

BALLARD | PARTNERS

**FRWA  
LEGISLATIVE REPORT 2021**

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The 2021 Legislative Session adjourned “Sine Die” at 2:40 p.m. on April 30th, followed by a Special Session two weeks later which considered and approved a new 30-year Gaming Compact with the Seminole Tribe of Florida. Lawmakers passed a \$101.5 billion state budget and with the gaming deal completed, could add \$2.5 billion to the state coffers over the next five years.

Working under extremely difficult parameters due to the COVID-19 restrictions, legislators spent most of their days in a nearly empty Capitol. Without special interest groups in Tallahassee, the Republican-controlled House and Senate steamrolled the Democrats on many fronts. These included changes to Florida’s elections laws, cracking down on violent protests and targeting social media companies, known as “Big Tech”.

If there was a silver lining to the abnormal atmosphere, it was the \$101 billion budget that was heavily aided by federal stimulus dollars. The federal funding provided a real bump to the fight to protect Florida’s environment and waterways. The legislature funded; \$415 million for Everglades restoration. \$302 million for targeted water quality improvements, \$500 million for the Resilient Florida Program and up to **\$500 million for the Wastewater Grant Program**. With the increased investment in water infrastructure funding, the FRWA and its membership came out of 2021 Session as winners.

**2021 Bill Summaries****CS/SB 64 — Reclaimed Water**

by Environment and Natural Resources Committee and Senator Albritton

The bill requires domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge to:

- Submit a plan to the Department of Environmental Protection (DEP) to eliminate nonbeneficial surface water discharges by November 1, 2021;
- Fully implement the plan to eliminate discharges by January 1, 2032; and
- If no plan is timely submitted or approved, eliminate discharges by January 1, 2028.
- The bill requires DEP to submit a report to the Legislature by December 31, 2021, and annually thereafter, providing the average gallons per day that discharges are reduced, the average gallons per day of discharges that will continue, the level of treatment discharged water receives, and any modified or new plans submitted by a utility since the last report.
- The bill does not apply to domestic wastewater treatment facilities in certain areas with limited fiscal resources and those operated by certain mobile home park operators.
- The bill authorizes discharges that are being beneficially used or otherwise regulated, including:
  - Discharges associated with an indirect potable reuse project;
  - Permitted wet weather discharge;
  - Discharges into a stormwater management system, which are subsequently withdrawn for irrigation purposes;
  - Utilities that operate domestic wastewater treatment facilities with reuse systems that reuse at least 90 percent of a facility's annual average flow; or
  - Discharges that provide direct ecological or public water supply benefits.

The bill also:

- Specifies that potable reuse is an alternative water supply, for purposes of making reuse
- projects eligible for alternative water supply funding;
- Incentivizes the development of potable reuse projects;
- Incentivizes residential developments that use graywater technologies; and
- Specifies the total dissolved solids allowable in aquifer storage and recovery in certain circumstances.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 32-0; House 118-0*

**HB 169 — Purchase of Commodities and Services by Water Management Districts**  
by Rep. Maggard and others (SB 952 by Senator Burgess)

The bill expressly authorizes water management districts to purchase commodities and contractual services from the purchasing contracts of the following entities:

- Special Districts
- Municipalities
- Counties
- Other political subdivisions
- Educational institutions
- Other states
- Nonprofit entities
- Purchasing cooperatives
- The federal government

The purchasing contract of the other entity must have been procured pursuant to competitive bid, request for proposal, request for qualification, competitive selection, or competitive negotiation. The purchasing contract must otherwise be in compliance with general law and must be procured by a process that meets the procurements requirements of the water management district. The bill excludes from the authorization services by professionals in the fields of architecture, professional engineering, landscape architecture, or registered surveying and mapping.

If approved by the Governor, these provisions take effect July 1, 2021.

*Vote: Senate 40-0; House 117-1*

**CS/CS/SB 694 — Waste Management**

by Appropriations Committee; Community Affairs Committee; and Senators Rodrigues and Perry

The bill requires the Department of Environmental Protection (DEP) to review and update its 2010 report analyzing the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags. DEP must submit the updated report to the Legislature no later than December 31, 2021.

The bill amends requirements for a local government that provides solid waste collection services which displace a private waste company, prohibiting the private company from continuing to provide the same service. The local government must provide three years' notice to the private company before engaging in such services. At the end of the three-year notice period, the local government must pay the displaced company an amount equal to the company's preceding 18 months' gross receipts for the displaced service in the displacement area. The local government and the displaced company may voluntarily negotiate a different notice period or amount of compensation. The bill does not apply to any displacement where the local government provided the three years' notice on or before December 31, 2020.

The bill provides that a private solid waste or debris management service provider is not required to collect storm-generated yard trash, unless otherwise specified in a contract

or franchise agreement between a local government and a private solid waste or debris management service provider. The bill defines “storm-generated yard trash.”

If approved by the Governor, these provisions take effect July 1, 2021.

*Vote: Senate 40-0; House 112-2*

**CS/CS/SB 920 — Liability of Persons Providing Areas for Public Outdoor Recreational Purposes**

by Rules Committee; Environment and Natural Resources Committee; and Senator Bradley

The bill authorizes a property owner who makes areas available to the public for outdoor recreational purposes to derive revenue from concessions or special events within the area and still retain the statutory liability protection, if such revenue is used exclusively to maintain, manage, and improve the outdoor recreational area.

The bill expands the definition of “outdoor recreational purposes” to include “traversing or crossing for the purpose of ingress and egress to and from, and access to and from, public lands or lands owned or leased by a state agency which are used for outdoor recreational purposes.” This expanded definition applies for owners and lessees eligible for the general statutory liability protection and for owners who enter into a written agreement with a state agency.

The bill defines “state agency” to mean “the state or any governmental or public entity created by law.” This expands the governmental entities with which property owners may enter into a written agreement concerning an area used for outdoor recreational purposes.

If approved by the Governor, these provisions take effect July 1, 2021.

*Vote: Senate 40-0; House 118-0*

**CS/CS/SB 976 — Protection of Ecological Systems**

by Appropriations Committee; Environment and Natural Resources Committee; and Senator Brodeur

The bill creates the Florida Wildlife Corridor Act, which encourages support, incentives, and funding of the Florida Wildlife Corridor to preserve and protect green infrastructure and wildlife habitat. The bill sets out the duties of the Department of Environmental Protection (DEP) with respect to the wildlife corridor. The act does not authorize or affect the use of private property.

The bill requires the St. Johns River Water Management District (SJRWMD), in consultation with DEP, Seminole County, the Fish and Wildlife Conservation Commission, and the Department of Transportation, to issue a report by December 31, 2021, on the implementation of recommendations from the Little Wekiva Watershed Management Plan Final Report from November 2005.

The bill requires DEP and SJRWMD to review any permits which SJRWMD has determined may have contributed to sediment buildup north of State Road 436 to

assess whether a permittee is in violation of permit conditions. Appropriate action to resolve compliance issues must be taken if a violation is discovered.

DEP and SJRWMD shall review known permit violations that have occurred since 2018 and attempt to determine what effects such violations may have had on sediment accumulation in the Little Wekiva River.

If approved by the Governor, these provisions take effect July 1, 2021.

*Vote: Senate 40-0; House 115-0*

### **CS/HB 1051 — Environmental Compliance Costs**

by Tourism, Infrastructure, and Energy Subcommittee; and Rep. Fernandez-Barquin and others (CS/SB 964 by Regulated Industries Committee; and Senators Diaz and Taddeo)

The bill revises the definition of “environmental compliance costs” in the Florida Energy Efficiency and Conservation Act to include costs or expenses incurred by an electric utility after July 1, 2021, for the construction and operation of a wastewater reuse system. This revision will allow utilities to petition the Florida Public Service Commission for recovery of such costs through a charge separate from the utility’s base rates.

In order to recover costs, operation of the wastewater reuse system must serve to further compliance with environmental laws or regulations that apply to the electric utility. The system must fully or partially satisfy a local government’s statutory reclaimed water reuse requirements, including those for ocean outfalls.

The bill requires at least 50 percent of reclaimed water produced to be used in conjunction with the water requirements of facilities owned by the electric utility. This is required in order to offset all or part of the electric utility’s water use, as authorized by permit.

If approved by the Governor, these provisions take effect July 1, 2021.

*Vote: Senate 40-0; House 118-0*

### **HB 1309 — Environmental Regulation**

by Reps. Payne, Overdorf, and others (CS/SB 7060 by Appropriations Committee and Environment and Natural Resources Committee)

The bill ratifies the Department of Environmental Protection’s (DEP’s) biosolids rules, Rule Chapter 62-640 of the Florida Administrative Code. The bill exempts the rules from review and approval by the Environmental Regulation Commission.

The bill also ratifies DEP’s rules for the Central Florida Water Initiative (CFWI), Rules 62-41.300 – 62-41.305, Florida Administrative Code. Additionally, the bill:

- Revises the required rulemaking to include an annual supplemental irrigation requirement allocation for agricultural uses and a process for examining an agriculture user’s average annual supplemental irrigation needs.

- Establishes a grant program for CFWI within DEP, subject to appropriation, which will promote alternative water supply and protect groundwater resources. The bill requires DEP to give priority to certain projects.
- Revises the priority system for the Drinking Water State Revolving Loan Fund to give special consideration to projects that implement water supply plans and develop water sources as an alternative to continued reliance on the Floridan aquifer under the CFWI.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-0; House 114-0*

**CS/HB 1311 — Public Records and Public Meetings/Public Service Commission**

by Commerce Committee and Rep. Payne (SB 7066 by Regulated Industries Committee)

The bill creates a public meeting and a public record exemption under s. 350.01, F.S., relating to the Florida Public Service Commission (PSC). Under the bill, portions of a PSC hearing discussing proprietary confidential business information that is confidential or exempt from public record requirements are made exempt from public meeting requirements. The bill provides that the entire hearing, including exempt portions must on the record, recorded, and transcribed.

The bill also creates a public record exemption for the recordings and transcripts. The recordings and transcripts are confidential and exempt from disclosure unless a court of competent jurisdiction, after an in camera review, determines that such portions of the hearing were not restricted to discussion of proprietary confidential business information, under ss. 364.183, 366.093, 367.156, and 368.108, F.S. If such a judicial determination is made, only the portion of the recording and transcript which reveals nonexempt information may be disclosed to a third party.

As required by the State Constitution, the bill provides a statement of public necessity, subjects the exemptions to the Open Government Sunset Review Act, and will stand repealed on October 2, 2026, unless reenacted by the Legislature.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 39-1; House 113-5*

**CS/CS/SB 1954 — Statewide Flooding and Sea Level Rise Resilience**

by Appropriations Committee; Environment and Natural Resources Committee; and Senators Rodrigues and Garcia

The bill establishes statewide programs for adaptation to flooding and sea level rise. The programs are intended to address flooding all across the state. The bill creates:

- The Resilient Florida Grant Program within the Department of Environmental Protection (DEP) to provide grants to counties or municipalities for community resilience planning, such as vulnerability assessments, plan development, and projects to adapt critical assets. The bill provides a comprehensive definition for

“critical asset.” Specified information from such vulnerability assessments must be submitted to DEP.

- The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment, which must be updated at least every five years. The bill requires DEP to:
- By July 1, 2022, develop a statewide data set, including statewide sea level rise projections, containing information necessary to determine the risks of flooding and sea level rise to inland and coastal communities.
- By July 1, 2023, develop a statewide assessment, using the statewide data set, identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets.
- The Statewide Flooding and Sea Level Rise Resilience Plan. By December 1, 2021, and each December 1 thereafter, DEP must develop the plan on a three-year planning horizon and submit it to the Governor and Legislature. The plan must consist of ranked projects addressing the risks of flooding and sea level rise to communities in the state. The funding proposed in the plan may not exceed \$100 million in one year and is subject to review and appropriation by the Legislature. Each project must have a minimum 50 percent cost-share unless it assists or is within a financially disadvantaged small community, as defined in the bill. Counties, municipalities, and regional resilience entities are authorized to submit to DEP lists of proposed projects for inclusion in the plan, and water management districts and flood control districts are authorized to submit to DEP lists of proposed projects specifically relating to water supplies or water resources for inclusion in the plan. DEP must assess projects for inclusion in the plan by implementing a four-tiered scoring system specified in the bill.

The bill authorizes DEP to provide funding to regional resilience entities for providing technical assistance to counties and municipalities, coordinating multijurisdictional vulnerability assessments, and developing project proposals for the statewide resilience plan.

The bill requires DEP to initiate rulemaking by August 1, 2021, to implement the statewide resilience programs.

The bill creates the Florida Flood Hub for Applied Research and Innovation (Hub) within the University of South Florida (USF) College of Marine Science. USF’s College of Marine Science or its successor will serve as the lead institution to coordinate efforts to support applied research and innovation to address flooding and sea level rise in the state. The Hub must conduct activities specified in the bill, including developing data and modeling, coordinating research funds across participating entities, establishing community-based programs, and assisting with training and workforce development. By July 1, 2022, and each July 1 thereafter, the Hub must submit to the Governor and Legislature an annual comprehensive report on its goals and its efforts and progress on reaching those goals.

The bill requires the Office of Economic and Demographic Research to include in its annual assessment of Florida’s water resources and conservation lands an analysis of

flooding issues, including resilience efforts. When appropriations or expenditures are made to address flooding, the analysis must identify any gaps between estimated revenues and projected expenditures.

If approved by the Governor, these provisions take effect upon becoming law.  
*Vote: Senate 40-0; House 118-0*

## 2021-22 Fiscal Year – Appropriations Bill Highlights

### **SB 2500 — General Appropriations Act**

by Appropriations Committee

SB 2500, the General Appropriations Act for Fiscal Year 2021-2022, provides for a total budget of \$101.5 billion, including:

- \$36.3 billion from the General Revenue Fund (GR)
- \$2.4 billion from the Education Enhancement Trust Fund
- \$1.1 billion from the Public Education Capital Outlay Trust Fund (PECO TF)
- \$61.7 billion from other trust funds (TF)
- 113,742.76 full time equivalent positions (FTE)

### **Reserves**

Total: \$6 billion

### ***Water Quality and Environmental Protection***

- Resilient Florida Grants - \$500 million
- Wastewater Grant Program - \$500 million
- Wildlife Corridor (DEP Land Acquisition) - \$300 million
- Piney Point - \$100 million
- Coastal Mapping Services - \$100 million
- Everglades Restoration - \$59 million
- Beach Management Funding Assistance Program - \$50 million
- Petroleum Underground Storage Cleanup Program - \$50 million
- C-51 Reservoir - \$48 million
- Alternative Water Supply - \$40 million
- Springs Restoration - \$25 million
- Small Community Wastewater Grants - \$25 million
- Derelict Vessel Removal Program - \$25 million
- Total Maximum Daily Loads - \$20 million
- FWC Enhanced Aviation Support - 8.4 million

The start of the 2022 Legislative Session is just around the corner; committee hearings begin in September and Session starts January 11th. Current budget projections point to a stable economy with growing monthly revenues. The FRWA has a couple of macroeconomic trends in its favor;

1. State and federal funds targeted for our industry;
2. Preference for “shovel-ready” projects; and
3. Election year equals hometown work.

Our firm, along with your executive leadership team will continue to meet with and push for water and wastewater projects with House and Senate leadership. Over the summer months, we have and will engage in the following activities:

- Monitor federal funding opportunities for Florida projects.
- Continue to work with Senate President Simpson and his staff on RURAL water initiatives.
- Educate the Department of Health and Department of Environmental Protection on FRWA services that could be provided with stimulus funds.
- Find ways to interject FRWA into the developing Resiliency Program within DEP.