

FECA Florida Legislative Report

April 19, 2013

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 Passed and are headed to the Governor

Electricity Theft - SB 338 by Sen. Simpson (HB 191 by Rep. Raulerson) would increase penalties for stealing electricity. Currently, the criminal penalty is a first-degree misdemeanor, regardless of the dollar value of the electricity that is stolen. The legislation would allow penalties that vary depending upon the value of the electricity that was stolen. Additionally, the legislation would increase the minimum award in a civil action against the thief from \$1,000 to \$3,000, which would mitigate the utility's time and cost of recovering its losses. SB 338 passed out of both chambers and is on its way to the Governor.

Priority Bills

Numeric Nutrient Criteria - SB 1808 (formerly 7034) by Sen. Dean and HB 7115 (formerly SAC2) by Rep. Crisafulli is legislation that allows Florida's DEP to amend its NNC rules to conform to the agreement that Florida reached with EPA on March 15. HB 7115 is ready for the House floor and SB 1808 was rolled over to third reading. These bills are on the fast track, but note that the DEP/EPA settlement agreement is still subject to challenge in the courts.

Total Maximum Daily Loads - SB 1806 (formerly 7036) by Sen. Dean and HB 7113 (formerly ANRS3) by Rep. Caldwell would allow total maximum daily load (TMDL) rules to be exempt from legislative ratification requirements. This exemption would significantly eliminate delays in the process of restoring water quality. These are companion bills to the NNC rule bills (1808 and 7115). HB 7113 is ready for the floor and SB 1806 was rolled over to third reading.

Coal Combustion Residuals (CCRs) - SB 682 by Sen. Simpson and HB 659 by Rep. Goodson would address a proposed rule by the U.S. Environmental Protection

Agency (EPA) that could regulate CCRs as hazardous waste. Currently, CCRs in Florida are recycled for use in cement, wallboard, materials for roads, and other uses, or stored in landfills. However, Florida law prohibits storage of hazardous material in landfills, and EPA's rule could require CCRs to be shipped out of Florida for storage costing Seminole more than \$100 million per year. Additionally, EPA's rule could prevent electric utilities from recycling CCRs. This bill would exempt CCRs from Florida's laws that prohibit the storage of hazardous waste in landfills, allowing CCRs to continue to be landfilled in Florida even if EPA adopts the rule. The bill also would make it easier to recycle CCRs if EPA does not adopt the rule, and hopefully would make it possible for electric utilities to continue recycling CCRs in Florida if EPA adopts the rule. SB 682 was amended to provide additional protections for bodies of water and was rolled over to third reading and HB 659 is ready for the floor.

Public-Private Partnerships – SB 84 by Sen. Diaz de la Portilla and HB 85 by Rep. Steube would encourage partnerships between public and private entities to develop and operate qualifying projects. A “qualifying project” would include projects that serve a public purpose, including power-generating facilities. By including power-generating facilities in the bill and allowing leasing, this bill may authorize retail competition for governments that lease all or a portion of a power plant. Both bills have been amended to remove the language that would authorize leasing of a power-generating facility (3rd party retail sales) in committee. HB 85 passed out of its second committee and SB 84 is scheduled to be heard in its last committee on Tuesday.

Priority Bills that appear to be dead

Regulation of Municipal Electric Utilities – SB 1620 by Sen. Garcia and HB 733 by Rep. Mayfield would attempt to regulate municipal utilities. HB 733 would provide that every municipality that sells electricity, gas, or water/wastewater outside of its incorporated limits is subject to full regulation by the Public Service Commission. SB 1620 would not allow a municipality to extend into unincorporated areas of a county without the consent of the county commissioners.

Retail Wheeling for Renewable Generators - SB 498 by Sen. Thompson and HB 309 by Rep. Rehwinkle-Vasilinda would exempt renewable energy systems of up to 5 MW from the definition of public utility. These generators would not be regulated by the PSC and could sell electricity to existing utility customers (it is silent as to whether they must be customers of the same utility) that are on property adjacent to, contiguous with, or located within a half mile of the generator. The bill is silent as to whether we can put these customers on a special rate to insure that the remaining customers do not subsidize the renewable generator's consumers. Additionally, the bill would require public utilities to purchase the renewable energy at the same rate they sell energy to ratepayers, instead of at avoided cost.

Other Bills of Interest

Ban Texting While Driving - SB 52 by Sen. Detert and HB 13 by Rep. Holder would ban typing messages on electronic devices while operating a vehicle. The bill would not prevent the safe usage of mobile or radio devices for verbal communication. The penalty would be a secondary offense meaning that law enforcement could not stop a motorist just for texting while driving. SB 74 by Sen. Sachs would make the violation a primary offense, meaning law enforcement could ticket a violator just for texting while driving. Additionally, HB 61 and SB 152 would ban the use of all mobile electronic devices for minors who are driving. SB 708 by Sen. Soto would elevate accidents causing deaths to vehicular homicide if the driver was texting while driving. SB 52 passed out of the Senate and HB 13 is ready for the floor.

Underground Natural Gas Storage - SB 958 by Sen. Richter and HB 1083 by Rep. Eagle would allow permitting of underground natural gas storage facilities. These facilities would inject natural gas more than 10,000 feet below ground. The bill would provide for expedited permitting of storage facilities but would require compliance with Florida's environmental and public safety laws. In addition, the bill would protect drinking water resources by prohibiting storage facilities in drinking water aquifers. SB 984 and HB 1085 would exempt from public records requirements, information relating to plans to establish an underground natural

gas storage facility. SB 958 is scheduled to be heard in its last committee on Monday and HB 1083 is ready for the floor. SB 984 is scheduled to be heard in its last committee on Monday, and HB 1085 is ready for the floor.

Adverse Possession – SB 1166 by Sen. Bradley and HB 903 by Rep. Davis would expand adverse possession claims to include an adverse possessor who controls the land through maintenance or improvements, without actually “occupying” the property. A person claiming adverse possession must provide certain information to the property appraiser, which would include a notarized attestation from the owner affirming that the property is known to be adversely possessed. HB 903 is ready for the floor and has been amended to remove the notarized attestation portion of the bill. SB 1166 passed out of its first committee and does require notarized attestation.

Cost Recovery for Nuclear/IGCC Power Plants - HB 7167 by Rep. Diaz and SB 1472 by Sen. Legg. HB 7167 would modify the mechanism for the recovery of costs for the siting, design, licensing and construction of nuclear and IGCC power plants. Additionally, the bill would allow the utility to recover approved costs until the plant begins commercial service or 12/31/25, whichever comes first. SB 1472 would modify the mechanism for the recovery of costs for the siting, design, licensing and construction of nuclear and IGCC power plants. In addition, a utility that elects not to complete construction of a nuclear power plant may not recover or earn a rate of return for such costs. The PSC would be required to submit a report to the Legislature by January 1, 2016 describing any action taken by each IOU to develop a nuclear power plant, including a utility’s good faith efforts to construct the plant and whether construction has begun. SB 1472 is scheduled to be heard on the Senate floor on Wednesday and HB 7167 is ready for floor action.

Campaign Finance Reform – HB 569 by Rep. Schenck and SB 1382 by Sen. Latvala would eliminate Committees of Continuous Existence (CCEs) and all associated reporting requirements. There are significant differences between the House and Senate bills, but both sides appear to be raising the contribution limits to \$3000 for statewide elections. In the present form the House s would increase the limit

to \$3,000 for all races, but the Senate would keep the current contribution limit of \$500 to candidates. HB 569 passed out of the House and SB 1382 is scheduled to be heard on the Senate floor on Wednesday.

Repeal of Renewable Gasoline Standard - SB 320 by Sen. Evers and HB 4001 by Rep. Gaetz would repeal the Florida Renewable Fuel Standard Act that was enacted in 2008 (HB 7135). The Act requires that all gas sold after 2010, with exceptions, must contain 9-10% fuel ethanol. HB 4001 passed out of the House and SB 320 was amended on the Senate floor to repeal the standard all together and to match the House bill.

Water Quality Trading Credits – HB 713 by Rep. Pigman and SB 754 by Sen. Grimsley would allow water quality trading programs to be established throughout Florida, building on a pilot program in the lower St. John River basin. The water quality credit trading would be a voluntary, market based approach to promote water protection and restoration. The trading would allow pollutant reductions to be environmentally valued in the form of credits, which could be traded on a local market. HB 713 and SB 754 are ready for floor action.

Establishment of TMDLs by DEP - SB 1864 (formerly 7154) by Sen. Dean and HB 7157 by Rep. Santiago would ratify rules that have been adopted by Florida's DEP and allow the rules to go into effect. The rules set total maximum daily loads (TMDLs) for specific impaired water bodies in Florida, but they are not connected to the NNC rules. HB 7157 is on the floor and SB 1864 is scheduled to be heard in its last committee on Monday.

Permit Streamlining - SB 1684 by Sen. Altman and HB 999 by Rep. Patronis would streamline permitting at the local and state level and reduce Title V fees. Additionally, the bill would require Dept. of Agriculture to establish a water supply planning program to address the future needs of agriculture. HB 999 is ready for the floor and SB 1684 is scheduled to be heard in its last committee on Monday.

Public Records – SB 714 by Sen. Simmons and HB 649 by Rep. Cummings would exempt from the public records laws any proprietary confidential business

information of a private or out-of-state entity that submits a bid for a utility project to a municipal electric utility. Utility projects include renewable energy and improving delivery or diversification of fuel. HB 649 passed out of the House and SB 714 is ready for the floor.

Workers' Compensation - SB 662 by Sen. Hays and HB 605 by Rep. Hudson would address a loophole in the workers' compensation system that allows physicians to dispense repackaged drugs and charge employers drug prices that greatly exceed the statutory reimbursement for the same medications dispensed by pharmacies. If the bill passes, it should reduce workers' compensation rates. SB 662 is scheduled to be heard in its last committee on Tuesday and HB 605 has passed out of its second committee.

Natural Gas for Vehicles - SB 560 by Sen. Simpson and HB 579 by Rep. Ray would establish standards for the distribution, sale, and taxation of natural gas that will essentially mirror regulations for diesel fuel. Currently, Florida law treats natural gas as an alternative fuel with a unique licensing structure and system of fees and taxes. Additionally, local governments would be allowed to use the local surtax to provide funding to installers of natural gas fueling stations. HB 579 passed out of the House. SB 560 was amended to match HB 579 and is ready for floor action.

Ad Valorem Exemptions - SB 1064 by Sen. Latvala and HB 277 by Rep. Rehwinkle-Vasilinda would implement a Constitutional amendment that passed in 2008, which prohibits the taxation of improvements to residential property if the improvements are a renewable energy device. The exemption for improvements that strengthen the property's resistance to wind damage has been deleted from both bills. The exemptions would only apply to work done on or after January 1, 2013. HB 277 passed out of the House and SB 1064 is scheduled to be heard in its last committee on Tuesday.

Office of Homelessness - SB 402 by Sen. Joyner and HB 93 by Rep. Reed would create the Office of Homelessness within the Dept. of Children and Families. The Office would have funds that could be used to help families pay bills including

past due utility costs. SB 402 is ready for floor action and HB 93 passed of the House.

Economic Development Bills

Economic Development Programs Evaluation - SB 406 by Senator Gardiner and HB 641 by Rep. Rodriguez would require the Office of Economic and Demographic Research (OEDR) and the Office of Program Policy Analysis and Government Accountability to develop an Economic Development Programs Evaluation report, which would provide an analysis of certain economic development programs and determine each program's economic benefit to the state. The OEDR would review and evaluate each economic development incentive application for the economic benefit of the proposed award of state incentives for each project. The bill has been amended to repeal incentives for redevelopment of brownfields. SB 406 passed out of the Senate, was amended in the House, and is now going back to the Senate or to conference.

Enterprise Zones - SB 480 by Sen. Stargel and HB 221 by Rep. Albritton would allow the cities of Auburndale, Bartow, Eagle Lake, Fort Meade, Frostproof, Lake Wales, Mulberry, and Polk City to individually or jointly apply for enterprise zone designation. Only eight designations would be allowed and the Dept. of Economic Opportunity would administer the program. HB 221 passed out its first committee.

Bills of interest that appear to be dead (but we are watching for them to show up as amendments)

Cost Recovery for Nuclear/IGCC Power Plants - HB 4003 by Rep. Rehwinkle-Vasilinda and Rep. Fasano would repeal the pre-completion cost recovery clause that is available to IOUs to finance construction of nuclear and IGCC facilities.

Termination of Service Prohibition - HB 749 by Rep. Lee and SB 508 by Sen. Thompson would prevent an electric or gas utility from disconnecting service, because of nonpayment, to seniors or low-income families during extreme

weather days (40°F or below or 90°F and above). The bill would not allow disconnections on the day or the following two days (also any day before a holiday or weekend) when the temperature standards are met. The bill does not define “senior citizen” or “low income”.

Economic Opportunities for Minority Businesses – SB 1452 by Sen. Braynon and HB 1377 by Rep. Williams would authorize an act to enhance economic opportunities for minority businesses (including businesses owned by women and disabled veterans) by encouraging regulated utilities to expand procurement of technology, equipment and services with these types of businesses. The PSC would require each regulated utility to annually submit a plan 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.

Assault or Battery on Utility Workers - SB 344 by Sen. Soto and HB 511 by Rep. Fullwood would increase the criminal penalties for committing assault or battery on a utility worker.

Elected PSC – SB 1744 by Sen. Bullard and HB 447 by Rep. Dudley would require PSC commissioners to be elected rather than appointed. Candidates would not be able to raise campaign funds from any entity regulated by the PSC. Additionally, it would require the PSC to consult with the Public Counsel before ruling on any rate changes for a regulated entity.

Federal Funding of Nuclear Plants - HB 567 by Rep. Vasilinda is 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 urges 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 urge the U.S. Dept. of Energy to comply with all cleanup and legacy management agreements.

Tangible Personal Property - HB 505 by Rep. Vasilinda would allow 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.

Economic Development Zones - SB 192 by Sen. Legg and HB 299 by Rep. Grant would allow the Department of Economic Opportunity (DEO) to create economic development zones relating to science, technology, engineering, and mathematics (STEM) in counties that have state universities that specialize in research. Counties that have a qualifying research institution must apply to the DEO to receive STEM zone designation. The DEO would develop a high-tech grant program for STEM zones to solicit competitive applications to entities that propose groundbreaking ideas. The total amount of state credits, refunds, and exemptions that may be provided by the county of each STEM zone is \$300,000 per year.