

## Legislative Session 2019 Wrap-up Report

### SUMMARY

This was not a good year. The 2019 Florida Legislature passed some of the most environmentally damaging bills ever, including the worst legislation in 25 years—the new toll road bill—and fell far short of funding any meaningful natural resource protection.

Out of 3491 bills filed by legislators this year, a record low of 197 passed and will be considered by freshman Governor Ron DeSantis. DeSantis, who bills himself as a pro-environment “Teddy Roosevelt Republican,” has signed nine bills and has yet to receive the other 162 bills as of this writing. Late on May 10, the Governor used his veto power for the first time by vetoing a bill that would have prohibited local governments from banning plastic straws for the next five years. The Governor’s action on the bill bodes well for Florida Native Plant Society hopes that he might veto the most abhorrent legislation passed by the Legislature this year.

### BILLS PASSED

#### **CS/SB 7068 - Multi-use Corridors of Regional Economic Significance**

This bill would authorize the construction of three new toll roads through some of the last remaining undeveloped, environmentally sensitive areas in the state. The exact corridor for the toll roads isn’t yet mapped out for the public. But, generally, the plan calls for:

- A “Suncoast Connector” highway to extend the Suncoast Parkway from north of Tampa up to North Florida’s Jefferson County, along the Georgia border.
- A highway to link Polk County to Collier County, the “Southwest Central Florida Corridor.”
- A “Northern Turnpike connector” to extend the Florida Turnpike northwest from I-75 in Wildwood to the Suncoast Parkway on the state’s west coast.

The legislation creates task forces made up of state and local officials to plan the corridors over the next year. It envisions construction starting in 2022 and the roads open by 2030. The state Department of Transportation would be in charge, and would coordinate with other state agencies, including those that oversee wildlife and the environment.

The plan calls for \$45 million next year, \$90 million in the 2020-2021 fiscal year, about \$135 million the year after that and a recurring amount of \$140 million starting in the 2022-2023

fiscal year. The money would be spent on planning the massive project; billions more would be bonded to fund the toll roads.

It is Florida's largest state highway construction project since the 1950s – a toll road network that would stretch across the state. Republicans rejected attempts by Democrats to give locals veto power over where the road corridors would go and resisted attempts to give the broad plan more scrutiny by elected officials. It was a top priority for Republican Florida Senate President Bill Galvano of Bradenton, and the committee substitute passed the state Senate 37-1 with no debate.

By building what legislators call a “self-funding” toll road network through pristine natural areas and small rural communities, the state is looking to avoid more stringent federal road construction permitting requirements for transportation necessity, economic feasibility, and federal environmental impact studies.

That means we may never know whether the proposed new toll roads are being built based on actual transportation needs and their overall impacts on the state's natural areas including critical wetlands and aquifer recharge areas, as well as native habitat for Florida plants and animals. They are slated to run through areas that are rural and not developed.

The Florida Department of Transportation has not called for these new transportation corridors, and there are no studies to support the need for them. There are however, thousands of miles of roads across the state that need funding for repair and expansion. Due to calls, emails and lobbying efforts by the FNPS, the bill encountered debate in the Florida House after sweeping through the Senate. The bill passed 76-36 in the House, with Democrats in opposition.

The Florida Native Plant Society has formally submitted a veto request letter to Gov. DeSantis for this bill, and more than 30 other environmental groups have requested same.

### **CS/CS/HB 7103- Community Development and Housing**

This bill would gut enforcement of Florida's 1985 Growth Management Act, a landmark law intended to make sure local governments properly plan for development's impacts.

HB 7103 was approved in the closing days of the 2019 legislative session and would ban local governments from requiring developers to include affordable housing within their projects. Most worrying is a late amendment that passed, stating that anyone who sues to enforce local comprehensive development plans and loses in court has to then cover the winners' legal fees. It will effectively end citizen-initiated and landowner-initiated planning challenges in the state of Florida. Without that ability to challenge, comprehensive plans will not be enforceable. Florida will be back to where we were before 1985.

This language showed up at the very last minute and the Senate voted on it just hours after it was proposed. It was never heard in committee or subjected to a staff analysis. It was not

discussed on the floor at all, meaning that it was basically not vetted by anyone and was forced through by leadership.

The Growth Management Act law provided for “consistency challenges” – giving private citizens standing to sue when local governments approve building permits, rezonings, or massive developments that are inconsistent with the local comprehensive plan. That is the only enforcement mechanism.

This new law would steer comprehensive plan challenges to summary hearings, which are a fast-track legal proceeding more typically used to resolve landlord-tenant disputes. Parties, however, would be allowed to opt out of summary proceedings if they can show “clear and convincing evidence” that it would be inappropriate to handle the dispute in a summary hearing.

The legislation states that prevailing parties in these actions would be “entitled to recover reasonable attorney fees and costs incurred in challenging or defending the order, including reasonable appellate attorney fees and costs.”

The risk of having to pay a city’s or a county’s attorney fees would scare all but the wealthiest resident or landowners away from attempts at enforcing local government comprehensive plans. This change will effectively stop any comprehensive plan enforcement litigation.

### **SB 1552 - Florida Red Tide Mitigation and Technology Development Initiative**

This bill establishes the Florida Red Tide Mitigation and Technology Development Initiative as a partnership between the Fish and Wildlife Conservation Commission’s Fish and Wildlife Research Institute and Mote Marine Laboratory. The purpose of the initiative is to develop technologies and approaches needed to address the control and mitigation of red tide and its impacts. This legislation requires funds specifically appropriated by the Legislature for the initiative to be awarded by the Fish and Wildlife Research Institute to Mote Marine Laboratory to achieve the goals of the initiative. The bill establishes within the initiative a Technology Advisory Council.

SB 1552 requires the Florida Red Tide Mitigation and Technology Development Initiative to submit an annual report, beginning January 15, 2021, containing an overview of the initiative’s accomplishments and priorities to the Governor, the President of the Senate, Speaker of the House, the Secretary of Environmental Protection, and the Executive Director of the FWCC. The section authorizing the initiative expires on June 30, 2025.

The bill provides for an annual appropriation of \$3 million beginning in the 2019-2020 fiscal year and going through the 2024-2025 fiscal year for the purpose of implementing the bill.

## **HB 771 – Environmental Regulation**

HB 771 originally addressed issues with contaminated recyclable materials, but a provision was added late in Session that includes a moratorium on local regulation of single-use plastic straws until 2024. Governor DeSantis vetoed this bill late on Friday, May 10.

Under the original legislation, the bill required counties and municipalities to address non-hazardous contamination of recyclable materials in contracts with residential recycling collectors and recovered materials processing facilities. Contracts executed or renewed after July 1, 2019, must define the term “contaminated recyclable material” in a manner that is appropriate for the local community, and include strategies and obligations of the parties to reduce the amount of contaminated recyclable material being collected or processed.

The bill also prohibited local governments from requiring further verification from DEP that a particular activity meets an ERP permit exception. In addition, the bill revises the location requirements to meet an ERP exception for the replacement or repair of certain docks or piers.

Several Florida municipalities have enacted varying regulations on plastic straws to address marine debris created by single-use, disposable plastic packaging which includes plastic straws. DEP has also initiated a “Skip the Straw” program to encourage Florida’s residents, schools, and businesses to reduce plastic straw use and reduce marine debris. In an amendment added late in April, the bill created a moratorium on local governments regulating single-use plastic straws until July 1, 2024

Florida cities, including St. Petersburg, Sanibel, Ft. Myers Beach and Miami Beach, have enacted ordinances prohibiting single-use plastic straws. In his veto letter to Secretary of State Laurel Lee, Governor DeSantis said municipalities who prohibit plastic straws have not “frustrated any state policy” or “harmed the state’s interest.” Several Florida cities are moving to ban plastic straws as a measure to help fight pollution, particularly in waterways.

## **CS/HB 1159 — Private Property Rights**

Local government tree maintenance regulations vary but can require property owners to obtain a permit or pay a fee prior to trimming or removing trees on residential property. CS/HB 1159 prohibits a local government from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the tree presents a danger to persons or property, as documented by a certified arborist or licensed landscape architect.

A local government may not require a property owner to replant a tree that has been pruned, trimmed, or removed in accordance with the bill provisions. The bill does not apply to mangrove trees, which the trimming and alteration of is regulated statewide by the Department of Environmental Protection.

As it pertains to maintaining vegetation within a utility right-of-way, current law requires a utility to give five business days' advance notice to a local government prior to conducting vegetation maintenance activities within a right-of-way. No advance notice is required for service restoration, to avoid an imminent vegetation caused outage, or when performed at the request of a property owner adjacent to the right-of-way, provided the owner has obtained any required approval from the local government. This bill removes the requirement that a property owner receive approval by the local government before requesting an electric utility to prune trees and maintain vegetation in an adjacent right-of-way.

The bill also weirdly requires each county property appraiser to post a Property Owner Bill of Rights on its website and specifies the text to be included in the bill of rights. The website must list the seven property rights declared in the bill and must state that the bill of rights does not represent all property rights under Florida law and does not create a civil cause of action.

The legislation was a sleeper bill that was suddenly rushed over in Messages from the House after it passed 77-36, and was immediately withdrawn from its three committees of reference in the Senate. On that same day in the last week of Session, the Senate took it up on second reading, withdrew a sponsor amendment that would have saved patriarch trees, then passed it out of the chamber by a vote of 22-16.

### **CS/CS/HB 95 - C-51 Reservoir Project**

This legislation authorizes the South Florida Water Management District (SFWMD) to acquire any portion of the C-51 reservoir project not already committed to utilities for alternative water supply purposes.

The bill authorizes the SFWMD to acquire land near the C-51 reservoir project through the purchase or exchange of land owned by the SFWMD or state as necessary to implement any part of the project. Previously, these authorizations pertained only to Phase II of the project.

The bill requires the operation of Phase I of the C-51 reservoir project to be in accordance with any operation and maintenance agreement approved by the SFWMD. Water made available by the reservoir must be used for natural systems in addition to any permitted amounts for water supply. Water in the reservoir that is received from Lake Okeechobee may be made available to support consumptive use permits, but only if such use is in accordance with the SFWMD's rules.

A final amendment by the bill's Senate sponsor, Sen. Lauren Book, improved the legislation by stating that the SFWMD must operate the reservoir project to maximize the reduction of high volume Lake Okeechobee regulatory releases to the St. Lucie or Caloosahatchee estuaries, in addition to maximizing the reduction of harmful discharges to the Lake Worth Lagoon.

This bill also authorizes Phase II of the C-51 reservoir project to be funded by appropriation in addition to the existing authorized funding sources. The bill passed both chambers with only one dissenting vote.

## **CS/HB 521 — Wetland Mitigation**

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity (banker) to provide mitigation for unavoidable wetland impacts within a defined region (mitigation service area). The bank is the site itself, and the currency sold by the banker to the impact permittee is a credit, which represents the wetland ecological value equivalent to the complete restoration of one acre. The number of potential credits permitted for the bank and the credit debits required for impact permits are determined by the Department of Environmental Protection or one of the state's water management districts. A banker must apply for a mitigation bank permit before establishing and operating a mitigation bank.

In 2012, the Legislature prohibited a governmental entity from creating or providing for mitigation for a project other than its own unless the governmental entity uses land that was not previously purchased for conservation and unless the governmental entity provides the same financial assurances as required for mitigation banks permitted under s. 373.4136, F.S.

CS/HB 521 authorizes a local government to allow permittee-responsible mitigation consisting of the restoration or enhancement of lands purchased and owned by a local government for conservation purposes if state and federal mitigation credits are not available.

Such mitigation must conform to the permitting requirements for mitigation banks. The bill also creates an exemption allowing a local government to provide mitigation credits for proposed projects when credits are not available at regional mitigation bank and the mitigation area to be utilized was created by a local government prior to December 31, 2011, using the Uniform Mitigation Assessment Method.

This legislation, which gathered opposition from both Republicans and Democrats in the House, was another that was on the back-burner right up until the end of Session. After it passed out of the House by a 72-42 margin in mid-April, it turned up on the Senate Floor in the last week of Session, was immediately withdrawn from four committees of reference and jammed through to third reading all in one day. Before much opposition could be mounted in the Senate, the bill was approved by a vote of 39-1.

## **CS/CS/HB 1121 — Support Organizations**

In 2014, the Legislature scheduled the repeal of the statutory authorization of various direct support and citizen support organizations associated with state agencies. This bill removes the scheduled repeal of provisions governing citizen support organizations (CSOs) established under the Department of State, Department of Environmental Protection, and the Fish and Wildlife Conservation Commission, allowing the CSOs to continue operating and providing benefits to the respective departments.

The Division of Recreation and Parks oversees 175 state parks, trails, and historic sites. Many CSOs provide numerous benefits to the division including fundraising, programs, activities,

services, and volunteer time to assist in park operations. CSOs also provide financial support to purchase equipment, improve facilities, develop exhibits, and provide other enhancements. CSOs provide community outreach and educational activities to children and adults as well as staff assistance and volunteers when needed by state parks.

The bill requires Department of Environmental Protection to submit a report to the President of the Senate and the Speaker of the House of Representatives by December 1, 2019, on financial transparency, accountability and ethics of certain CSOs. The bill extends the repeal date for the Friends of the Babcock Ranch Preserve, Inc., a CSO, and the Florida Beef Council, a DSO, within the Department of Agriculture and Consumer Services, from October 1, 2019, to 2024.

## **BUDGET**

- ENDANGERED PLANT SPECIES FROM LAND ACQUISITION TRUST FUND . . \$216,000
- FIXED CAPITAL OUTLAY LAND ACQUISITION, ENVIRONMENTALLY ENDANGERED, UNIQUE/IRREPLACEABLE LANDS, STATEWIDE FROM FLORIDA FOREVER TRUST FUND . . \$33,000,000
- GRANTS AND AIDS - FEDERAL ENDANGERED SPECIES - FROM FEDERAL GRANTS TF . . . \$311,758
- FEDERAL LAND AND WATER CONSERVATION FUND GRANTS FROM FEDERAL GRANTS TRUST FUND . . . \$5,500,000
- CONSERVATION AND RURAL LAND PROTECTION EASEMENTS AND AGREEMENTS FROM GENERAL REVENUE FUND . . . . \$200,000

The nonrecurring funds in Specific Appropriation 1606B are provided for the Hillsborough County - Two Rivers Ranch Conservation Easement

- EVERGLADES RESTORATION FROM GENERAL REVENUE FUND . . . . \$69,750,000  
FROM SAVE OUR EVERGLADES TRUST FUND . . . . . \$3,000,000  
FROM LAND ACQUISITION TRUST FUND . . . . \$212,574,918

From the funds in Specific Appropriation 1640, \$32,000,000 in recurring funds from the Land Acquisition Trust Fund is provided for the Restoration Strategies Regional Water Quality Plan. From the funds in Specific Appropriation 1640, \$64,000,000 in recurring funds from the Land Acquisition Trust Fund is provided for the transfer to the Everglades Trust Fund within the South Florida Water Management District pursuant to section 375.041(3)(b)4., Florida Statutes.

From the funds in Specific Appropriation 1640, \$43,824,918 in nonrecurring funds from the Land Acquisition Trust Fund is provided for the implementation of the Everglades Agricultural Area Reservoir and associated projects needed to move water south.

From the funds in Specific Appropriation 1640, \$69,750,000 in nonrecurring funds from the General Revenue Fund, \$3,000,000 in nonrecurring funds from the Save Our Everglades Trust

Fund, and \$72,750,000 in nonrecurring funds from the Land Acquisition Trust Fund shall be distributed to the South Florida Water Management District for the planning, design, engineering, and construction of the Comprehensive Everglades Restoration Plan (CERP).

- NORTHERN EVERGLADES AND ESTUARIES PROTECTION FROM GR. . . . \$4,701,131  
FROM LAND ACQUISITION TRUST FUND . . 28,175,082
- GRANTS AND AIDS - WATER QUALITY IMPROVEMENTS - EVERGLADES RESTORATION FROM  
GENERAL REVENUE FUND . . . . . 50,000,000

The funds in Specific Appropriation 1642A shall be distributed to the South Florida Water Management District for the design, engineering, and construction of the specific project components designed to achieve the greatest reductions in harmful discharges to the Caloosahatchee and St. Lucie Estuaries as identified in the Comprehensive Everglades Restoration Plan Lake Okeechobee Watershed Restoration Project Draft Integrated Project Implementation Report and Environmental Impact Statement dated July 2018. The South Florida Water Management District is directed to negotiate a pre-partnership credit agreement with the United States Army Corps of Engineers as authorized under Section 6004 of the Water Resources Development Act of 2007.

- CONTROL OF INVASIVE EXOTICS FROM INVASIVE PLANT CONTROL TF . . . . . \$2,497,751  
FROM LAND ACQUISITION TRUST FUND . . . . . \$31,735,280
- TRANSFER TO DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES/ IFAS/INVASIVE  
EXOTIC PLANT RESEARCH FROM INVASIVE PLANT CONTROL TF . . . . . \$633,128