

# Calusa Digest "Extra"

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## ANOTHER BAD BILL

It appears that the legislators who are moving on because of term limits are determined to give as much of Florida away as possible before they leave. A particularly egregious example is SB2556 which would replace the citizens standing provision in Section 403.412(5) Florida statutes with a much more restrictive test which will require that persons or groups who file for formal hearing would have to demonstrate that their "substantial interests" would be impacted by a governmental action (like how you would lose money). It also allows permit applicants to get together with state agencies and impose "mediation" involuntarily upon persons who object to environmental permits. If you don't agree to the approval of the permit after mediation you have to pay the developer's costs and lawyer's fees. It also allows construction to begin on projects before a decision is made on a contested permit. And guess who supports this bill...Fl. Farm Bureau, Florida Chamber of Commerce, Home builders Assoc. etc. The great topper of all was when some legislators actually took time away from other duties to oppose the bill proposed by High school students to declare the Scrub jay as our state bird. They actually argued that the action would result in the condemnation of private land. The kids seemed to be confused at their reception according to the Audubon newsletter.

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## CAPITOL DANCES TO MUSIC OF MONEY

*JOE FOLLICK of The Tampa Tribune*

Florida's largest managed health-care group has given nearly \$90,000 to the state Republican Party this year. It gave \$1,000 to the Democratic Party. The state's largest business group has given \$75,000 to the GOP this year and just \$16,000 to the Democratic Party. Both groups - Blue Cross Blue Shield of Florida and Associated Industries of Florida - oppose giving patients the right to sue their HMOs.

So far, they have gotten a good return on their investment. Republicans, especially those who control the House, have virtually killed any chance to remove HMOs' legal protection. Legislators and lobbyists say there is no connection between cam-

paign contributions and the outcome of lawmaking. Campaign finance reports issued last week, however, show a direct correlation between this year's hottest legislative issues and increases in donations from involved special interest groups. Driven in part by unprecedented donations from HMOs and others with a stake in this year's legislative session, the state Republican Party collected \$2.8 million in donations in the first quarter of the year. The state Democratic Party collected more than \$900,000 during the same period.

But within the hundreds of pages detailing donations lies a more telling tale of special interests working for and against major changes in issues such as a patient's right to sue their HMO or purchase cheaper generic drugs. For example, to defend against the drive to allow patients to sue HMOs, Blue Cross and Blue Shield of Florida's campaign contributions were sharply up from recent years.

Their donations to the Republican Party in the first three months of this year are nearly half of what they contributed in the past three years. Company spokesman James Barnes said Republicans have earned the donations. "The Republicans have been much more supportive of our public policy statements, that's why more of the money is given to them," he said. Health interests including HMOs and physicians' groups, gave nearly \$460,000 in large donations (\$1,000 or more) to the Republican Party during the first quarter compared to about \$60,000 to Democrats.

Democrats say that's evidence the Republicans' proposed "Patient Protection Act" is really the "HMO Protection Act." "We all know that HMOs paid for this plan up front," said Tony Welch, state Democratic Party spokesman.

But Republicans say Democrat proposals to allow patients to sue their HMOs are a sop to the Academy of Trial Lawyers. That group gave \$3,500 in large contributions to the state Democrats and none to the Republicans during the first quarter - the Democratic party also received more donations from individual lawyers around the state than the Repub-

licans. "Republicans in the Florida Legislature are trying to ensure decisions on health care are made by doctors while the Democrats are talking about more lawsuits," said Jamie Wilson, Republican Party of Florida executive director.

Like the HMO debate, the battle over legalizing the sale of some generic drugs has been a moneymaker for the Republican Party. Drug companies gave \$70,000 in large contributions to the GOP in the first quarter of this year compared to \$13,500 to Democrats.

Barr Laboratories of New York produces Warfarin, a generic substitute for Coumadin, which is made by DuPont Pharmaceuticals. Current law prohibits pharmacists from substituting the cheaper generics for 13 brand-name drugs, including Coumadin. DuPont's struggle to protect its Florida market led to a pitched legislative battle. In preparation for the session, Barr donated \$24,000 in the first three months of this year - more than double their contributions in all of last year. More than \$20,000 went to the Republican Party.

"It's just an attempt to stay competitive," said John VanGieson, a Tallahassee consultant for Barr. "Those who don't get in the game tend to lose ... [Legislators] pay attention to [contributors] when you call."

Republican leaders in the Senate pushed through a bill that would have allowed easier access to the generics. House Speaker John Thrasher on Friday said the legislation will never pass the House this year.

Most legislators say contributions have no effect on their vote. But others say that's ridiculous.

"Politicians will tell you they take this money but it doesn't affect their decisions," said Ben Wilcox, executive director of Common Cause of Florida, a group that repeatedly calls for campaign finance reform. "But if that was the case, then these companies wouldn't be giving money. They realize they get something in return."

Even the most powerful lobbyists in the Capitol say the high dollar amounts donated to the parties are out of control. Jon Shebel is president of Associated Industries of Florida, a special-interest business group that created a "Patient Protection Plan" remarkably similar to the one endorsed by House Republicans last week. Neither plan includes expanding consumers' rights to sue HMOs. Shebel says that with the Internet keeping all special

interests attuned to the donations of their rivals, there is a "self-perpetuating" game of one-upmanship that drives political donations higher.

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## **POLITICAL AIDE ON COMPANY PAYROLL**

*MICHELLE PELLEMAN*s of *The Tampa Tribune*

House Speaker John Thrasher's top aide moonlighted as an attorney for a cement company that won unexpected approval from the Florida Cabinet to build a cement plant near the Ichetucknee River. Steven MacNamara, who earns twice the rate of pay as the governor, said he saw no conflict in acting as Thrasher's chief of staff while also working as an attorney for the Suwannee American Cement Co.

MacNamara said he's not a state employee. He works for Thrasher as an independent contractor. At the time he worked for the cement company, he said, he was between contracts with Thrasher and so considered himself "a free agent."

State records, however, show MacNamara continued to be paid and work for Thrasher during at least part of the time he worked for the cement company.

He also acknowledged in an interview that he continued executing duties as Thrasher's chief of staff the rest of the time he worked for Suwannee, adding that in that period he worked without state pay.

MacNamara, who also continues to hold a tenured law faculty position with Florida State University, defended the arrangement.

"I have not done anything illegal, unethical or improper" he said. "It may be unusual."

He declined to disclose how much the cement company paid him. He said he was hired to file legal briefs and acknowledges taking part in Suwannee's permit negotiations with the state Department of Environmental Protection.

The negotiations resulted in the state's unexpectedly reversing a decision denying Suwannee's request to build the cement plant.

Thrasher declined repeated requests for comment. His spokeswoman, Katie Baur, said the speaker has "full faith and confidence" in MacNamara.

A lobbyist for the Florida chapter of the Sierra Club and other environmental interests, Susie Caplowe, questioned MacNamara's moonlighting. She said the arrangement could be considered "an abuse of

power.” She added, “I wonder if he got the job because he was Thrasher’s heavy hitter?”

Two groups, the Sierra Club and Save Our Suwannee, challenged the state decision, claiming the plant will contaminate the Ichetucknee and two other rivers in the area with mercury.

An administrative law judge last week said the company should limit its mercury emissions, but he ruled the DEP still could issue a permit for the plant to be built.

An attorney for the groups, Patrice Boyes, said she was outraged Friday to learn Thrasher’s top aide simultaneously worked for the cement company. “That is unbelievable,” she said.

“I think MacNamara, given his position in the House, would have had access to anyone, ... and they would have paid attention given his position,” she said.

THE EXECUTIVE DIRECTOR of the Florida Commission on Ethics, Bonnie Williams, said MacNamara’s dual roles could be a conflict of interests. “Potentially, that’s an issue,” she said. “But it would require closer examination.”

The commission will only review the matter if a formal written complaint is filed.

The DEP’s about-face on the cement-plant permit in November came as a shock to many. Just five months earlier, Gov. Jeb Bush and DEP Secretary David Struhs had announced the denial of the company’s initial permit as they canoed the pristine river near the site of the proposed plant.

Boyes and others complained at the time of the reversal that the negotiations were closed to opponents of the plant. “The whole thing was hatched in secrecy,” Boyes said.

The negotiations led to a sweeping settlement in which the DEP granted Suwannee’s parent company, Anderson Columbia, eight additional permits around the state it had previously denied, in addition to the cement plant.

The department also waived its right to pursue other pending enforcement actions and wiped out more than \$100,000 in penalties it already had assessed against Anderson Columbia.

In exchange for the cement- plant permit, Anderson Columbia agreed to sell the state a limerock mine that was threatening to pollute the Ichetucknee River.

W. Robert Vezina, the Suwannee lawyer who hired MacNamara, said the speaker’s chief of staff “came on board almost contemporaneously with the permit denial” in June, 1999. “Steve was on board right away.”

Vezina declined to say how he came to hire MacNamara, explaining that he did not want to disclose the strategy of “how we approached the case or how the team was assembled.”

MacNamara’s role, he said, was to do “what we all did, to advance Suwannee American’s interests and get the case resolved. ... The bulk of what he did was in the initial months.”

DEP secretary Struhs and agency attorney Jack Chisolm, did not return telephone calls regarding MacNamara’s involvement in the Suwannee negotiations.

Reached at home Friday, Chisolm declined to discuss the negotiations.

BOD: MACNAMARA’S POSITION as a contractor is not unique in state government, although officials say they cannot remember another chief of staff hired under such an arrangement.

A handful of such contractors work in high-echelon jobs in the Legislature; most are attorneys.

Thrasher has two attorneys on contract as policy advisers in addition to MacNamara - Jason Unger, an attorney whose wife works for Bush, and Mark Kaplan, a self-employed Tallahassee lawyer. Stephen Kahn, who works full time as the Senate’s general counsel, also is on contract.

MacNamara began working for Thrasher in January 1999 as a policy adviser with a five-month contract ending May 31. He said he officially became Thrasher’s chief of staff in early June and his contract was extended through the month. Records show he continued to submit invoices totaling \$6,375 for work through July. He was paid \$127,500 over the six-month contract.

MacNamara said he was hired to do legal work for Suwannee about the third week of June and remained on retainer with the company through mid-December.

Bush and the Cabinet voted to accept the cement plant deal in January.

Even though he had no official contract with Thrasher, MacNamara said, he continued throughout that entire period to act as the speaker’s chief of

staff, signing off on House expenditures and other paperwork.

MacNamara signed a new five-month contract on July 8, 1999, while working for Suwannee, agreeing to return in January as Thrasher's chief of staff for \$127,500.

For the 11 months covered by the two contracts, MacNamara earned \$255,000. That's \$137,760 more than the governor's annual salary.

"I don't see a problem with this," MacNamara said of his acting as Thrasher's "authorized agent" during the time he was without a state contract and working for the cement plant.

An authorized agent need not even be a real person, MacNamara added: "It could be a Muppet."

Jay Starling, the director of Legislative Services, said questions were "asked internally" about MacNamara's acting as Thrasher's proxy without a contract. "No one had the answer," he said.