

FECA's Florida Legislative Report

November 6, 2015

Another committee week is over. The easement bill passed out of another committee in the Senate, and the bills that would exempt commercial solar facilities from ad valorem taxes passed out of their first committee in the Senate. We have a few new bills that we will need to work on, and one bill that only affects FMPA but is still scary as would make the PSC regulate them as an IOU for everything except rates and service, and would give the OPC authority to participate in their proceedings.

New Bills

FMPA Regulation - HB 579 by Rep. Mayfield would add the Florida Municipal Power Agency (FMPA) to the definition of “public utility”, and the PSC would regulate the FMPA as a public utility (IOU) for everything except rates and service. In addition, FMPA would have to annually submit independently prepared financial statements for each generation asset to the PSC. The bill also would expand the duties of Public Counsel to initiate or participate in proceedings involving FMPA .

Self-Insurance Funds - HB 467 by Rep. Broxson (R) would raise the assessment cap the insurance guaranty association (FWICGA) could charge workers comp self-insurance funds from 1.5 to 2%. The bill would not affect FRESIF as long as the fund maintains the exemption obtained from legislation enacted in 2009.

Utility Worker Certification - SB 608 by Sen. Stargel (R) would require utility personnel and others that deliver essential items and services to obtain a certification from the Division of Emergency Management after a storm event. The bill is vague regarding how the law would work during storm recovery and how the certifications would apply to personnel coming in from out of state to aid in recovery. Staff is working with the stakeholders to remove the electric utility certification requirement from the bill due to its ambiguity.

Open Carry of Firearms - SB 300 by Sen. Gaetz and HB 163 by Rep. Gaetz would allow persons that hold concealed weapons permits to carry firearms openly as well. The bill would not expand who could carry or where firearms could be carried. Both bills have passed out of their first committee.

Priority Bills

Drone User Liability - SB 642 by Sen. Diaz de al Portilla (R) and HB 459 by Rep. Fitzenhagen (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 (R) and HB 461 by Rep. Ingram (R) 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 second 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. SB 552 and HB 7005 passed out of their 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. SJR 170 and SB 172 passed out of their first committee.

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. HB 253 passed of its first committee.

Texting While Driving - SB 328 by Sen. Altman (R) HB 537 by Rep. Perry (R), SB 246 by Sen. Sachs (D) and HB 25 by Rep. Stark (D) are bills relating to texting while driving. SB 328 and HB 537 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. HB 191 passed out of its first committee.

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.