Florida adopts comprehensive water policy legislation, effective 7/1/16

Environmental Alert

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Florida Senate Bill 552, comprehensive water policy legislation addressing Florida’s critical water supply and water quality issues, is now law.

This first law of the 2016 legislature is effective on July 1. DLA Piper clients and friends learned about this coming legislation in conversation with Florida Commissioner of Agriculture Adam Putnam late last year. See the bill here and the Senate’s brief summary here.

A major feature of this law is the creation of the Florida Springs and Aquifer Protection Act. This act finds that many of Florida’s springs show signs of increased nutrient loading and declining flow and that urgent action is needed. The act assigns to the state Department of Environmental Regulation (DEP) primary responsibility for water quality and assigns to the water management districts (WMD) primary responsibility for water quantity. The act defines Outstanding Florida Springs (OFS) to include all historic first magnitude springs and six additional springs. If a minimum flow or level (MFL) has not been adopted for an OFS, the act directs DEP or the WMD to use emergency rulemaking to adopt a MFL. The law also inserts the phrase “or ecology” into the definition of MFL. This change means that a district setting a minimum groundwater flow or a minimum surface water level must consider whether further withdrawals would be significantly harmful to the water resources or ecology of the area.
The act sets a July 2016 deadline for DEP to start assessment of any OFS for which a determination of nutrient impairment has not been made and sets a July 2018 deadline to complete the assessment. The nutrient total daily maximum load and a basin management action plan must be completed within two years of initiation.

The law also codifies the Central Florida Water Initiative (CFWI) related to for water supply for Orange, Osceola, Polk, Seminole and southern Lake counties. The CFWI is a collaborative water planning effort by and among the South Florida, Southwest Florida and St. Johns River WMDs, DEP, and the Department of Agriculture and Consumer Services (DACS). The districts are authorized to pursue alternative water supply projects within restricted water supply areas either within the district or in another water management district.

The law requires extensive additional agency rulemaking with ambitious deadlines. Examples include:

- DEP must adopt rules applicable within the CFWI area regarding permit reviews, conservation goals, and recovery strategies. This rulemaking must commence by the end of the year.
- DEP must adopt rules for issuing permits which prevent harmful groundwater withdrawals for Outstanding Florida Springs.
- DEP must adopt by rule a specific surface water quality classification to protect waters used for treated potable water.
- DEP must start rulemaking by October 2016 to establish criteria to evaluate pilot projects for nutrient and sediment reduction.
- DEP and DACS must start rulemaking by January 2017 to adopt procedures for verifying implementation of management strategies required by adopted basin management action plans.
- The WMDs must adopt rules providing water conservation incentives and to provide for monitoring programs within the Caloosahatchee and St. Lucie River Basin Management Action Plans.

If your company has a facility or is contemplating a project in which water supply or wastewater treatment is an important component or which is located within or near a spring or river basin in Florida, consider taking a careful look at the initiatives required by this law.

There are, of course, many provisions in this law which are not discussed here. If you have any questions about the implications of this law for your business, please contact us.

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