

## **SB 1752 – Section 24, Environmental Resource Permitting**

- This section of the jobs bill pertains to environmental resource permitting (ERP). This is a broad program that includes everything related to surface water and wetlands.
- Certain cities and counties above a population threshold would be required to seek delegation or else be preempted from requiring a permit for anything substantially similar to the requirements of ERP. It is not clear how other cities and counties would be treated. It appears that they may be preempted, but it is not spelled out. Local governments would have to seek delegation by June 1, 2011, or forever be precluded from receiving it. The delegation process is not clearly drafted nor is it easy to understand.
- Because it is not clear what the term “**substantially similar**” means, **anything related to water could be preempted** – stormwater and low impact development ordinances, as well as fertilizer and other water quality ordinances, for example. These ordinances do not require delegation from the state, nor are they duplicative of state requirements. However, the language is so broadly drafted that these subjects could be caught up in this sweeping policy change.
- The Senate Environmental Protection and Conservation Committee has not had an opportunity to review and discuss this language for the potential environmental impact. Many of these committee members will not have an opportunity to vote on the bill until it reaches the floor.
- **There have been no stakeholder meetings on this language.** It is very complex and affects a significant number of parties. To really attempt something this significant would require those with subject matter expertise to meet, identify issues, and hopefully reach consensus on a final solution.
- This will have significant unintended consequences for DEP, local governments, and the environment.
- **Local governments bear enormous responsibility for implementing the Clean Water Act** through total maximum daily loads (TMDL), basin management action plans (BMAPs) and now potentially the numeric nutrient criteria proposed by EPA. All this requires local governments to do more to protect and improve water quality, and to invest literally billions of dollars. **Yet this approach would take away virtually all local control and authority to make water quality improvements.**
- This may have the effect of creating more local regulation, because it appears to require local governments to seek full ERP delegation even if they just want to keep in force low impact development or fertilizer ordinances that are not regulated by the state.
- **There will also be consequences to growth management.** This appears to also preempt **comprehensive plans and land development regulations**, not just environmental ordinances.