*Office of*
**INDIAN RIVER COUNTY ATTORNEY**

Jennifer W. Shuler County Attorney
Susan J. Prado, Deputy County Attorney
Christopher A. Hicks, Assistant County Attorney

**MEMORANDUM**

**TO:** Board of County Commissioners

**THROUGH:** John Titkanich, Jr., County Administrator

**FROM:** Christopher A. Hicks, Assistant County Attorney

**DATE:** December 4, 2024

**SUBJECT:** Biosolids Moratorium Extension Ordinance - LEGISLATIVE

**BACKGROUND.**

Class B biosolids are solid, semi-solid, or liquid materials resulting from the treatment of domestic sewage sludge from sewage treatment facilities. Class B biosolids contain phosphorus and nitrogen, which promote algae blooms in surrounding estuaries and watersheds. Class B biosolids were being land applied in Indian River County, on properties near waterbodies such as Blue Cypress Lake. Blue Cypress Lake is the first lake along the St. Johns River and is classified by the Florida Department of Environmental Protection as a Class I surface water with a designated use for potable water supplies. There is evidence of significant increases in phosphorus and nitrogen and incidences of harmful and potentially toxic algae blooms in Blue Cypress Lake. There appears to be a correlation between the increases of nutrients in Blue Cypress Lake and the land application of biosolids.

It is important to note that per Florida Statute, the land application of Class B biosolids has been restricted in neighboring counties and ecosystems to the south, such as the St. Lucie River watershed and the Lake Okeechobee watershed, leaving Blue Cypress Lake and the St. Johns River watershed as a cheap alternative for the disposal and land application of Class B biosolids generated in South Florida.

On July 17, 2018, the Indian River County Board of County Commissioners (the "Board") approved an ordinance establishing a 180-day temporary moratorium on all properties within the unincorporated areas of Indian River County involved in land application of Class B biosolids, except where determined to be inconsistent with or preempted by state law or regulation. Additionally, the moratorium is imposed upon the transportation of Class B biosolids for land application within Indian River County, except where determined to be inconsistent with or preempted by state law or regulation. The moratorium on

transportation does not apply to currently approved septage/grease haulers as well as Indian River County contracted haulers of domestic wastewater sludge for treatment at the Indian River County Residual Dewatering Facility and disposal at the Indian River County landfill. Finally, under the ordinance, the County Administrator is directed to coordinate with the Florida Department of Environmental Protection and study in depth and report his findings of and any recommendations concerning Class B biosolids land application activities and its potential adverse effect.

The Board subsequently has approved a continuation of the moratorium every year since. The current moratorium expires on January 1, 2025.

Florida Statute 403.0855 states that "[a] municipality or county may enforce or extend a local ordinance, regulation, resolution, rule, moratorium, or policy, any of which was adopted before November 1, 2019, relating to the land application of Class A or Class B biosolids until the ordinance, regulation, resolution, rule, moratorium, or policy is repealed by the municipality or county." Thus, the County Attorney's Office is presenting to the Board another moratorium ordinance consistent with Florida Statute 403.0855, which will extend the moratorium to January 1, 2026.

**FUNDING.**

The cost of publication of the required public notice for the public hearing was $156.84. The cost will be funded from the County Attorney's Office budget within the General Fund/County Attorney/Legal Ads; Account No. 00110214-034910.

| Account Description | Account Number | Amount |
|---|---|---|
| General Fund/County Attorney/Legal Ads | 00110214-034910 | $156.84 |

**RECOMMENDATION.**

The County Attorney's Office recommends that after the public hearing the Board vote to approve the ordinance.

**ATTACHMENT(S).**

Biosolids Moratorium Ordinance
Business Impact Statement