election Crimes Office



General Background for 2022 Session

3. Preemption Philosophy

- “I Love Preemption” mentality
- Most legislators often have no knowledge of local government duties of functions
- This is largely a result of term limits



- Not limited to environmental preemption
 - Vacation rentals
 - Local Wage Mandates
 - Home based businesses
 - Seaport Regulations
 - Home Based Businesses
 - Business Damages

- But there have been a number of environmental preemptions
 - Impact Fees
 - Pollution Control Standards
 - Energy Infrastructure
 - Net Metering




Resources on FSA website

www.florida-stormwater.org/legislative

- ✓ Priority Issues
- ✓ General bills being tracked by FSA
- ✓ White Papers
- ✓ News Clips



www.florida-stormwater.org



Member Login 

Search our site...



	Home	About Us	Member Services	FSA Educational Foundation	Members Only	JOIN NOW	
	<ul style="list-style-type: none"><li data-bbox="777 585 1108 614">Advocacy<li data-bbox="777 635 1108 664">Awards Program<li data-bbox="777 685 1108 714">Career Center<li data-bbox="777 735 1108 763">Conference<li data-bbox="777 785 1108 813">Establishing SWU Manual<li data-bbox="777 835 1108 863">FSA Newsletter<li data-bbox="777 885 1108 913">Legislative<li data-bbox="777 935 1108 963">Seminars<li data-bbox="777 985 1108 1013">Stormwater Utility Rates in Florida<li data-bbox="777 1035 1108 1063">Stormwater Utility Report<li data-bbox="777 1085 1108 1113">Training Center						





Primary Issues of Concern – “*Priority Issues*”

✓ **SB 620 – Business Damages. Oppose (Passed).**

HB 569/SB 620 allows a business that has been engaged in a lawful operation in a city/county for at least three years to claim business damages if an ordinance or charter amendment causes a reduction in profit of at least 15%.

- SB 620 provides for several exemptions from business damages claims, including ordinances required to comply with, or expressly authorized by, state or federal law, and ordinances enacted to implement Part II of Chapter 163 (zoning, development orders/permits)
- SB 620 operates prospectively and applies to ordinances and charter provisions enacted or amended after the legislation becomes law.



Primary Issues of Concern – “*Priority Issues*”

- ✘ **HB 403/SB 280 – Assessment of Costs on Local Governments. Oppose (Failed).**
 - Established new requirements on local governments for adopting and enforcing ordinances, including preparation and publishing business impact statement before adopting ordinance; require the suspension of enforcement of an ordinance if challenged on grounds it is arbitrary/unreasonable or expressly preempted by state law; and, authorize the award of attorney fees, costs and damages not to exceed \$50,000 to a prevailing plaintiff in a civil action in which an ordinance is alleged to be arbitrary or unreasonable.



Primary Issues of Concern – “*Priority Issues*”

- ✓ **SB 1000 – Agricultural Nutrient Application Rates. Oppose (Passed).**
HB 1291/SB 1000 authorizes the use of site-specific nutrient management application rates for citrus farming.
 - Provides for exceptions to IFAS nutrient management rates when certified professional recommends tailored nutrient application rates for producer.
 - Producers implementing site-specific nutrient management rate as recommended by certified professional are provided with presumption of compliance with state water quality standards
 - Requires IFAS to undertake research on the use of site-specific nutrient management for other commodities by the end of 2023 and provides a sunset date for citrus.



Primary Issues of Concern – “*Priority Issues*”

- ✓ **HB 909 – Development of Agricultural Lands. Oppose (Passed).**
HB 909/SB 1210 was narrowed during the Session to only provide for an exception to local pollution control programs.
 - Provides that the Secretary of FDEP has sole jurisdiction in setting standards/procedures for evaluating conditions and potential liability for contaminant on agricultural land being considered for other uses.
 - Pre-empts all other local programs in this policy area, with certain exceptions for permits issued prior to July 1, 2022.



Primary Issues of Concern – “*Priority Issues*”

✓ **HB 965 – WQ Enhancement Areas. Oppose (Passed).**

HB 965/SB 1426 authorize the establishment of Water Quality Enhancement Areas for the purpose of providing offsite regional treatment for which enhancement credits may be provided pursuant to a WQEA permit.

- Departs from current state policy which generally requires landowners/development to offset impacts onsite
- HB 965 provides that program may not move forward until FDEP develops rules implementing program



Primary Issues of Concern – “*Priority Issues*”

✓ **HB 1475 – PFAS Cleanup. Monitor (Passed).**

There were four bills concerning Per- and Polyfluoroalkyl Substances. Measures creating study commissions failed to pass. HB 1475/SB 7012 passed.

- Provides that if EPA has not finalized its standards for PFAS in drinking water, groundwater and soil by January 2025, FDEP must adopt statewide cleanup target levels for PFAS in drinking water, soil and groundwater, with priority given to PFOA and PFOS; rules may not take effect until ratified by the Legislature.
- Until FDEP rules are effective, a governmental or private water supplier may not be subject to any administrative or judicial action under Chapter 376 brought by any state or local governmental entity to compel site rehabilitation, to require payment for the cost of rehabilitation, or to require payment of fines regarding rehabilitation based on the presence of PFAS constituent.



Primary Issues of Concern – “*Priority Issues*”

✓ **HB 7053 - Resiliency. Support (Passed).**

HB 7053/SB 1940 builds upon SB 1954 (2021) concerning resiliency and sea level rise.

- Creates the Statewide Office of Resilience, within the EOG; Chief Resilience Officer is appointed by Governor. CRO promotes and coordinates resilience and mitigation efforts within state agencies and between state/federal/local governments and NGOs
- Authorizes FDEP to provide grants to small cities/counties for preconstruction activities for projects to be included in the Statewide Flooding and Sea Level Rise Resilience Plan
- Comprehensive Flood Vulnerability and Sea Level Rise Assessment – Extends dates by which FDEP must complete the flooding/sea level rise data set to July 2023 and assessment to July 2024
- Flooding and Sea Level Rise Plan – Requires FDEP to rank and include all eligible projects submitted. Requires funding of at least \$100M per year



Primary Issues of Concern – Other Issues

- ✓ **HB 1411 – Floating Solar Panels. Support (Passed).**
HB 1411/SB 1338 encourages the siting/use of floating solar facilities in water storage areas, such as WWT and stormwater ponds
 - Provides that floating solar facilities are a permitted use in comprehensive plans
 - Allows local governments to specify buffer and landscaping requirements at such facilities



Primary Issues of Concern – Other Issues

✓ **SB 518 - Right to Prune/Trim/Remove Trees. Support (Passed).**

HB 1555/SB 518 clarifies legislation that passed in 2019 which limited when local governments could require permits to prune or remove trees on residential property

- Provides that local governments may not require permit or fee to prune/trim/remove tree on residential property if owner has documentation from certified arborist that tree is an “unacceptable risk”
 - ✓ Residential property = Single family, detached building
 - ✓ Unacceptable risk = ISA BMP manual (2017) – “Tree Risk Assessment”



Primary Issues of Concern – Other Issues

✘ **HB 561/SB 832 – BGATF Recommendations. Monitor (Failed).**

Implemented select recommendations of the Blue-Green Algae Task Force.

- Required periodic inspection of OSTDS that are not required to have an operating permit. Required FDEP to adopt rules and administer the OSTDS inspection program.
- Required new/revised BMAPs to include a priority list of suites of projects in areas likely to yield maximum pollutant reductions.



What to Anticipate Next Session – March 2023

Possible Issues

- ✓ SW Design Criteria
- ✓ 10/2 Report Implementation
- ✓ OSTDS Implementation
- ✓ Renewed discussion of vetoed environmental legislation

Questions?

www.florida-stormwater.org

(888) 221-3124