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MANUFACTURERS ASSOCIATION OF FLORIDA

LEGISLATIVE REPORT



Manufacturers Association of Florida

March 28, 2016

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The 2016 Florida Legislative Session began on January 12 and ended on March 11, 2016. A total of 1,814 bills were filed for consideration during the 2016 Session and only 279 of those bills passed the Legislature. The Manufacturers Association of Florida (MAF) actively monitored 128 of the bills filed during the 2016 Florida Legislative Session. Each week MAF members received a report on the progress of key bills progressing through the legislative process.

MAF had ten legislative priorities for the 2016 Florida Legislative Session. Below is the outcome of each of those issues.

MAF 2016 Priority Issue	Disposition
✓ Permanent elimination of the sales tax on manufacturing machinery and equipment	Passed Legislature. Value to manufacturers is \$68.8 million/year.
✓ \$15 million for Quick Response Training; \$3 million for Incumbent Worker Training	Passed the Legislature. Value to manufacturers is up to \$18 million.
✓ \$1 million+ for Enterprise Florida Export Assistance Program	Passed the Legislature at \$1 million. Value to manufacturers is up to \$1 million.
Full state match for FloridaMakes	\$400,000 appropriated by the Legislature (same as previous year)
Reduction or elimination of the sales tax on commercial leases and rents	Passed the House; failed in the Senate
Increased tax breaks for research and development	Passed the House; failed in the Senate
Elimination for the corporate income tax on manufacturing	Passed the House; failed in the Senate
Fund Enterprise Florida Incentive Fund at \$250 million	Proposed in the Senate; not in the House
Support energy policies that promote diversity, reliability and least cost to industrial consumers	No bills presented
Oppose measures that restrict the use of chemicals without a sound scientific basis	No bills presented

MAF’s top priority was to completely eliminate the sales tax on manufacturing machinery and equipment (MME) embodied in HB 7099. After making improvements to the exemption over the years, this year we were able to pass a permanent elimination of the sales tax on manufacturing machinery and equipment, with a simplistic process for claiming the exemption, for manufacturers in NAICS Codes 31, 32, 33 and metal recyclers. The MAF Capital Team took the lead on this issue for the Governor’s Office and was joined in our pursuit by the Florida Chamber, Enterprise Florida, The Printing Association of Florida, AIF, the Florida Medical Manufacturers Consortium, the Florida Association of Counties, the Florida League of Cities, Space Florida, the Florida Ports Council, Northrup Grumman and others. As of this writing, HB 7099 has not yet been sent to the Governor, but we are confident that when it is sent to him, he will approve it.

We wish to thank our lead supporter – Governor Rick Scott; our bill sponsors – Senator Dorothy Hukill and Rep. MaryLynn Magar; our cosponsors - Senators Hays, Latvala, and Simpson and Reps. Broxson, Caldwell, Hill, Chris Latvala, Mayfield, Peters, Pilon, Ray, Santiago, Sprowls, Steube, Sullivan and Van Zant. We also give thanks to the key part each of the following individuals had to play in making this effort a success: President Gardiner, Speaker Crisafulli, President Lee, Speaker Designate Corcoran, Chairman Gaetz and Rep. Ray Rodrigues. TaxWatch was also a key player in preparing a timely research report for us about the value of manufacturing to the State of Florida – we thank them and our MAF contributors who funded that report.

It is important to note that the MME sales tax exemption was the largest single tax exemption granted by the Florida

Legislature this year, with a value \$68.8 million annually. Given that the total value of the tax cut package passed by the Legislature was \$129 million, the fact that approximately 53% of it went to manufacturers is significant.

We also wish to thank the Governor's Office, the Florida Department of Economic Opportunity, the Florida Department of Education, CareerSource Florida and Enterprise Florida and our legislative budget leaders for their strong support on funding issues for manufacturers' priorities. Not only were MAF funding priorities supported, but a number of manufacturing projects from a variety of parties were funded by the Legislature this year.

This comprehensive final report was compiled from personal knowledge, actual bill language, legislative staff summaries, Senate Session Summary, LobbyTools, Inc., Hopping Green & Sams Legislative Report and the TaxWatch 2016 Sine Die report. These summaries do not represent the entirety of the bills, but instead, represent the topics of greatest interest to manufacturers. For further information or a complete copy of the legislation, visit www.leg.state.fl.us.

The laws and appropriations described in this report are:

- Bills monitored by MAF that passed;
- Bills that may be of general interest to MAF members' businesses;
- Appropriations that may be of general interest to MAF members' businesses.

Bills that have a "Governor's action date" were sitting in the Governor's office at the time of this writing awaiting action by the Governor; bills that have a "Chapter No." are bills that have been approved by the Governor; bills that are "Enrolled" had not yet been sent to the Governor at the time of this report.

Bills of Primary Interest That Passed

MANUFACTURERS

HB 231 — Motor Vehicle Manufacturer Licenses and Protection of Motor Vehicle Dealers' Consumer Data (Chapter Law No. 2016-77)

Motor Vehicle Manufacturer Licenses

The bill should be of interest to motor vehicle manufacturers. It provides additional grounds to deny, suspend, or revoke a license held by a motor vehicle manufacturer, factory branch, distributor, or importer (collectively known as the licensee), and prohibits the licensees from taking certain actions against motor vehicle dealers. Specifically, the licensee:

- Is limited to a 12-month period, instead of an 18-month period, following the date an incentive payment was paid to perform an audit of such payment, and can only deny service-related or incentive claims if the licensee proves the claim was false or fraudulent, or the dealer failed to comply with procedures for such repairs or incentives;
- May not take adverse action against a motor vehicle dealer due to a delivered motor vehicle being resold or exported by the customer unless the licensee provides written notification to the dealer within 12 months of delivery of the vehicle to a customer;
- Must pay a dealer for temporary replacement vehicles provided to customers during service or repair provided the dealer complies with the licensee's written vehicle eligibility requirements relating to loaner vehicles; and
- May not require or coerce a dealer to purchase goods or services from any specific vendor selected by the licensee without making available the option to obtain the goods or services from a vendor chosen by the dealer, and provides the term "goods and services" is limited to goods and services used to construct or renovate dealership facilities or furniture and fixtures at dealership facilities.

Protection of Motor Vehicle Dealers' Consumer Data

The bill requires licensees and third parties acting on behalf of a licensee to comply with certain use restrictions for consumer data that is provided to them by a motor vehicle dealer.

Specifically, the bill:

- Requires licensees to comply with, and not knowingly cause a dealer to violate, all laws governing the reuse or disclosure of consumer data, and to provide a written statement that specifies the licensee's methods used to safeguard consumer data;
- Makes licensees responsible for provision, upon a dealer's request, of a written list of consumer data obtained by a licensee from the dealer, and a written list of all persons to whom the consumer data has been provided to during the previous 6 months, with specific exemptions;
- Prohibits licensees from requiring a dealer to grant the licensee, or a third party acting on behalf of the licensee, direct access to the dealer's data management system in order for the licensee to collect consumer data;
- Provides for methods by which a licensee may be granted permission by a dealer to directly access the dealer's consumer data; and
- Requires the licensee to indemnify the dealer for any third-party claims asserted against or damages incurred by the dealer as a result of the licensee's or third party's access, use, or disclosure of the consumer data.

The bill also provides that any person who institutes a cause of action against a licensee for a violation of the prohibitions or requirements established in s. 320.697(2)(a), (2)(b), or (2)(c), F.S., has the burden of proving that the violation was willful or with sufficient frequency to establish a pattern of wrongdoing with respect to such person's consumer data.

These provisions were approved by the Governor and took effect March 24, 2016.

SB 698 — Alcoholic Beverages and Tobacco (Governor's approval deadline is 4/6/16)

The bill revises alcoholic beverage and tobacco laws administered by the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation. For manufacturers and brewers of alcoholic beverages and manufacturers of tobacco, the following new provisions may be of interest.

The bill includes other persons who are required to remit the tobacco taxes required under part I of ch. 210, F.S., within the process for determining the amount of unpaid taxes, including the three-year limitation for such determination and the process for judicial review.

The bill revises the method for calculating the requirement that restaurants with a special alcoholic beverage license must derive at least 51 percent of their gross revenue from the sale of food and nonalcoholic beverages. The bill provides that the 51 percent requirement is calculated on gross food and beverage revenue. It also provides that the 51 percent requirement must be maintained during the first 60-day operating period and during each 12-month operating period thereafter. The bill replaces the term "restaurant" with the term "food service establishment." The bill provides that licensees that fail to meet the required percentage must have their license revoked or a pending license application denied. The bill also provides that licensees whose license have been revoked or application denied for failure to meet the percentage requirement is ineligible to have any interest in a subsequent application for such a license for a period of 120 days after the date of the final denial or revocation. The ineligibility applies to any person who was required to qualify on the special license application of the revoked or denied license.

The bill provides quota license holders a one-time waiver for 12 months from the requirement that the license must be maintained in an active manner. The bill removes the provision in current law that gives the division the discretion to grant such waivers. The bill permits the agency to grant an additional 12 month extension of the waiver on the basis of the provided criteria. The criteria include physical damage to the licensed premises that makes active operation of the business impractical; when construction or remodeling is underway to relocate the license to another location; and a

court order or local government action or inaction are preventing the permitting construction; or occupational capacity of the physical location of the licensed premises.

The bill requires distributors to charge vendors a deposit for kegs in an amount that is not less than that charged to the distributor by the manufacturer. It requires that the deposit for kegs of a like brand must be uniform and that deposits collected and credits allowed for empty kegs or containers must be shown separately on all sales tickets or invoices, which must also be given to the vendor at the time of delivery. The bill requires distributors of malt beverage kegs to implement an inventory and reconciliation process with certain vendors in which an accounting of draft kegs is completed and any loss or variance in the number of kegs is paid for by the vendor on a per-keg basis equivalent to the required keg deposit. This inventory and reconciliation process applies to vendors qualifying as an entertainment/resort complex, a theme park, or a marine exhibition park complex.

The bill permits municipalities, counties, and nonprofit civic and charitable organizations to be issued no more than 12 temporary alcoholic beverages permits per calendar year. It requires counties and municipalities to donate all net profits from the sale of alcoholic beverages to a nonprofit civic or charitable organization within 90 days of the event. As a condition for the permit, the county or municipality must have attempted to solicit a qualified civic or charitable organization to conduct the sales, but has been unable to find such an organization in a reasonable and practical time frame. Current law only permits "civic organizations" to receive no more than three temporary alcoholic beverage permit per year.

Effective upon the bill becoming law, the bill permits alcoholic beverage vendors who are license to sell beer and wine only for consumption off the premises (package stores) to sell growlers. To qualify to sell growlers, the package store's license must have been current and active on June 30, 2015, and must meet the following requirements:

- The vendor must prove that it had draft equipment and tapping accessories installed and had purchased kegs prior to June 30, 2015;
- The employee that fills growlers must be 18 or older;
- The taps or mechanisms used must not be accessible to customers;
- The growlers must meet the labeling or sealing requirements in current law; and
- The vendor cannot permit consumption on premises, including tastings or other sampling activities.

The bill permits the division to issue an alcoholic beverage license to railroad transit stations for the sale of beer, wine, and liquor. It also permits the division to issue a license for the sale of beer, wine, or liquor to the operators or restaurants, shops, or other facilities that are part, or that serve, railroad transit stations. Licenses issued to railroad transit stations would not be subject to the quota license restrictions that limit the number of such licenses that may be issued per county. The bill prohibits municipalities and counties from requiring any additional license or levying any tax for the privilege of selling alcoholic beverages. These licenses may not be transferred to premises beyond the railroad transit station. The bill requires the operator of the railroad and sleeping cars to keep separate the alcoholic beverages intended for sale on passenger trains and the alcoholic beverages intended for sale in the railroad transit station.

The bill revises the process for calculating alcoholic beverage and tobacco taxes that passenger vessels engaged exclusively in foreign commerce (cruise lines) must currently pay. The bill permits the cruise lines to calculate the taxes owed with a methodology based on ship capacity rather than the volume of alcohol or tobacco sold at port or within Florida's territorial waters. This process applies to excise taxes from the sale of alcoholic beverages, cigarettes, and other tobacco products. The bill requires that excise taxes must be calculated based upon the base rate, which is the total taxes paid by all passenger vessel permittees for period between January 1, 2015, and December 31, 2015. The bill also provides that the permit issued to passenger vessels under the Beverage Law in s. 565.02(9), F.S., applies to alcoholic beverages, cigarettes, and other tobacco products.

The bill permits a licensed distributor, when delivering alcoholic beverages to a licensed vendor, to transport the beverages through another premise owned in whole or in part by the vendor.

If approved by the Governor, the bill takes effect July 1, 2016, unless otherwise provided therein.

SB 1604 — Drugs, Devices, and Cosmetics (Governor’s approval deadline is 4/9/16)

The bill makes a variety of changes to pharmaceutical drug laws. For pharmaceutical manufacturers, it updates the Florida Drug and Cosmetic Act (Act) to bring it into conformity with the federal Food, Drug and Cosmetic Act (federal act). Recent amendments to the federal act preempted Florida’s regulatory structure. The bill replaces provisions relating to pedigree papers with federal requirements for a transaction history, transaction information, or transaction statement for the manufacture and distribution of prescription drugs. Certain activities are exempted from the definition of wholesale distribution in order to conform regulatory oversight in Florida to the federal regulatory scheme.

The bill provides for administrative efficiencies and cost savings by:

- Eliminating the distinction between primary and secondary wholesalers and the supplemental information required of a secondary wholesaler for initial and renewal permitting for in-state and out-of-state prescription drug wholesale distributors;
- Allowing certain key personnel to submit an affidavit that information submitted on a previous personal statement remains unchanged;
- Modifying the requirement for a surety bond;
- Authorizing the Department of Business and Professional Regulation (DBPR) to contract with a vendor or enter into interagency agreements for electronic fingerprinting;
- Authorizing a pending application to expire;
- Authorizing certain permits to be issued for up to four-year periods;

The bill establishes a nonresident prescription drug repackager permit, along with the requirement to obtain such a permit if a repackager located outside the state distributes its repackaged prescription drugs into the state. This repackager is also required to comply with provisions applicable to prescription drug manufacturers. The DBPR must establish a virtual prescription drug manufacturer permit and a virtual out-of-state prescription drug manufacturer permit for manufacturers that do not physically manufacture and possess their prescription drugs.

The bill creates the “Victoria Siegel Controlled Substance Safety Education and Awareness Act.” This act requires the Department of Health to develop and disseminate a pamphlet of educational information relating to controlled substances, encourage health care providers to disseminate and display information about controlled substance safety, encourage consumers to discuss the risks of controlled substance use with their health care providers, and create a systematic approach to increasing public awareness regarding controlled substance safety.

If approved by the Governor, this bill takes effect on July 1, 2016.

HB 4009 - Slungshot (Chapter Law No. 2016-106)

Florida law defines a “slungshot” as a small mass of metal, stone, sand, or similar material fixed on a flexible handle, strap, or the like, used as a weapon. The term is currently included in the definition of a “concealed weapon.” As such, a person who is licensed to carry a concealed weapon may carry a slungshot in a concealed manner. A person may also openly carry a slungshot, even without a concealed carry permit.

Three provisions in ch. 790, F.S., currently criminalize certain acts with respect to a slungshot:

- Section 790.01(1), F.S., makes it a first degree misdemeanor to carry a “concealed weapon,” which includes a slungshot, in a concealed manner without a concealed weapon permit.
- Section 790.09, F.S., makes it a second degree misdemeanor for a person to manufacture, cause to be manufactured, sell, or expose for sale a slungshot.
- Section 790.18, F.S., makes it a second degree felony for a dealer in arms to sell or transfer a slungshot to a minor.

The bill amends s. 790.001, F.S., to remove “slungshot” from the definition of “concealed weapon.” As a result, a person will be able to carry a slungshot in a concealed manner without a permit. The bill also amends ss. 790.09 and 790.18, F.S., to remove references to “slungshot,” and, thus, makes it lawful for:

- a person to manufacture, cause to be manufactured, sell, or expose for sale a slungshot; or
- a dealer in arms to sell or transfer a slungshot to a minor.

These provisions were approved by the Governor and became effected on March 24, 2016.

EDUCATION

HB 1147 — Character-development Instruction (Approved by the Governor)

The bill expands the requirements for high school character-development programs to include instruction on developing life and career-related skills.

Specifically, the bill requires instruction on:

- Developing leadership skills, interpersonal skills, organization skills, and research skills;
- Creating a resume;
- Developing and practicing the skills necessary for employment interviews;
- Conflict resolution, workplace ethics, and workplace law;
- Managing stress and expectations; and
- Developing skills that enable students to become more resilient and self-motivated.

These provisions were approved by the Governor and take effect July 1, 2016.

HB 1365 — Competency-Based Education Pilot Program (Approved by the Governor)

The bill promotes competency-based student learning opportunities by establishing a competency-based innovation pilot program (pilot program) within the Department of Education (department) for a period of five years. The bill specifies a purpose for the pilot program, which is to provide an educational environment that allows students to advance to higher levels of learning after demonstrating a mastery of concepts and skills.

Specifically, the bill:

- Authorizes the P.K. Yonge Developmental Research School and the Lake, Palm Beach, Pinellas, and Seminole County school districts to apply to the department to participate in the pilot program.
- Specifies pilot program-related application requirements such as the timelines for districtwide implementation of the pilot program; a list of participating schools; annual goals and performance outcomes for participating schools including, but not limited to, student performance, promotion and retention rates, graduation rates, and indicators of college and career readiness; a communication plan for parents and other stakeholders; the scope and timelines for professional development for certain school personnel; and a plan for student progression based on the mastery of content.
- Requires students participating in the pilot program at participating schools to be reported for funding in accordance with current law.
- Authorizes the State Board of Education (state board) to permit the commissioner to grant waivers from state board rules relating to student progression and the awarding of credits.
- Requires the state board to adopt rules to administer the pilot program provisions.

The bill requires the department to:

- Compile student and staff schedules of participating schools before and after implementation of the pilot program.
- Provide participating schools with access to the statewide, standardized comprehensive and end-of-course assessments.
- Provide a report annually, by June 1, summarizing the activities and accomplishments of the pilot programs and recommendations for statutory revisions for statewide implementation to the Governor, President of the Senate, and the Speaker of the House of Representatives.

These provisions were approved by the Governor and take effect July 1, 2016.

HB 7029 — School Choice (Enrolled)

The bill amends numerous sections of the education statutes pertaining to postsecondary education performance funding, K-12 education policy and funding, school choice, and school construction. Of interest to MAF members the bill:

- Authorizes performance funding for certain Career and Professional Education (CAPE) industry certifications; increases teacher bonuses for CAPE industry certifications;
- Creates, re-enacts and amends various education and funding and scholarship programs.
 - FCS Performance Funding. Re-enacts performance-based incentive funding program to award FCS institutions for attaining metrics adopted by the SBE. Beginning in 2017- 2018, limits the ability of an institution to submit an improvement plan to the SBE to one fiscal year.
 - State University System (SUS) Performance Funding. Extends the State University System (SUS) performance-based incentive funding program to reward SUS institutions for attainment of metrics adopted by the Board of Governors (BOG).
 - SUS Preeminence. Modifies standards that apply to Preeminent State Research Universities and creates standards and benefits for “Emerging Preeminent State Research Universities.”
 - Renames the “Florida National Merit Scholar Incentive Program” as the “Benacquisto Scholarship Program”, and requires all eligible state universities (and encourages all eligible Florida public or independent postsecondary educational institutions) to become college sponsors of the National Merit Scholarship Program.
 - Removes the sunset provision for the Adults with Disabilities Workforce Education Program.
- Clarifies existing law to provide that the written notice informing students they have the right not to participate in the pledge of allegiance may be placed in the student handbook or similar publication.
- Creates the Seal of Biliteracy Program to recognize high school graduates who attain a high level of competency in foreign languages.

If approved by the Governor, these provisions take effect July 1, 2016.

HB 5003 Implementing the 2016-2017 General Appropriations Act (Chapter 2016-62, L.O.F.)

Of interest to MAF members, this bill establishes the Florida Center for Partnerships for Arts Integrated Teaching. One of the goals of the Center is to examine arts integrated teaching Science, Technology, Engineering, and Math (STEM) educational courses. Their work must be finished by July 1, 2017.

These provisions were approved by the Governor and take effect on July 1, 2016.

SB 180 - Trade Secrets (Chapter 2016-5, L.O.F.)

The law expands the definition of the term “trade secret,” as provided in s. 812.081, F.S., to expressly include financial information. An individual who steals, copies without authorization, or misappropriates financial information which meets the criteria of a trade secret is guilty of a third degree felony under s. 812.081, F.S.

These provisions were approved by the Governor and take effect on October 1, 2016.

SB 182 — Public Records and Meetings/Trade Secrets (Chapter 2016-6, L.O.F.)

The law reenacts several public records exemptions of trade secret information to conform to the s. 812.081, F.S., definition of “trade secret,” which was amended to expressly include financial information. These exemptions protect financial information deemed to be trade secrets from public disclosure. The bill provides that the public record exemptions are subject to the Open Government Sunset Review Act and stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a public necessity statement as required by the Florida Constitution.

These provisions were approved by the Governor and take effect on October 1, 2016.

HB 613 - Workers’ Compensation System Administration (Chapter 2016-56, L.O.F.)

The law amends regulatory provisions of ch. 440, F.S., the “Workers Compensation Law,” which are administered by the Department of Financial Services (DFS). The bill eliminates the new insurer registration fee (\$100) and the Special Disability Trust Fund notice of claim fee (\$250) and the proof of claim fee (\$500). The bill also eliminates the Preferred Worker Program, which has been inactive for over 10 years.

The law revises provisions related to compliance and enforcement as follows:

- Creates a 25 percent penalty credit for employers who have not been issued a stop-work order or order of penalty assessment previously for non-compliance with coverage requirements if they maintain required business records and timely respond to the written DFS business records requests.
- Establishes a deadline for employers to file certain documentation to receive a penalty reduction.
- Reduces the imputed payroll multiplier related to penalty calculations from 2 times to 1.5 times the statewide average weekly wage.
- Eliminates a 3-day response requirement applicable to employer held exemption documentation.
- Allows employers to notify their insurers of their employee’s coverage exemption, rather than requiring that a copy of the exemption be provided.

The law revises provisions related to health care services and disputes as follows:

- Removes insurers and employers from the medical reimbursement dispute provision.
- Allows a Judge of Compensation Claims the discretion to designate an expert medical advisor, rather than only those that are certified by the DFS.

These provisions were approved by the Governor and take effect October 1, 2016.

HB 981 — Administrative Procedures (Enrolled)

The bill requires a statement of estimated regulatory costs (SERC) to include the adverse impacts and regulatory costs estimated to occur five years after the effective date of a rule. If a portion of the rule is not fully implemented on the

effective date of the rule, the SERC must include the adverse impacts and regulatory costs expected to occur within the first five years after implementation of the unimplemented portion of the rule.

If approved by the Governor, these provisions take effect July 1, 2016.

HB 1181 - Bad Faith Assertions of Patent Infringement (Chapter No. 2016-101, L.O.F.)

The Patent Troll Prevention Act, enacted in 2015, was intended to deter the filing of bad-faith patent infringement claims. The act worked by allowing a defendant to pursue a private cause of action for damages, including punitive damages, against a claimant, a patent troll, making a bad-faith claim. The claimant could also be required to post a bond in the amount equal to the lesser of \$250,000 or a good faith estimate of the defendant's expenses of litigation, including attorney fees.

The law eases the act's potential for deterring appropriate patent infringement lawsuits. The specific changes:

- Require that a demand letter be objectively baseless before it may be deemed a bad-faith assertion of patent infringement.
- Remove the act's bond-posting requirement for a plaintiff who may have made a bad-faith assertion of patent infringement.
- Limit the entitlement to and amount of punitive damages awards against a person who makes a bad-faith assertion of patent infringement.

These provisions were approved by the Governor and took effect on March 24, 2016.

SB 7040 — Workforce Development (Governor's approval deadline is 4/9/16)

The bill modifies Florida's current program for workforce services in order to implement the Federal Workforce Innovation and Opportunity Act of 2014. The bill provides membership guidelines for the board of directors of CareerSource Florida, Inc., and the local workforce development boards. The bill requires the state workforce development plan to be based on a 4-year strategic and operational plan.

The bill requires the Florida Department of Education and CareerSource Florida, Inc., to enter into a memorandum of understanding to ensure the state plan is in compliance with federal law. One-stop delivery partners and local workforce development boards are also required to enter into a memorandum of understanding regarding infrastructure cost-sharing.

The bill also clarifies that active duty employment protections apply to National Guard members of any state.

If approved by the Governor, these provisions take effect July 1, 2016.

HB 7071 - Public Corruption (Approved by the Governor on 3/25/16)

Chapter 838, F.S., establishes a number of criminal offenses related to public officials or employees and the performance of their official duties, including bribery, unlawful compensation for official behavior, official misconduct, and bid tampering. In order to be convicted of an offense under ch. 838, F.S., one must act "corruptly" or "with corrupt intent," which is defined as "acting knowingly and dishonestly for a wrongful purpose."

The offenses defined in ch. 838, F.S., only apply to the following persons and those who solicit such persons:

- Any officer or employee of a state, county, municipal, or special district agency or entity;
- Any legislative or judicial officer or employee;
- Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or

- A candidate for election or appointment to any of the positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

The bill expands the applicability of offenses in ch. 838, F.S., to officers and employees of a public entity created or authorized by law. Also, the bill makes public contractors eligible for prosecution of official misconduct. The bill defines public contractors as any person, or any officer or employee of a person, who has entered into a contract with a governmental entity. Additionally, the bill widens the scope of bid tampering to include public servants and public contractors who have contracted with a governmental entity to assist in a competitive procurement.

The bill also revises the level of intent for offenses under ch. 838, F.S., from “corruptly” or “with corrupt intent” to “knowingly and intentionally.”

The bill does not appear to have a fiscal impact on local governments. The bill may have an indeterminate prison bed impact on the Department of Corrections.

These provisions were approved by the Governor and are effective October 1, 2016.

ENVIRONMENTAL

SB 100 — Pollution Discharge Removal and Prevention (Governor’s Action by 4/6/2016)

The bill amends the Global Risk Based Corrective Action (RBCA) and brownfield program cleanup statutes in order to provide more efficient site cleanup while protecting public health and the environment. For those with sites to remediate, of interest are the following provisions:

- Define “background concentration” to mean the concentration of contaminants naturally occurring or resulting from anthropogenic (human) impacts unrelated to the discharge of pollutants or hazardous substances at a contaminated site undergoing site rehabilitation and deletes the phrase “naturally occurring” in determining the cleanup target level (CTL);
- Define “long-term natural attenuation” to mean natural attenuation approved by the Department of Environmental Protection (DEP) as a site rehabilitation program task for a period of more than 5 years;
- Provides that Global RBCA does not apply to nonprogram petroleum-contaminated sites unless requested by the person responsible for site rehabilitation;
- Require rules concerning rehabilitation program tasks to include protocols for long-term natural attenuation where site conditions warrant;
- Create an exception when applying state water quality standards to CTLs for surface water exposed to contaminated groundwater when it has been demonstrated that the contaminants do not cause or contribute to the exceedance of applicable surface water quality criteria;
- Encourages DEP to utilize long-term attenuation monitoring when additional site rehabilitation is necessary to reach a finding of “No Further Action”;
- Requires DEP to consider the interactive (as opposed to additive) effects of contaminants when determining what constitutes a rehabilitation program task;
- Allows the use of risk assessment modeling and probabilistic risk assessment to create site-specific alternative CTLs; and
- Allows the use of alternative CTLs without institutional controls if certain specified conditions exist.

The bill also makes changes to the Abandoned Tank Restoration Program, the Petroleum Cleanup Program, and the Petroleum Restoration Program.

If approved by the Governor, these provisions take effect July 1, 2016.

HJR 193 — Solar or Renewable Energy Source Device/Exemption from Certain Taxation and Assessment

The Florida Constitution (Constitution) provides for local government ad valorem taxes on real property and tangible personal property, assessment of property for tax purposes, and exemptions to these taxes.

Currently, Article VII, section 4(i) of the Constitution provides that the legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the installation of a renewable energy source device in the determination of the assessed value of real property used for residential purposes.

The joint resolution proposes two amendments to the Florida Constitution, which will be submitted to the electors of the state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose (CS/HB 195 (see separate summary) provides that, pursuant to Section 5 of Article XI of the State Constitution, a special election will be held on August 30, 2016, concurrently with other statewide elections held on that date).

The first amendment authorizes the Legislature to exempt the assessed value of solar devices or renewable energy source devices from ad valorem taxation on tangible personal property.

The second amendment authorizes the Legislature to prohibit, by general law, a property appraiser from considering the installation of a solar device or a renewable energy source device in the determination of assessed value of real property for the purpose of ad valorem taxation.

This expands the current constitutional provision by including both residential and nonresidential real property.

The bill was signed by the Presiding Officers and filed with the Secretary of State.

SB 552 - Relating to Environmental Resources (Chapter 2016-1, L.O.F.)

The bill creates the Florida Springs and Aquifer Protection Act to:

- Provide for the protection and restoration of Outstanding Florida Springs (OFSs);
- Provide timelines and deadlines for the restoration of OFSs through the Basin Management Action Plan (BMAP) process;
- Require the development of Onsite Sewage Treatment and Disposal System (OSTDS) remediation plans when OSTDSs contribute significantly to pollution of an OFS;
- Prohibit certain activities within a priority focus area for an OFS;
- Require the Department of Environmental Protection (DEP) to develop rules relating to groundwater withdrawals including the creation of a uniform definition for “harmful to the water resources” for OFSs (water management districts may adopt a more restrictive definition).

The bill updates and restructures the Northern Everglades and Estuaries Protection Program to reflect and build upon DEP’s implementation of BMAPs for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary. The BMAPs will include the construction of water projects, water monitoring programs, and the implementation, verification, and enforcement of best management practices (BMPs) within these watersheds.

The BMAPs will include 5, 10, and 15-year measureable milestones towards achieving the total maximum daily loads for those water basins within 20 years.

The bill revises provisions relating to Consumptive Use Permits (CUPs) to:

- Require monitoring and reporting for certain sized wells and authorizes water management districts (WMDs) to have more stringent monitoring requirements;
- Clarify that permitted allocations may not be decreased because of:
 - Additional conservation measures implemented by the permit holder;
 - Changes in certain agricultural conditions or practices that result in actual water use being less than

permitted water use;

- Require the WMDs to adopt rules to incentivize water conservation;
- Create a preference for new CUP applicants that are nearest to a water source when two or more applications otherwise qualify equally.

The bill sets deadlines for the WMDs to adopt minimum flows and levels (MFLs) for waterways within their jurisdiction. The bill requires the WMDs to concurrently adopt recovery or prevention strategies for any waterway that is not meeting an MFL or that will fall below an MFL within 20 years.

The bill clarifies that BMAPs are enforceable pursuant to ss. 403.067, 403.121, 403.141, and 403.161, F.S. The bill requires DEP and the Department of Agriculture and Consumer Services (DACs) to adopt rules to verify implementation of BMPs or other measures. The rules must include enforcement procedures.

The bill requires the following to help track and monitor progress toward conservation and restoration goals:

- The Office of Economic and Demographic Research must conduct an annual assessment of water resources and conservation lands;
- DEP must publish an online, publicly accessible database of conservation lands where public access is compatible with conservation and recreational purposes;
- DEP will conduct a feasibility study for creating and maintaining a web-based, interactive map of the state's waterbodies that provides information on the status of each waterbody with respect to minimum flows and levels and nutrient impairment;
- DEP, in coordination with other entities, must establish statewide standards for the collection and analysis of water quantity, water quality, and related data;
- DEP, DACs, and the WMDs are subject to a number of new planning and reporting requirements relating to water quantity and quality.

The bill also:

- Requires the DEP to adopt by rule a specific surface water classification for surface waters used for treated potable water supply;
- Revises membership requirements for the Harris Chain of Lakes Restoration Council;
- Creates a pilot program for alternative water supply development in restricted allocation areas and a pilot program for innovative nutrient and sediment reduction and conservation;
- Codifies the Central Florida Water Initiative (CFWI) and ensures that the appropriate governmental entities continue to develop and implement uniform water supply planning, consumptive use permitting, and resource protection programs in the area encompassed by the CFWI;
- Encourages public-private partnerships with agricultural land owners who provide certain environmental benefits;
- Encourages DEP and WMDs to provide technical assistance to water self-suppliers.

These provisions were approved by the Governor and take effect July 1, 2016.

HB 561— Organizational Structure of the Department of Environmental Protection (Chapter Law No. 2016-85)

The bill removes the statutory enactment of each office within the Department of Environmental Protection (DEP). The bill establishes the Office of Secretary within the DEP and authorizes the secretary to establish offices within the divisions or within the Office of Secretary to promote the efficient and effective operation of the DEP. The bill requires the secretary to appoint a general counsel who is directly responsible to and serves at the pleasure of the secretary and who is responsible for all legal matters of the DEP. The bill establishes the Division of Water Restoration Assistance within the DEP.

These provisions were approved by the Governor and take effect July 1, 2016.

HB 589 — Environmental Control (Approved by the Governor 3/25/16)

The law:

- Repeals s. 373.245, F.S., which authorizes damages to be paid to consumptive use permit holders that occur as a result of permit violations by abutting consumptive use permit holders;
- Provides that when the beneficial use of a constructed clay settling area (CSA) of a phosphate mine is extended, the rate of reclamation requirements and the financial responsibility requirements apply to the CSA when the beneficial use of the CSA is complete;
- Allows land set-asides and land use modifications not otherwise required by state law or permit to be used to generate credits for water quality credit trading;
- Modifies a prohibition against granting variances that would result in the provisions or requirements being less stringent than federal law. The bill authorizes moderating provisions or requirements under state law, subject to any necessary approval by the U.S. Environmental Protection Agency;
- Allows construction of a stormwater management system to proceed without any further agency action by the DEP or water management district (WMD) if, before construction begins, rather than within 30 days after construction begins, an electronic self-certification is submitted to the DEP or the WMD which certifies that the proposed system was designed by a Florida registered professional and that the registered professional has certified that the proposed system meets all statutory requirements.

These provisions were approved by the Governor and took effect March 25, 2016.

HB 989 — Implementation of Water and Land Conservation Constitutional Amendment (Enrolled)

The bill requires the following minimum distributions from the Land Acquisition Trust Fund to be appropriated annually:

- The minimum of the lesser of 25 percent of the funds remaining after the payment of debt service or \$200 million for Everglades projects;
- The minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million for spring restoration, protection, and management projects; and
- Five million dollars through the 2025-2026 fiscal year for projects dedicated to the restoration of Lake Apopka.

The bill provides language that requires the distributions to be reduced by an amount equal to any debt service paid on bonds issues for such purposes.

If approved by the Governor, these provisions take effect July 1, 2016.

CS/SB 1176 — Dredge and Fill Activities (Governor's Approval Deadline is 4/6/16)

The bill authorizes the Department of Environmental Protection, subject to agreement with the United States Army Corps of Engineers, to implement a voluntary state programmatic general permit for all dredge and fill activities impacting ten acres or less of wetlands or other surface waters, if the general permit is at least as protective of the environment and natural resources as existing state law under part IV of ch. 373, F.S., and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899.

The bill clarifies that by seeking to use a statewide programmatic general permit, an applicant consents to applicable federal wetland jurisdictional criteria as required by the United States Army Corp of Engineers.

The bill authorizes the Department of Environmental Protection to pursue delegation or assumption of federal permitting programs regulating the discharge of dredged or fill material, rather than only complete assumption which encompasses all dredge and fill activities in, on, or over jurisdictional wetlands or waters, including navigable waters, within the state.

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

FINANCE AND TAX

CS/SB 1106 — International Trust Entities (Governor’s Approval Deadline is 4/6/16)

The bill revises provisions relating to the regulation of international banking activity by the Office of Financial Regulation (OFR). The bill provides the following changes:

- The OFR will delay the enforcement of the licensure requirements under s. 663.04(4), F.S., relating to an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the activities described in s. 663.0625, F.S. The delay in requirements is provided if the organization or entity meets certain regulatory requirements and provides assurances to the OFR. The moratorium would apply to the ITE, which is the offshore entity and the Florida organization or entity that is providing marketing and customer assistance on behalf of the ITE. The moratorium is repealed July 1, 2017.
- Defines the term, “international trust entity,” to mean any international trust company, international business, international business organization, or affiliated or subsidiary entities that are licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.
- Provides the moratorium does not affect the OFR’s authority to enforce other provisions of the Financial Institutions Codes.

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

HB 7099 Taxation (Enrolled)

This is the Legislature’s “tax package” and contains MAF’s top priority. The bill contains a variety of tax exemptions for various industries.

- Makes permanent the sales tax exemption for machinery and equipment used in manufacturing and provides exemptions for machinery and equipment used in agricultural post-harvest activities or used by metal recyclers.
- Effective July 1, 2019, eliminates a current aviation fuel tax exemption and reduces the aviation fuel tax rate from 6.9 cents per gallon to 4.27 cents per gallon.
- Replaces the current tax calculation for determining the tax imposed on alcohol and tobacco sold on cruise ships with a simpler revenue-neutral calculation.
- Makes a technical change to the documentary stamp tax statute to provide that certain documentary stamp tax revenue is pledged and made first available to pay debt service on bonds authorized before July 1, 2017.
- Clarifies that counties and municipalities may grant economic development property tax exemptions in areas which were previously designated as enterprise zones for projects that were preapproved before December 31, 2015.
- Adopts the Internal Revenue Code as in effect on January 1, 2016, for purposes of corporate income tax, but decouples from certain federal bonus depreciation provisions.
- Makes changes to corporate income tax filing dates and estimated payment due dates to conform to changes made to the federal corporate tax.
- Provides a sales tax exemption for sales of food and drink by veterans’ organizations to members of veterans’ organizations.
- Reduces the beverage tax rate imposed on pear cider to make it the same as the rate on apple cider.
- Allows purchasers of airplanes to retain an airplane in Florida while waiting for the airplane to be registered in a foreign country without having to pay sales tax.
- Clarifies the definition of “wholesale sales price” for purposes of the tax on other tobacco products.

- Provides a three-day “back-to-school” sales tax holiday from August 5, 2016, to August 7, 2016, for clothing and footwear costing \$60 or less, and school supplies costing less than \$15.
- Authorizes certain counties, currently Okaloosa, Bay, and Walton, to use 10 percent of the revenue from existing Tourist Development Taxes for expenses incurred in providing public safety services.
- Phases out, over three years, the indexed sales tax on asphalt used for government projects.
- For purposes of the local option economic development property tax exemption, allows the exemption for replacement data center equipment and extends the length of the exemption from 10 to 20 years for such equipment.
- For the Fiscal Year 2016-2017, the bill appropriates \$330,356 in nonrecurring funds from the General Revenue Fund to the Department of Revenue to administer the sales tax holiday and the changes to the corporate return and estimated payment due dates.

If approved by the Governor, these provisions take effect July 1, 2016.

TRANSPORTATION

SB 90 – Natural Gas Rebate Program (Governor’s Action by 4/6/16)

The bill amends section 377.810, Florida Statutes, to authorize the Department of Agriculture and Consumer Services (DACS) to receive applications for additional rebates from the natural gas fuel fleet vehicle rebate program, giving preference to governmental applicants. Any remaining funds may be expended for commercial applicant rebates.

If approved by the Governor, these provisions take effect July 1, 2016.

HB 7061 — Transportation (Enrolled)

The bill includes a number of transportation-related provisions. Of potential interest to MAF members, the bill:

- Requires the Florida Department of Transportation (DOT) to review motor vehicle accidents, using reconciled crash data received from the Florida Department of Highway Safety & Motor Vehicles (FDHSMV), and to submit a report, providing recommendations regarding any necessary changes to state laws and to the FDOT’s rules to enhance traffic safety.
- Extends from 53 to 57 feet the allowable length of certain semitrailers authorized to operate on public roads if it complies with other requirements of law.
- Prohibits law enforcement from issuing a citation for an expired registration until the last day of the month of the year the registration expires, with certain exceptions.

The bill also makes several statutory changes specific to the operation and regulation of autonomous vehicles, including:

- Clarifying that the authorization for a person holding a valid driver license to operate an autonomous vehicle applies on the public roads of this state.
- Revising provisions regarding the operation of autonomous vehicles on roads for testing purposes.
- Revising equipment requirements for autonomous vehicles, requiring a system to alert an operator of a technology failure and to take control, or to stop the vehicle under certain conditions.
- Prohibiting operation of a motor vehicle on the highways of this state while the vehicle is in motion if the vehicle is actively displaying moving television broadcast or pre- recorded video entertainment content visible from the driver’s seat, unless the vehicle is equipped with autonomous technology and is being operated in autonomous mode.
- Providing that an electronic display used by an operator of a vehicle equipped with autonomous technology or by an operator of a vehicle equipped with driver-assistive truck platooning technology is not prohibited.

- Defining the term “driver-assistive truck platooning technology;” requiring the FDOT to study, in consultation with the FDHSMV, the use and safe operation of driver assistive truck platooning technology; and authorizing a pilot project to test vehicles equipped with such technology.
- Requiring manufacturers of such technology to provide insurance before the start of the pilot project and requiring the FDOT, in consultation with the FDHSMV, to report the results of the study and any findings or recommendations from the pilot project.
- Requiring metropolitan planning organizations to accommodate advances in vehicle technology when developing long-range transportation plans and requiring the FDOT to accommodate advances in vehicle technology when updating the Strategic Intermodal System Plan.

If approved by the Governor, these provisions take effect July 1, 2016.

APPROPRIATIONS

The State General Appropriations Act for Fiscal Year 2016-2017 provides for a total budget of \$82.3 billion, an increase of \$1 billion over the current year budget. Of potential interest to MAF members are the following items in the budgets of the Florida Department of Agriculture and Consumer Services, the Florida Department of Education, the Florida Department of Economic Opportunity, the Florida Department of Environmental Protection and the Florida Department of Transportation.

Department of Agriculture & Consumer Services

- Agricultural Nonpoint Sources Best Management Practices - \$19.3 million
 - Hybrid Wetland Treatment Systems - \$8.9 million
 - Water Supply Planning and Conservation Program - \$1.5 million
- Water & Land Conservation/Budget Restructure - \$3.1 million
- Passive Dispersed Water - \$4 million
- Water Policy Workload - \$1.1 million
- Energy Grants - \$17.3 million

Department of Economic Opportunity

- Advanced Manufacturing Skill Development Program (AMSkills) - \$2 million
- Manufacturing Talent Asset Pipeline - \$300,000
- Quick Response Training - \$12 million
- Incumbent Worker Training - \$3 million
- Institute for Commercialization of Public Research (ICPR) - \$4.5 million
- International Consortium for Advanced Manufacturing Research - \$9.3 million and \$613,431
- MAF Center for Advanced Manufacturing Excellence, FloridaMakes - \$400,000
- Center for Advanced Manufacturing at Lake Tech - \$250,000
- Enterprise Florida African Trade Expansion - \$259,500
- Florida Export Diversification and Expansion Program - \$1 million
- Enterprise Florida International Program - \$3.55 million

Department of Education

- Lake Technical College, Center for Advanced Manufacturing - \$2.8 million
- Embry Riddle Aerospace Academy - \$3 million
- Embry Riddle Manufacturing Academy and Apprenticeship/Internship Program - \$2 million
- Space Exploration Laboratory - \$1.5 million
- Brevard Public Schools Aviation and Manufacturing Technology High School Program - \$500,000
- Pasco Regional STEM School/Tampa Bay Region Aeronautics - \$750,000

- Volusia County Schools Manufacturing - \$185,000
- Seminole County High Tech Manufacturing Program - \$500,000
- Appropriation for students earning industry certifications, including advanced manufacturing and welding
 - School districts - \$4.5 million
 - Colleges - \$10 million
- AMSkills Program Instructional Enhancements - \$300,000
- Approval for Pensacola State College to construct a welding technology building from local funds at the Pensacola campus

Department of Environmental Protection

- Florida Forever/Conservation Lands - \$15.1 million
- Florida Forever/Florida Communities Trust, Recreational Access for All - \$10 million
- Everglades Restoration - \$27.7 million
- Springs Restoration - \$50 million
- Water Projects - \$81.8 million
- Information Technology for Conservation Lands & Water Shed/Waterbody - \$1.1 million
- Total Maximum Daily Loads (TMDLs) - \$8.9 million
- Nitrate Research - \$930,000
- Implementation of Agricultural Nonpoint Source Best Management Practices - \$26 million
- Natural gas fuel fleet vehicle rebate program - \$6 million
- Pine reforestation of agricultural lands in Outstanding Florida Springs areas - \$2 million

Department of Transportation

- Florida Seaport and Economic Development (FSTED) Program - \$25 million per year

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