

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

### **March 15, 2016**

The regular session ended with very little drama this year. There are rumors that the Governor may veto the budget, which would require a special session, but at this point these are only rumors. The final week was good for us, as we got all of the amendments we needed and the Governor signed the right-of-way bill into law. We do not expect the building code or the solar ad valorem tax bills to be vetoed, and we will plan to discuss the next step for these issues at FECA's April Board meeting.

#### **Bills Signed into Law**

Utilities Relocation – SB 416 by Sen. Flores (R) (HB 461 by Rep. Ingram (R)) requires 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.

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**

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.

Utility Worker Certification - SB 1288 by Sen. Richter (R) (SB 608 by Sen. Stargel (R) and HB 775 by Rep. Ingram (R)) was amended with the language that would require personnel that deliver essential items and services to obtain a certification from the Division of Emergency Management after a storm

event. The requirement for electric utilities to be certificated was removed from SB 1288 prior to final passage.

Self-Insurance Funds - SB 828 by Sen. Bean (R) (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.

Building Codes – HB 535 by Rep. Eagle (R) (SB 704 by Community Affairs and Sen. Hutson (R)) would authorize (instead of requiring) the Florida Building Commission to adopt rules that permit the use of renewable devices in lieu of energy conservation.

Environmental Control - HB 589 by Rep. Pigman (R) (SB 1052 by Sen. Hays (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.

Emergency Management - HB 1133 by Rep. Young (R) (SB 1262 by Senator Simpson (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.

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 provision that would allow the bill to supersede local

ordinances was removed. If the bill is approved by the Governor, Article VII would take effect by referendum only if it is approved by a majority of voters in Gainesville.

Constitutional Amendment to Exempt Renewable Energy Devices from Ad Valorem and Tangible Personal Property Taxes - HJR 193 and HB 195 by Rep. Rodriguez (R) (SJR 170 and SB 172 by Sen. Brandes (R)). HJR 193 is a resolution 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 resolution would only apply to work that begins on or after January 1, 2018 and to expire on December 31, 2037. Additionally, the resolution's language is permissive and would require legislative action for implementation. Presently, the Constitution only allows an exemption for renewable device improvements to residential real property. HB 195 was amended and now HJR 193 will appear on the August primary ballot instead of the November ballot.

Administrative Procedures Act - HB 981 by Rep. Richardson (D) (SB 1226 by Senator Ring (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.

Airport Zoning - SB 1508 by Sen. Simpson (R) and HB 7061 by Rep. Santiago (R) (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.

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.

Data Centers - HB 7099 by the Finance and Tax Committee and Rep. Gaetz (R) would create an ad valorem tax exemption for qualifying Data Centers, not to exceed 20 years.

Session dates for 2018 - SB 7076 by the Ethics and Elections Committee and Sen. Richter (R) (HB 7103 by the Government Operations Subcommittee and Rep.

Nunez (R)) would convene Florida's legislative session on January 9, 2018 instead beginning in March. The 2017 legislative session will convene on March 7, 2017.

### **Bills That Died**

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.

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.

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.

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.

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%.