

## **FECA's Florida Legislative Report**

### **March 7, 2016**

We are counting down the days, and soon will start counting the hours until this session ends. Two bills were added to the “dead” list, the FMPA and fracking bills. Two other bills were substantially amended. The Building Codes bill (HB 535), was amended to only authorize (instead of requiring) the Florida Building Commission to adopt rules that permit the use of renewable devices in lieu of energy conservation. The resolutions for a constitutional amendment to exempt commercial solar from ad valorem taxes were amended to only apply to work that begins on or after January 1, 2018 and would expire on December 31, 2037. Additionally, the language is now permissive and would require legislative action for implementation, and it would appear on the August ballot instead of the November ballot.

The oral argument on the Smart Solar constitutional amendment has concluded and we feel pretty good about our chances. The Court is supposed to rule by April 1, but we will move forward on the assumption that it will be on the ballot.

### **Bills Signed into Law**

Water - SB 552 revises policies relating to Florida's environmental resources. The law requires 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, and makes it more difficult to deny a water use permit for new generation that is not located within certain regions of the state.

### **Bills Heading to the Governor**

Utilities Relocation – SB 416 by Sen. Flores (R) (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 governments that have jurisdiction and control of public roads are authorized to prescribe and enforce reasonable rules on utility facilities placed across, on, or within the ROW- but not along or beside the ROW.

Public Records/Utility Agencies Information Technology Security – HB 1025 by Rep. Antone (D) (SB 776 by Sen. Bradley (R)) would exempt from the public records law information related to security of technology for municipal electric utilities.

### **Priority Bills that are Moving**

Contaminated Sites - SB 100 by Sen. Simpson, 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. HB 351 was picked up by the Senate and passed out with an amendment. The amendment does not affect the overall scope of the bill, but now HB 351 must go back to the House for final passage. Additionally, SB 100 was amended and now includes the language from SB 92/HB 351. SB 100 passed out of the House and now must return to the Senate.

Self-Insurance Funds - SB 828 by Sen. Bean (R) and 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. SB 828 is ready for final passage in the House.

Utility Worker Certification - SB 608 by Sen. Stargel (R) and HB 775 by Rep. Ingram (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. The requirement for electric utility certification requirement has been removed from the Senate version and we expect to have the provision removed from the House bill. SB 608 passed out of its second committee and HB 775 is ready for the floor.

Move Over Law - SB 1394 by Sen. Brandes (R) would require drivers to vacate the closest travel lane (or reduce speed to 20 mph below the posted speed limit if a lane is not available) if a utility service vehicle displaying any “visual signals” is performing a task related utility services on the roadside. The term seems to be very broad and could mean signals such as marker lights or flashing blinkers. SB 1394 is ready for final passage in the Senate.

Emergency Management - SB 1262 by Senator Simpson (R) and HB 1133 by Rep. Young (R) would create the Facilitating Business Rapid Response to State Declared Disasters Act, which would allow certain entities to enter into mutual aid agreements with out-of-state infrastructure companies in order to rapidly deploy resources and personnel during an emergency without being hindered or delayed by regulatory and tax requirements. The bills would allow IOUs, electric cooperatives and municipal electric utilities to enter into these mutual aid agreements. HB 1133 is ready for final passage in the Senate.

Building Codes – SB 704 by Community Affairs and Sen. Hutson (R) and HB 535 by Rep. Eagle (R) would change the building codes to allow builders to substitute solar panels for energy conservation measures such as insulation. HB 535 was amended to authorize (instead of requiring) the Florida Building Commission to adopt rules that permit the use of renewable devices in lieu of energy conservation. SB 704 is ready for the floor and HB 535 passed out of the House.

### **Other Bills of Interest**

Environmental Control - SB 1052 by Sen. Hays (R) and HB 589 by Rep. Pigman (R) would prohibit water management districts from modifying or reducing consumptive use permit allocations under certain circumstances. Water management districts would be required to adopt rules on water conservation incentives. The bill also directs DEP to adopt classifications to protect surface waters used for treated potable water supply and establish rules concerning use of surface waters for the public water supply. SB 1052 is ready for the floor and HB 589 passed out of the House.

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 resolutions were amended to only apply to work that begins on or after January 1, 2018 and to expire on December 31, 2037. Additionally, the amendment makes the resolutions' language permissive and would require legislative action for implementation. Presently, the Constitution only allows an exemption for renewable device improvements to residential real property. SB 172 and HB 195 were amended and now if SJR 170/HJR 193 passes the legislature, it would appear on the August primary ballot instead of the November ballot. . All four bills are on the floor of their respective chambers.

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. SB 332 and HB 253 are ready for the floor.

Airport Zoning - SB 756 by Sen. Brandes (R), SB 1508 by Sen. Simpson (R), and HB 7061 by the Transportation and Ports Subcommittee and Rep. Santiago (R) and, HB 1379 by Rep. Miller (R) would add “power generation equipment” as a defined structure and would not require a new DOT permit for changes to existing equipment as long as the height and location remain unchanged and the equipment received construction permits from the FCC prior to May 20, 1975. SB 756 and HB 1379 are ready for final passage. SB 1508 passed out of the Senate and HB 7061 passed out of the House.

Administrative Procedures Act - SB 1226 by Senator Ring (D) and HB 981 by Rep. Richardson (D) would allow interested parties involved in rulemaking to bolster the Statement of Estimated Regulatory Costs associated with the new or amended proposed rule by allowing parties to include any adverse impacts and regulatory costs that may occur within 5 years after the effective date of the proposed rule. SB 1226 is ready for the floor and HB 981 passed out of the House.

## **BILLS THAT ONLY APPLY TO IOUS**

Renewable Energy Tax Credit – HB 7099 by the Finance and Tax Committee and Rep. Gaetz (R) and SB 1272 by Sen. Hukill (R) would extend the \$.01 per kWh energy production tax credit indefinitely, allowing participants to offset a portion of the corporate income tax, for new renewable facilities and facilities that increase the investment by 50%. The current credit cap of \$10,000,000 would be raised to \$15,000,000. The bill would also allow unused funds to rollover to the next fiscal year. HB 7099 was amended to remove the renewable production tax credit and to create an ad valorem tax exemption for Data Centers. HB 7099 was substantively amended and is ready for the Senate floor. SB 1272 passed out of its second committee.

## **BILLS THAT ONLY APPLY TO MUNIS**

Gainesville Regional Utilities Authority – HB 1355 by Rep. Perry (R) is a local bill that would amend the City of Gainesville’s charter, creating a regional independent utilities authority called the Gainesville Regional Utilities Authority (GRUA). GRUA would be governed by an independent commission of 5 members appointed by the city commission. The purpose of GRUA would be to acquire, construct, and operate utilities including the following utilities: electric, water, wastewater, reuse water, natural gas, and communications. Further, the bill would provide general provisions for the operation and management of GRUA and its corporate structure. The bill was amended to remove the provision that would allow the bill to supersede local ordinances. If the bill passes, Article VII would take effect by referendum only if it is approved by a majority of voters in Gainesville. HB 1355 passed out of the House and is heading to the Senate.

## **Bills That Appear to be Dead**

FMPA Regulation - SB 840 by Sen. Simpson (R) and HB 579 by Rep. Mayfield (R) 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.

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.

3<sup>rd</sup> Party Retail Sales - SB 1328 by Sen. Altman (R) and HB 687 by Rep. Costello (R) would allow local renewable energy suppliers (LRES) to install renewable generators, up to 2 MW, and to sell the power to others that are located within the same parcel, or on property contiguous to, where the renewable generator is located. LRESs would not be regulated by the PSC.

Clean Power Plan (CPP) - SB 838 by Sen. Evers (R) and HB 639 by Rep. Manny Diaz (R) would not allow state agencies to issue state implementation plans or to request a two-year extension to implement the CPP except under certain circumstances.

Drone User Liability - SB 642 by Sen. Diaz de al Portilla (R) and HB 459 by Rep. Fitzenhagen (R). HB 459 would make an owner and an operator jointly liable for damages arising out of drone use.

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.

Cost Recovery for Nuclear/IGCC Power Plants - HB 4057 by Rep. Rehwinkle-Vasilinda (D) and 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.

Open Carry of Firearms - SB 300 by Sen. Gaetz (R) and HB 163 by Rep. Gaetz (R) would allow persons that hold concealed weapons permits to carry firearms openly as well.

Electromagnetic Pulse/Geomagnetic Storms - HB 1419 by Rep. Rehwinkle-Vasilinda (D) is a Memorial that would urge Congress to direct the U.S. Dept. of Homeland Security to prepare for EMPs and geomagnetic storms.

Secondary Metal Recyclers - HB 407 by Rep. Broxson (R) would allow sheriffs and police chiefs to designate an agent to act on their behalf.

Federal Funding of Nuclear Plants - SB 1706 by Sen. Sobel (D) and HB 1209 by Rep. Rehwinkle-Vasilinda (D) is a House Memorial that would urge Congress to stop funding the federal loan guarantee program for new nuclear plants and to rescind any remaining funds in the program.