

FECA Florida Legislative Report

May 4, 2014

The Legislature has wrapped up and now we shift our focus to the Governor's office. We were successful in minimizing the changes you must make to implement Commissioner Putnam's sales and gross receipts tax swap in HB 5601, and Mike successfully orchestrated a last minute amendment to save the tax credit provisions in HB 7023. The GHG resolution to Congress passed and is attached. Two bills passed that would make it safer for our employees when they work near roads, and HB 641 passed which would create new felony crimes for accessing or tampering with a utility's computer system. SB 218 also passed, which would require local governments to pay for relocations in certain circumstances. Unfortunately the metal theft bills died. HB 7069 also died, which would have required large child care homes to be served on residential rates. The bill details are below.

The bills that are of concern to co-ops are listed below. More information on each bill can be found by visiting either www.myfloridahouse.gov or www.flsenate.gov.

BILLS THAT HAVE BECOME LAW

Motor Vehicle Registration Fees – SB 156 by Sen. Negron (HB 7123 by F & T) reduces some of the registration fees and license taxes on motor vehicles. The license taxes on trucks weighing less than 2,000 pounds is reduced \$5; on trucks weighing between 2,000 and 3,000 pounds the tax is reduced \$8 and; on trucks weighing over 3,000 pounds the tax is reduced \$11.50. The new rates go into effect September 1, 2014.

BILLS THAT PASSED

Sales Tax Refund - HB 7023 by Rep. Hutson would allow qualifying new businesses in designated rural areas to apply for refunds of up to 50% of the sales tax paid on electricity. The bill caps the amount paid for eligible refunds at \$600,000. The appropriated funds should go farther than originally anticipated due to the sales tax on electricity being reduced in HB 5601.

GHG Regulation - SB 1174 by Sen. Gibson (HB 1027 by Rep. Wood) is a Memorial that urges Congress to direct the U.S. Environmental Protection Agency (EPA) to consider the remaining economic life of fossil fuel power plants and other factors when promulgating the rule to regulate greenhouse gas emissions from existing plants. The Memorial also urges Congress to direct EPA to allow states to implement less stringent standards or longer compliance periods, and to give states maximum flexibility on implementing the proposed rule.

Utility Relocations - SB 218 by Sen. Grimsley (HB 345 by Rep. Beshears) would require FDOT and local governmental authorities to pay all or part of the cost of relocating utility lines in certain situations, including when a utility's facilities were installed as a means to serve the governmental authority and if a relocation of utility facilities is needed because of a commuter rail service project. In addition, a utility would be able to certify that it does not have evidence to either prove or disprove that it has a compensable property right when assessing who should bear the cost of relocation. The bill also would allow FDOT to pay for the relocation of municipal or county owned utility facilities on public roads in counties designated as rural areas of economic concern (RACEC).

Cyber Security - HB 641 by Rep. La Rosa (SB 364 by Sen. Brandes) would create a third-degree felony for anyone who knowingly, willingly and without authorization gains access to a public utility's computer systems. Further, the bill would create a second-degree felony for a perpetrator who, after gaining access, tampers with the computer system either by physical or electronic means.

Sales and Gross Receipt Taxes - HB 5601 by Rep. Workman would reduce the current sales tax on electricity from 7% to 4.35% and create a new 2.6% gross receipts tax on electricity that operates exactly like the sales and use tax. The effect of these changes would be a .05% tax reduction on sales of electricity to commercial accounts (sales to residential accounts are exempt from the sales tax and the new gross receipts tax). It also would create sales tax holidays for energy-efficient appliances (Sept. 21-23) and hurricane preparedness supplies (May 31 – June 8) worth \$750 or less.

Move Over Act - HB 7005 (SB 478 by Sen. Evers, HB 469 by Rep. Raschein) would require drivers to either move over or slow down to a certain speed when utility vehicles are working along roadsides. Therefore, utility vehicles would be entitled to the same protection as law enforcement vehicles. The penalty would be a noncriminal infraction.

New Crime for leaving the scene after injuring a utility employee - SB 102 by Sen. Diaz de la Portilla (HB 183 by Rep. Nelson) would create a second-degree felony for a driver who leaves the scene of an accident that causes an injury to utility personnel and others working on facilities along the road. The bill would create a first-degree felony for a driver who leaves the scene of an accident resulting in the death of utility personnel (and others) working on facilities along the roadside.

Energy Policy Revisions - HB 7147 by Rep. Diaz (SB 1044 by Sen. Simpson) would revise the energy resources statute. The bill would replace the word solar with “renewable energy source” throughout the chapter. This would require DACS to promote all renewables instead of just solar. Additionally, the bill would remove the requirement that the Florida Solar Energy Center set standards for all solar systems manufactured or sold in Florida. Lastly, the bill would delete language relating to expired programs such as the PV solar rebates.

Convening Session - HB 9 by Rep. Nunez (SB 72 by Sen. Flores) would change the starting date of Florida’s regular legislative session in 2016 to January 12, 2016.

Water & Wastewater Utilities - SB 272 by Senator Simpson (HB 1321 by Rep. Murphy) would authorize the PSC to revoke a water/wastewater utility’s certificate of authorization if a petition is filed that is signed by at least 65% of the utility’s customers. The bill also would add secondary water standards to the criteria the PSC must consider when setting rates for water/wastewater services.

BILLS THAT DIED

Utility Rates for Large Child Care Homes - SB 1702 by Sen. Legg and HB 7069 (formerly EDC 14-01) by Rep. O’Toole would have added “large family day care

homes” to the law that dictates utilities must bill “family day care homes” on a residential rate, even though these homes clearly have a commercial activity.

Vero Beach Survey Bill – HB 1287 by Rep. Mayfield would have required the Town of Indian River Shores (Indian River) and Indian River County (County) to survey each electric customer of Vero Beach regarding their preferred electric provider (i.e., Vero Beach or FPL). If a majority of the responding surveys had selected FP&L, Indian River or the County could have remitted the results to the PSC which would be considered a motion by the PSC to initiate a territorial dispute proceeding.

Vero Beach Regulation Bill - HB 1289 by Rep. Mayfield would have required full rate regulation by the PSC over customers of Vero Beach who reside outside the municipal boundaries.

Independent Board for the Gainesville Regional Utility - HB 1369 by Rep. Perry would have required Gainesville Regional Utility (GRU) to conduct a proxy vote of all account holders to decide whether an independent utility authority should be created to manage and operate GRU.

Ad Valorem Exemptions - SJR 916/SB 922 by Sen. Brandes and HJR 825/HB 827 by Rep. La Rosa would have prohibited the taxation of improvements to real property if the improvements are a renewable energy device.

Sales and Gross Receipt Taxes - HB 899 by Rep. Hill and SB 1076 by Sen. Flores would have eliminated the 7% sales tax imposed on commercial accounts and raise the gross receipts tax by 3.5%, over three years starting in 2015. An amended version of these bills was included in HB 5601.

Sales Tax Refund - SB 1116 by Sen. Grimsley and HB 611 by Rep. Beshears would have allowed qualifying new businesses in designated rural areas to apply for refunds of up to 50% of the sales tax paid on electricity. An amended version of these bills was included in HB 5601.

Assault or Battery on Utility Workers - SB 100 by Sen. Soto would have increased the criminal penalties for committing assault or battery on a utility worker.

Commissioner of Energy - HJR 1175 by Rep. Rehwinkle-Vasilinda was a proposed Constitutional amendment that would have created the Commissioner of Energy, a statewide elected position and an additional Cabinet position

Workers' Compensation – SB 1580 by Sen. Hays and HB 1351 by Rep. Stone would have changed the basis for determining the maximum reimbursement allowances for inpatient hospital care, from a schedule of per diem rates to 140% of the Medicare inpatient prospective payment system. In addition, the basis for determining all compensable charges for hospital outpatient care would be changed from 75% of usual and customary charges, to 140% of the Medicare inpatient prospective payment system.

Southern States Energy Board (SSEB) - HB 4007 by Rep. Jose Diaz would have removed the Dept. of Agriculture and Consumer Services' responsibility to represent Florida on the SSEB.

Cost Recovery for Nuclear/IGCC Power Plants - SB 1408 by Sen. Thompson and HB 4001 by Rep. Rehwinkle-Vasilinda would have repealed the pre-completion cost recovery clause that is available to IOUs to finance construction of nuclear and IGCC facilities.

Tangible Personal Property - SB 818 by Sen. Margolis and HB 217 by Rep. Rehwinkle-Vasilinda would have allowed counties to impose a discretionary sales surtax on the entire sale of tangible personal property. Currently, there is a \$5,000 cap on which the surtax can apply. This bill would remove the cap on electricity sales and everything else except sales involving a motor vehicle, aircraft, boat, manufactured home, modular home, or mobile home.

Energy Efficient Appliances - SB 740 by Sen. Sobel and HB 769 by Rep. Rehwinkle-Vasilinda would have created a sales tax exemption during October on purchases of up to \$1,500 on energy efficient appliances for residential purposes. Similar language was included in HB 5601.

Ratepayer Representation Act/Water/Wastewater - SB 1248 by Sen. Latvala and HB 813 by Rep. Mayfield would have allowed a water and sewer ratepayer in an unincorporated area of a county to petition the PSC (or the county if the municipality is located in a county that has elected to regulate water/sewer utilities)

for a review of the rates, fees or charges being imposed by the municipality. The PSC or regulating county must accept the petition and determine whether the rates are just and equitable. Any water and sewer utility rates, fees, charges and surcharges imposed by a municipality on customers outside of the city's boundaries would be limited (cannot exceed 25% of the rates and fees of ratepayers within the city limits) and would need to be approved by the PSC.

Elected PSC - SB 964 by Sen. Legg would have carved Florida into five districts and require that each Commissioner represent a district. The bill also would have imposed term limits of eight years on the Commissioners.

Federal Funding of Nuclear Plants - HB 1423 by Rep. Rehwinkle-Vasilinda was a House Memorial urging Congress to stop funding the federal loan guarantee program for new nuclear plants and to rescind any remaining funds in the program. Additionally, the Memorial would have urged Congress to eliminate funding for mixed oxide plutonium fuel plants; to support energy efficiency and renewable sources of energy; to increase funding for environmental cleanup programs; and to fund nuclear waste immobilization. The Memorial also would have urged the U.S. Dept. of Energy to comply with all cleanup and legacy management agreements.

Electromagnetic Pulse/Geomagnetic Storms - SB 1454 by Sen. Thompson was a Resolution to encourage awareness of the potential threats to the electric grid from electromagnetic pulses (EMP) or geomagnetic storms. HB 1343 by Rep. Rehwinkle-Vasilinda was a Memorial to urge Congress to direct the U.S. Dept. of Homeland Security to prepare, protect, and establish plans to recover from EMPs and geomagnetic storms.

Economic Opportunities for Minority Businesses – SB 636 by Sen. Braynon would have enhanced economic opportunities for minority and female owned businesses by encouraging regulated utilities to purchase from these types of businesses. Further, the bill would have required the PSC to provide guidelines to assist regulated utilities in developing such a program, and would have required each regulated utility to annually submit a plan to the PSC for increasing procurements from minority businesses. Electric cooperatives and other non-regulated utilities would not be required to submit a procurement plan but would be encouraged to voluntarily adopt such a plan.

PSC Regulation of Certain Municipal Electric Utilities - SB 1294 by Altman and HB 861 by Rep. Mayfield would have expanded the definition of public utility to include municipal electric utilities that purchases power from the Florida Municipal Power Agency, and subject those utilities to the PSC's full regulation. The bill would not have directly affected electric co-ops.

Retail Wheeling for Renewable Generators - SJR 1374 by Sen. Thompson and HJR 695 by Rep. Dudley was a proposed Constitutional amendment that would have exempted renewable energy systems from the definition of public utility. These generators would not be regulated by the PSC and could sell electricity to existing utility customers.

Power Plant Cost Recovery - SJR 1392 by Sen. Thompson and HJR 693 by Rep. Dudley was a proposed Constitutional amendment that would prohibit electric utilities, including cooperatives, from collecting the cost of new power plants before the plant begins commercial operation.

Utility Projects - SB 910 by Senator Legg and HB 1107 by Rep. Wood would have allowed "publicly owned utilities" who provide water, wastewater, electric, or stormwater services to finance the costs of utility projects using the proceeds of utility cost containment bonds. As defined in this proposal, a "publicly owned utility" must already be owned and operated by a local governmental entity.

Low-interest loans to IOU water utilities - SB 1050 by Sen. Hays and HB 357 by Rep. Santiago would have expanded the availability of low-interest loans to IOU water utilities. In addition, the bill would have provided a sales tax exemption for sales or leases to IOU water utilities. The bill would have authorized the PSC to create an individual IOU reserve fund to be used for projects identified by the IOU's capital improvement plan and prohibits the recovery of certain rate case expenses.

Aquatic Preserves – SB 1094 by Sen. Dean and HB 1123 by Rep. Porter would have created a Nature Coast Aquatic Preserve in designated areas of Pasco, Hernando, and Citrus counties. Only minimum dredging and spoiling of submerged lands would be authorized for preservation, and drilling wells would be prohibited in most cases. These new regulations appear to be additional restrictions to the Power Plant Siting Act.

Secondary Metal Recyclers - SB 1182 by Sen. Brandes and HB 771 by Rep. Combee would have transferred oversight of the secondary metal recycler's law from the Dept. of Revenue to the Dept. of Agriculture and Consumer Services; given law enforcement officials additional tools to investigate recyclers; prohibited secondary metal recyclers from disposing of property for a specified period if notified by law enforcement that the property is being investigated; prohibited purchases of regulated metals on Sundays. In addition, a recycler would have been charged with a second-degree felony if they received money for restricted regulated metals.

Underground Facilities/Sunshine State One-Call (SSOC) - SB 288 by Sen. Richter and HB 213 by Rep. Santiago would have required members with state-owned underground facilities in state highway ROWs to be notified of excavations. Additionally, the bill would have allowed underground facility owners to declare all or parts of their system as high-priority. The bill would have expanded the definition of pre-mark to include electronic marking or other industry-approved methods. Finally, the bill would have created a noncriminal infraction for failure to notify facility owners of excavations using hand tools.

GHG Performance Standards – SB 1464 by Sen. Simpson and HB 703 by Rep. Patronis originally included provisions that would address EPA's proposed rule to regulate emissions from existing coal-fired power plants. Similar language was enacted in SB 1174.

Transportation Procurement - SB 1290 by Sen. Altman and HB 973 by Rep. Wood would have required state agencies to consider certain criteria for the procurement of transportation services for potential vendors, including using alternative transportation fuels.