

FECA's Florida Legislative Report

October 26, 2015

It may seem a bit early for our first Florida report but the 2016 session starts earlier than normal. We already have had two weeks of committee meetings and the session begins on January 12. Fortunately we have not yet seen any bills that give us heartburn, but we are still early in the bill filing process. The House's utility committee heard presentations from DEP and the PSC on EPA's Clean Power Plan last week, and the presenters and the committee members seemed to understand the gravity of the situation. Here are the bills we are tracking at this time:

Priority Bills

Drone User Liability - SB 642 by Sen. Diaz de al Portilla (R) would make an owner and an operator jointly liable for damages arising out of drone use. In addition, the bill would make the manufacturer, distributor, owner, and operator jointly liable for damages arising from drone use caused by product defects.

Utilities Relocation – SB 416 by Sen. Flores would require certain authorities to pay to relocate utility facilities when they are lawfully located in a platted utility easement (addresses the LCEC case). The bill also clarifies that FDOT and local government entities that have jurisdiction and control of public roads are authorized to prescribe and enforce reasonable rules on utilities with facilities placed across, on, or within the ROW- but not along or beside the ROW. SB 416 passed out of its first committee.

Secondary Metal Recyclers - HB 407 by Rep. Broxson (R) would allow sheriffs and police chiefs to designate an agent to act on their behalf. This change would address law enforcement agencies use of third party vendors.

Contaminated Sites - SB 92 by Sen. Evers (R) and HB 351 by Rep. Drake (R) would require DEP to include protocols for the use of long-term natural attenuation where site conditions warrant. "Long-term natural attenuation" means natural attenuation approved by DEP as a site rehabilitation program task instead of expensive active remediation. SB 92 passed out of its second committee.

Other Bills of Interest

Water - SB 552 by Sen. Dean (R) and HB 7005 by the State Affairs Committee and Rep. Caldwell (R) would revise policies relating to Florida's environmental resources. The legislation would require a water management district (WMD) to help large water users, such as an electric utility, find the necessary water for new projects within the WMD or from the regional water supply. The proposed process would make it more difficult to deny a water use permit for new generation that is not located within certain regions of the state. SAC 16-01 passed out of its first committee.

Constitutional Amendment to Exempt Renewable Energy Devices from Ad Valorem and Tangible Personal Property Taxes - SJR 170 and SB 172 by Sen. Brandes (R) and HJR 193 and HB 195 by Rep. Rodriguez (R). SJR 170/HJR 193 are resolutions to propose a constitutional amendment that would allow the Legislature to exempt from ad valorem taxation any improvements to commercial real property if the improvements are a renewable energy device and related tangible personal property. The amendments would only apply to work that begins on or after January 1, 2017. Presently the Constitution only allows an exemption for renewable device improvements to residential real property. If the resolution passes out of the Legislature, it would appear on the November general election ballot in 2016 for voter approval. SB 172/HB 195 would implement the Constitutional amendment if it is approved by the voters. Additionally, SJR 170/SB 172 provides a sunset date of December 31, 2036.

Utility Workers - SB 332 by Sen. Altman (R) and HB 253 by Rep. Passidomo would protect "vulnerable users" of public rights-of-ways, including persons working on utility facilities along roadways. The bill would require motorists to maintain at least 3 feet of space between the vulnerable user and the vehicle when passing. Violations would be non-criminal infractions and be in addition to the move over restrictions enacted 2014.

Texting While Driving - SB 328 by Sen. Altman (R), SB 246 by Sen. Sachs (D) and HB 25 by Rep. Stark (D) are bills relating to texting while driving. SB 328 would change violations relating to texting while driving from a secondary to a primary offense. SB 246 and HB 25 would double the fines for texting while driving in an active school zone. Additionally, the legislation would increase the

penalties for subsequent offenses in active school zones within a five-year period, regardless of where the prior offenses occurred.

Regulation of Oil and Gas Resources - SB 318 by Sen. Richter (R) and HB 191 by Rep. Rodrigues (R) would: define “high-pressure well stimulation” (fracking); preempt local government fracking ordinances; and give DEP broad authority to regulate the industry. DEP would conduct a study on fracking and submit its findings to the Governor and the Legislature by June 30, 2017. DEP also would adopt rules to implement the findings of the study and recommend legislation if it is needed to protect groundwater. The national chemical registry, FracFocus, would be designated as Florida’s registry for chemical disclosure for all fracking sites.

BILLS THAT ONLY APPLY TO IOUS

Cost Recovery for Nuclear/IGCC Power Plants - HB 395 by Rep. Murphy (D) would repeal the pre-completion cost recovery clause that is available to IOUs to finance construction of nuclear and IGCC power plants. The bill also would require the utility to refund any pre-completion funds to the ratepayers and would prevent the utility from charging the ratepayers to offset lost revenues.