

MEMORANDUM

To: SEFLUC

From: Edward P. de la Parte and Kristin Melton

Date: July 10, 2017

RE: 2017 Legislation – SEFLUC July Update

The following is a summary of legislation signed by the Governor, which may be of interest to the Southeast Florida Utility Council (“SEFLUC”). A summary of proposed changes and an analysis of impacts to SEFLUC are presented for each bill.

List of Signed Bills Contained in Memo:

1. SB 10 – Water
2. HB 181 – Natural Hazards
3. HB 379 - Underground Facilities
4. HB 599 – Public Works Projects
5. HB 573 – Water Protection and Sustainability
6. HB 687 – Utilities
7. HB 1027 – Drones
8. HB 1021 - Construction
9. SB 1018 – Pollution (replace SB 532 Pollution Notification Rule)

1. SB 10 – Water

Summary:

- Declares emergency status for St. Lucie and Caloosahatchee estuaries due to harmful freshwater discharges.
- Declares that the acquisition of lands south of the lake and construction of the reservoir project authorized in WRDA 2000 will increase the availability of water storage and reduce harmful freshwater discharges.
- Declares reservoir is in the public interest.
- ~~Requires SFWMD seek proposals for voluntary sale of approximately 60,000 acres of property within the EAA that is suitable for the reservoir project by December 31, 2017. If SFWMD is unable to acquire land by December 31, 2017 through voluntary sale, SFWMD must implement the option to purchase 153,000 acres of US Sugar lands.~~
- Increases funding for certain Everglades projects

Impact on SEFLUC:

Monitor as requires funding for purchase of a non-vetted project and declares the reservoir in the public interest. Amendments reallocate money from Florida Forever bonds to Water Resource Protection and Development (land acquisition or capital improvements to land or water areas which facilitate water resource protection or development).

Status:

SB 10

01/26/17 - Referred to Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations

02/07/17 - Favorable by Environmental Preservation and Conservation; 6 Yeas, 0 Nays

3/8/17 - Favorable with CS by ASEN

- Adds title to act “Coast-to-Coast Comprehensive Water Resources Program”
- Adds new paragraph for order of deposit in Land Acquisition Trust fund for payment of debt service or funding of debt service reserve funds, rebate obligations or other amounts payable with respect to water resource protection and development bonds issued pursuant to 215.613
- New Section 215.613 – authorizes issuance of bonds for water resource protection, not to exceed \$3.3 billion (payable from LATF)
- Reduces Florida Forever bonds to \$2 billion NTE
- New finding that rate of finding for CERP must be increased if restoration will be developed in timeframes originally envisioned and that delay in progress toward completing critical elements, **such as southern storage**, will cause irreparable harm to natural systems and increase cost of restoration.
- Provides district may not exercises eminent domain for purpose of implementing reservoir project
- Changes bond section for reservoir project to make available funds of up to \$1.2 billion from new 215.613
- Creates 373.475 – water resource protection and development recognizing importance of water resource protection and development projects and capital improvements to protect water resources and provides for fee simple land acquisition
- Creates 373.478 water storage facility revolving loan fund
- Adds new projects to priority distribution (EAA, St. Lucie and Caloosahatchee reservoir projects, etc.)
- New appropriations including \$35 million to SJRWMD projects in Keystone Heights lake region, \$2 million DEP agreements for the keys, \$20 million offset retrofit OSTDS and connection fees and muck dredging
- Creates 403.0878 water resources grant program

4/5/17 – Favorable with CS by Appropriations

- Establishes options for providing additional water storage south of Lake Okeechobee, including the:
 - Everglades Agricultural Area (EAA) reservoir project with the goal of providing a minimum of 240,000 acre-feet of water storage; and
 - C-51 reservoir project with the goal of providing approximately 60,000 acre-feet of water storage.
- Authorizes the Board of Trustees of the Internal Improvement Trust Fund (TIITF) and the South Florida Water Management District (SFWMD) to negotiate the amendment or termination of leases on lands within the EAA for exchange or use for the EAA reservoir project.

- Requires lease agreements relating to land in the EAA leased to the Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE Enterprises) for an agricultural work program to be terminated in accordance with the lease terms.
- Requires the SFWMD to identify certain lessees and private property owners of lands and contact the lessors and landowners of such lands to express the SFWMD's interest in acquiring the land through the purchase or exchange of lands or by the amendment or termination of lease agreements.
- Requires the SFWMD to jointly develop a post-authorization change report with the United States Army Corps of Engineers (USACE) for the Central Everglades Planning Project (CEPP) to revise the project component located on the A-2 parcel for implementation of the EAA reservoir project.
- Requires that if, for any reason, the post-authorization change report does not receive Congressional approval by October 1, 2018, unless the district has been granted an extension by the Legislature, the SFWMD begin the planning study for the EAA reservoir project by October 31, 2018, and proceed with the A-2 parcel project component of CEPP in accordance with the project implementation report.
- Requires the SFWMD to give preference to the hiring of former agricultural workers primarily employed during 36 of the past 60 months in the EAA, consistent with their qualifications and abilities, for the construction and operation of the EAA reservoir project.
- Establishes the Everglades Restoration Agricultural Community Employment Training Program within the Department of Economic Opportunity. The program is required to include opportunities to obtain the qualifications and skills necessary for jobs related to federal and state restoration projects, the Airglades Airport in Hendry County, or an inland port in Palm Beach County.
- Prohibits, beginning July 1, 2017, the use of inmates for correctional work programs in the agricultural industry in the EAA or in any experiencing high unemployment rates in the agricultural sector.
- Requires the sum of \$100 million from the Land Acquisition Trust Fund (LATF) to be appropriated to the Everglades Trust Fund, beginning in Fiscal Year 2018-2019, for the purpose of implementing the water storage reservoir projects, with the remainder of such funds in any fiscal year to be made available for Everglades projects.
- Revises appropriations.

4/7/17 – Placed on Calendar, on 2nd Reading; Placed on Special Order Calendar

4/12/17 – Read Second Time; Adopted with Amendments; Read Third Time; Passed; Engrossed Text Filed; In messages to House

- Revising language relating to EAA implementation report to require submission by October 1, 2018 rather than approval by that date; extending deadline for approval until December 31, 2019
- Revises Everglades Restoration Agricultural Community Employment Training Program provisions

HOUSE

5/1/17 – Received SB 10;

5/2/17 – Read 2nd Time; Amendment Adopted; Read 3rd Time

- reduces the Land Acquisition Trust Fund (LATF) distribution from \$100 million to \$64 million.
 - clarifies that funding priority shall be given to the EAA reservoir project and clarifies that any remaining funds may be used for Phase II of the C-51 reservoir project.
- reduces the bonding authority from \$1.2 billion to \$800 million, which corresponds to the amount that can be bonded with an annual debt service payment of \$64 million.

- revises the appropriation for Phase 1 of the C-51 reservoir project from the LATF to the General Revenue Trust Fund. The amendment provides loan requirements and clarifies that the loan agreement may be modified once the Department of Environmental Protection adopts rules for the Water Storage Revolving Loan Fund.

SENATE

5/2/17 – Amendment Concurred; Passed; Ordered engrossed, then enrolled; Enrolled text filed.

5/9/17 – Approved by Governor; Chapter No. 2017-010

2. HB 181 – Natural Hazards

Summary:

Creates interagency workgroup to share information, coordinate efforts, & collaborate on initiatives relating to natural hazards, including but not limited to extreme heat, drought, wildfire, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding; requires certain agencies to designate liaisons to the workgroup; requires the Division of Emergency Management to prepare annual report; requires report to be posted on agency websites & submitted to the Governor & Legislature

Impact on SEFLUC:

Monitor

Status:

HB 181

1/23/17 - Referred to Natural Resources & Public Lands Subcommittee; Appropriations Committee; Government Accountability Committee

3/7/17 – favorable by NR&PLS, now in appropriations

3/15/17 – favorable with CS Appropriations Committee (CS includes appropriations)

3/22/17 – favorable by Government Accountability Committee

3/29/17 – read second time

3/30/17 – passed

SENATE

4/5/17 – Received HB 181; Referred to Military and Veterans Affairs, Space, and Domestic Security; Community Affairs; Governmental Oversight and Accountability; Rules

5/2/17 - Withdrawn from Military and Veterans Affairs, Space, and Domestic Security, Community Affairs, Governmental Oversight and Accountability; Rules; Placed on Calendar, on 2nd reading; Substituted for SB 0464; Read Second Time; Placed on Third Reading,

5/3/17 - Read Third Time; Passed

6/2/17 – Approved by Governor; Chapter No. 2017-48

3. HB 379 - Underground Facilities

Summary:

Requires excavators to call 911 under specified circumstances; requires member operators to file report with free-access notification system; provides reporting requirements; specifies distribution of civil penalties issued by state law enforcement officers.

Impact on SEFLUC:

Change to reporting requirements

Status:

HB 379

2/6/17 – Referred to Energy & Utilities Subcommittee; Commerce Committee

2/15/17 – Favorable EUS

3/7/17 – Favorable by Commerce Committee; Placed on Calendar 2nd reading

4/4/17 – Read Second Time; Amendment Adopted; Placed on 3rd reading; Engrossed Text Filed

- Replaced hazardous “liquid” with hazardous “substance or material” for purposes of notification requirement

4/5/17 – Read Third Time; Passed

SENATE

4/12/17 – In Messages

4/28/17 – Placed on Calendar, on 2nd Reading; Substituted for SB 446; Read Second Time;

Placed on Third Reading

5/1/17 – Read Third Time; Passed

HOUSE

5/1/17 – Ordered enrolled; Enrolled Text Filed

5/30/17 – Signed by Officers and presented to Governor (Governor must act by 6/14/17)

6/14/17 – Approved by Governor; Chapter No. 2017-102

4. HB 599 – Public Works Projects

Summary:

Except as required by federal or state law, the state or political subdivisions that contract for the construction, maintenance, repair, or improvement of public works (~~i.e. projects that are paid for in whole or part with state funds~~ – See C.S.) may not require on contractors, subcontractors, or material suppliers or carriers:

- Pay employees a predetermined amount of wages or prescribe any wage rate
- Provide specified type, amount or rate of employee benefits
- Control, limit, or expand staffing
- Recruit, train or hire employees from a designated, restricted, or single source.

Also prohibits the state and political subdivisions from restricting qualified bidders from submitting bids on any public works project.

Does not apply to contracts executed under chapter 337 (Contracting; acquisition, disposal and use of property)

Impact on SEFLUC:

Monitor for changes to public works contracts/bids

Status:

HB 599

1/31/17 – Filed

2/9/17 – Referred to Oversight, Transparency & Administration Subcommittee; Local, Federal & Veterans Affairs Subcommittee; Government Accountability Committee

3/8/17 – Favorable with CS by OT&AS

- Revises the definition of “public works project” so that the term includes only an activity of which 50 percent or more of the cost will be paid from state-appropriated funds; and
- Clarifies that although the state or a political subdivision that contracts for a public works project may not prohibit certain qualified, licensed, or certified persons from submitting a bid or being awarded any contract, subcontract, material order, or carrying order, this provision does not apply to vendors listed under s. 287.133 or s. 287.134, F.S.

3/15/17 – Favorable by LF&VAS

3/29/17 – Favorable with CS by GAC

- Removed the provision prohibiting the state or a political subdivision that contracts for a public works project from prohibiting a contractor, subcontractor, or material supplier or carrier from being awarded a contract if such individual is otherwise qualified to do the work described.

3/31/17 – Placed on Calendar 2nd Reading

4/18/17 – Read Second Time; Placed on Third Reading

4/19/17 – Read Third Time; Passed

SENATE

4/20/17 – In Messages

4/27/17 – Placed on Calendar, on 2nd reading; Substituted for 534; Read Second Time; Amendments Failed; placed on Third Reading

4/28/17 – Read Third Time; Passed

HOUSE

5/1/17 – Enrolled Text Filed

5/30/17 – Signed by Officers and Presented to Governor (Governor must act by 6/14/17)

6/14/17 – **Approved by Governor; Chapter No. 2017-113**

5. HB 573 – Water Protection and Sustainability

Summary:

Creates "Heartland Headwaters Protection & Sustainability Act"

- Designates Green Swamp Area in Polk County as area of critical state concern
- Finds Polk Regional Water Cooperative to be in the public interest and exempts PRWC from provision requiring Secretary of Environmental Protection to approve regional water supply authorities prior to their creation;
- Requires PRWC to prepare annual report concerning water resource projects, specifies requirements for such report, & requires inclusion of such report in appropriate consolidated water management district annual report;
- Authorizes expenditure of proceeds of local government infrastructure surtaxes by a regional water supply authority
- Provides for annual appropriations to DEP to be distributed for projects identified for priority state funding in heartland headwaters annual report

Impact on SEFLUC:

Monitor

Status:

HB 573

1/27/17 – Filed

2/9/17 - Referred to Natural Resources & Public Lands Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Government Accountability Committee

3/14/17 – Favorable with CS by NRPLS

3/17/17 – Now in A&NRAS

Clarified that:

- A portion of the Green Swamp is designated as an Area of Critical State Concern; and
 - The headwaters or portions thereof are located in the Green Swamp or Polk County.
- Added the Kissimmee River as a major river where the headwaters are located in the Green Swamp or Polk County.
- Removed a provision exempting the cooperative from having its interlocal agreement approved by the DEP.
- Removed section 5 of the bill providing an appropriation.

4/17/17 – Favorable with CS by A&NRAS

- Clarified that the Legislature further declares that funding consideration be given to regional collaborative solutions, including, but not limited to, the heartland counties, to manage the regional water resources of the state, and that the cooperative, in coordination with all of its member county and municipal governments, prepare a comprehensive annual report for water resource projects identified for state funding consideration within its members' jurisdictions.
- Removed section 4 of the bill regarding the local infrastructure surtax.

4/24/17 – Favorable by GAC; Placed on calendar, on 2nd reading

4/27/17 – Read Second Time; Amendment Adopted; Placed on Third Reading; Engrossed Text Filed

- Deleting requirement that Cooperative coordinate with appropriate WMD to ensure the report is included in consolidated WMD annual report

4/28/17 – Read Third Time; Passed

SENATE

4/28/17 – Placed on Calendar, on 2nd Reading; Substituted for SB 928; Read Second Time; Placed on Third Reading

5/1/17 – Read Third Time; Passed

HOUSE

5/1/17 – Ordered enrolled; Enrolled Text Filed

5/30/17 – Signed by Officers and Presented to Governor (Governor must act by 6/14/17)

6/14/17 – **Approved by Governor; Chapter No. 2017-111**

6. HB 687 – Utilities

Summary:

Prohibiting the Department of Transportation and certain local governmental entities, collectively referred to as the “authority,” from prohibiting, regulating, or charging for the collocation of small wireless facilities in public rights-of-way under certain circumstances; providing that approval of, and charges by, an authority are not required for routine maintenance,

the replacement of certain wireless facilities, or the installation, placement, maintenance, or replacement of certain micro wireless facilities, etc.

Impact on SEFLUC:

Extremely problematic in that wireless devices can be put anywhere even on utility infrastructure and Local Governments have no control

Status:

HB 687

2/7/17 – Filed

2/15/17 - Referred to Energy & Utilities Subcommittee; Commerce Committee

3/15/17 – Favorable with CS by E&US

3/20/17 – Now in Commerce Committee

- Excludes utility poles that are owned by a municipal electric utility or used to support electric distribution facilities owned or operated by a municipality.
- Provides that the act does not authorize a person to collocate small wireless facilities on utility poles owned by an electric cooperative or municipal electric utility.

4/24/17 – Favorable with CS by Commerce Committee

- Many amendments unrelated to SEFLUC

4/27/17 – Read Second Time; Placed on 3rd Reading

4/28/17 – Read 3rd Time

SENATE

4/28/17 – Received; Placed on Calendar, on 2nd Reading; Substituted for SB 596; Read 2nd Time; Read Third Time Passed

HOUSE

5/1/17 – Enrolled Text Filed

6/14/17 – Signed by Officers and Presented to Governor (Governor must act by 6/29/17)

6/23/17 – **Approved by Governor; Chapter No. 2017-136**

7. HB 1027 – Drones

Summary:

"Unmanned Aircraft Systems Act"; providing that the authority to regulate the ownership or operation of unmanned aircraft systems is vested in the state; prohibiting a person from knowingly and willfully operating a drone over or allowing a drone to make contact with or come within a certain distance of certain critical infrastructure facilities; providing that the use of a drone by a communications service provider or contractor is not prohibited under certain provisions of Ch. 934, etc.

Impact on SEFLUC:

Does not include water and wastewater facilities as “critical infrastructure facilities” for purpose of minimum distance requirements

Status:

HB 1027

3/6/17 - Referred to Transportation & Infrastructure Subcommittee; Careers & Competition Subcommittee; Government Accountability Committee

3/21/17 – Favorable with CS by T&IS

- prohibition against unmanned aircraft flying over critical infrastructure facilities does not apply to certain commercial drones operating in compliance with FAA regulations, authorizations, or exemptions.

3/28/17 – Favorable by C&CS

4/6/17 – Favorable by GAC

4/19/17 – Read Second Time; Amendments Adopted; Placed on Third Reading

- new section prohibiting possession of unmanned aircraft with attached weapon, firearm, explosive, destructive device or ammunition; first degree misdemeanor for violation

4/20/17 – Read Third Time; Passed

SENATE

4/25/17 – In Messages; Received; Referred to Criminal Justice; Transportation; Communications, Energy and Public Utilities; Rules

5/03/17 - Withdrawn from Criminal Justice; Transportation; Communications, Energy, and Public Utilities; Rules; Placed on Calendar, on 2nd reading; Substituted for SB 0832; Read Second Time; Amendment Adopted (598520); Placed on Third Reading,

5/05/17 - Read Third Time; Passed

HOUSE

5/5/17- Received from Messages; Concurred with Amendment (598520); Ordered engrossed, then enrolled

5/08/17 - Engrossed Text (E2) Filed

6/14/17 – Signed by Officers and Presented to Governor (Governor must act by 6/29/17)

6/23/17 – **Approved by Governor; Chapter No. 2017-150**

8. HB 1021 - Construction

Summary:

In pertinent part, prohibits a county, municipality, special taxing district, public utility, or private utility from:

- requiring a separate water connection for a one-family or two-family dwelling fire sprinkler system if the hydraulic design has proven the existing connection is capable of supplying the needed hydraulic demand
- charging a water or sewer rate to a one-family or two-family dwelling that requires a larger water meter solely due to the installation of fire sprinklers above that which is charged to a one-family or two-family dwelling requires the installation of a large water meter, on the difference in actual cost between the base water meter and the larger water meter may be charged by the water utility provider.

Impact on SEFLUC:

Interferes with utilities right and ability to establish rate structure and manage distribution system by creating a specific type of residential customer which enables customer to have higher level of service without having to pay for it.

Prohibition of separate fire line interferes with seasonal customers who suspend water service.

Status:

HB 1021

3/01/17 - Referred to Careers & Competition Subcommittee; Appropriations Committee; Commerce Committee

3/21/17 – Favorable by Careers & Competition Subcommittee

3/29/17 – Favorable with CS by Appropriations Committee

4/6/17 – Favorable with CS by Commerce Committee

- Modify the construction contracting exemption for public utilities by providing that employees of public utilities, including municipal gas utilities, are exempt from construction contracting licensure requirements

4/18/17 – Read 2nd Time; Placed on 3rd Reading

4/19/17 – Read 3rd Time; Passed

SENATE

4/20/17 – Received; Referred to Communications, Energy, and Public Utilities; Community Affairs; Appropriations; Rules

5/04/17 - Withdrawn from Communications, Energy, and Public Utilities, Community Affairs, Appropriations, Rules; Placed on Calendar, on 2nd reading; Substituted for SB 1312; Read Second Time; Amendments Adopted; Placed on Third Reading,

- Amendment to language prohibiting utility from requiring separate water connections to prohibiting utility from requiring an impact fee or payment for separate water connections if capacity required is hydraulically available at the property line; requires account holder to notify the utility of installation of separate water connection in the applicable permit. Separate water connection may only be used for one-family or two-family dwelling fire sprinkler systems and if used for other purposes full base and volume charges may be applied.
 - PRIOR language prohibited utilities from requiring separate connection; this allows utility to require separate lines, but prohibits utility from charging impact fee or requiring payment in these circumstances.

5/05/17 - Read Third Time; Passed

HOUSE

5/5/17 - Received from Messages; Concurred with Amendment (483650); Passed; Ordered engrossed, then enrolled

5/12/17 - Engrossed Text (E1) Filed; Enrolled Text (ER) Filed

06/14/17 - Signed by Officers and presented to Governor (Governor must act on this bill by 06/29/17)

06/15/17 - Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 06/16/17, 9:00 am, 117 K (No Votes Will Be Taken)

06/23/17 - Approved by Governor; Chapter No. 2017-149

9. HB 1018 - Pollution

Summary:

April 25, 2017 Committee Substitute creates the Public Notice of Pollution Act.

- Defines a reportable pollution release as a release to the air, land, or water that is discovered by the owner or operator of an installation, is not authorized by law, and is:
 - Reportable to the State Watch Office;

- Reportable to the DEP or a contracted county pursuant to rules governing storage tank systems;
- Reportable to the DEP pursuant to rules governing underground injection control systems;
- A hazardous substance; or
- An extremely hazardous substance.
- Requires the owner or operator of any installation where a reportable pollution release occurs to provide a notice of the release to the DEP. The notice must be submitted to the DEP within 24 hours after discovery of the reportable pollution release and must contain detailed information about the installation, the substance, and the circumstances surrounding the release.
- Requires the owner or operator to provide additional notice to the DEP if a release migrates outside the property boundaries of the installation.
- Requires the DEP to publish each notice to the Internet within 24 hours after the DEP receives it.
- Requires the DEP to create a system for electronic mailing that allows interested parties to subscribe to and receive direct announcements of notices received by the DEP.
- Requires the DEP to establish an email address and an online form so that installation owners and operators are able to submit a notice of a reportable pollution release electronically.
- Provides for \$10,000 per day in civil penalties for violations of notice requirements and authorizes the DEP to adopt rules to administer these provisions.

Impact on SEFLUC:

New requirements for pollution notification – see
<http://www.dep.state.fl.us/pollutionnotice/>

Status:

HB 1018

5/31/17 – Signed by Officers and presented to Governor (Governor must act on bill by 6/15/17)

6/14/17 – Approved by Governor; Chapter No. 2017-095