

MEMORANDUM

To: SEFLUC

From: Edward P. de la Parte and Kristin Melton

Date: November 13, 2017

RE: 2018 Legislation – SEFLUC November Update

The following is a summary of legislation 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. In some cases, because of the length of the bill, the analysis may be limited to only those provisions impacting SEFLUC. In the event a more extensive summary and analysis is required, a separate memo addressing the specific legislation can be prepared upon request.

List of Bills Contained in Memo:

1. **SB 244 – Domestic Wastewater Collection System Assessment and Maintenance**
2. **HB 83 – Agency Rulemaking**
3. **HB 339/SB 786 – Land Acquisition Trust Fund**
4. **HB 459 – Public Records**
5. **SB 656 – Public Utility Environmental Remediation Costs**

BILLS

1. SB 244 – Domestic Wastewater Collection System Assessment and Maintenance

Summary:

Blue Star Certification Program

- Establishes blue star collection system assessment and maintenance program as a voluntary incentive program to assist public and private utilities in limiting sanitary sewer overflows and the unauthorized discharge of pathogens.
 - Blue Star utilities may receive reduced penalties in the event of sanitary sewer overflow and/or allow utility to apply amount of penalty toward investment in assessment and maintenance activities to identify and correct cause of unauthorized releases

- Blue Star utilities receive a presumption of compliance with state water quality standards for pathogens where also show history of compliance.
- Blue Star utilities receive 10 year permit upon blue star application for renewal under Section 403.087, Florida Statutes
- Requires Environmental Regulation Commission to adopt standards for blue star certification based on specific standards outlined in the legislation.
- Requires DEP to review and approve utilities applying for certification and maintain on its website a list of certified blue star utilities beginning January 1, 2019.
- Program certification expires after 10 years and utility applying for renewal must meet all criteria existing at time of its application for renewal.
- Provides that DEP shall allow public and not-for-profit private utilities to participate in Clean Water State Revolving Program for any purpose consistent with federal law, including planning and implementation of sanitary sewer assessment programs and activities associated with becoming certified or maintaining certification.
- Authorizes grants under Small Community Sewer Construction Assistance Act for private not-for-profit utilities serving financially disadvantaged small communities for planning and implementing sanitary sewer assessment programs to identify causes of unauthorized releases due to physical condition or defect in system

Impact on SEFLUC:

SEFLUC utilities should support and then take steps to become blue star certified.

Status:

SB 244

08/31/17 - Filed

09/22/17 – Referred to Environmental Preservation and Conservation; Communications, Energy, and Public Utilities; Appropriations; Rules

2. HB 83 – Agency Rulemaking

Summary:

Increases circumstances where a statement of estimated regulatory costs (SERC) is required. The bill requires an agency to prepare a SERC before the adoption or amendment of any rule other than an emergency rule. Existing rules only require SERC if rule will have an adverse impact on small businesses or is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation. Additionally, the bill requires an agency to prepare a SERC for a rule repeal if such repeal would impose a regulatory cost, and establishes that in a challenge to a rule repeal, the repeal must be considered presumptively correct by the adjudicating body.

The bill requires each agency to have a website where each of their SERCs may be viewed in their entirety. The department must include on the Florida Administrative Register website the agency website addresses where the SERCs can be viewed. An agency must provide in its notice of intended action the agency website addresses where the SERCs can be viewed. If an agency revises a SERC, it must provide a notice that a revision has been made and include an agency

website address where the revision can be viewed for publication on the Florida Administrative Register website.

Lastly, the bill removes the requirement that the agency head approve certain rulemaking notices.

Impact on SEFLUC:

Monitor – SERC is a point of entry for legal challenges

Status:

HB 83

08/30/17 - Referred to Oversight, Transparency & Administration Subcommittee; Transportation & Tourism Appropriations Subcommittee; Government Accountability Committee

10/11/17 – Favorable with CS by Oversight, Transparency & Administration Subcommittee

- Changed the phrase “Joint Administrative Procedures Committee” to “committee” as that term is defined in s. 120.52(4), F.S.;
- Changed the phrase “Division of Administrative Hearings” to “division” as that term is defined in s. 120.52(5), F.S.;
- Removed a phrase in s. 120.541(1)(a), F.S., to conform to changes made by the bill;
- Repealed s. 120.541(1)(b), F.S., as the provision was rendered redundant; and
- Changed “Department” to “department” in s. 120.541(6), F.S.

10/16/17 – Now in Transportation & Tourism Appropriations Subcommittee

3. HB 339/SB 786 – Land Acquisition Trust Fund

Summary:

Provides appropriation of minimum of the lesser of 7.6 percent or \$50 million for certain projects related to Indian River Lagoon Comprehensive Conservation & Management Plan and authorizes DEP to make grants for such projects. It also directs DEP to submit annual report to Governor and Legislature.

Preference for grants shall be given to projects for ecosystem monitoring and habitat restoration, projects to connect onsite sewage treatment and disposal systems to central sewer systems, and projects for the management of stormwater, freshwater, and agricultural discharges. Grants for sewer system connection projects and discharge management projects shall require a minimum 50 percent local match.

Impact on SEFLUC:

Monitor – SERC is a point of entry for legal challenges

Status:

HB 339

10/26/17 - Referred to Agriculture & Natural Resources Appropriations Subcommittee; Natural Resources & Public Lands Subcommittee; Appropriations Committee: Now in A&NRAS

SB 786

11/07/17 - Filed

4. HB 459 – Public Records

Summary:

In pertinent part, amends public records act as follows:

- Provides that any contract or agreement, or addendum thereto, which an agency or an entity subject to Chapter 119 and any financial agreement related to such a contract including, but not limited to, the amount of money paid, any payment structure or plan, expenditures, incentives, fees, or penalties are NOT confidential and exempt from the public records act.
- Removes or revises numerous provisions relating to exemptions from public records requirements for trade secrets

Impact on SEFLUC:

Monitor – affects entities subject to public records act

Status:

HB 459

11/01/17 - Referred to Oversight, Transparency & Administration Subcommittee; Government Accountability Committee; Now in OT&AS

5. SB 656 – Public Utility Environmental Remediation Costs

Summary:

If the Department of Environmental Protection makes a determination that a public utility has caused environmental damage within the state, a municipality or county in which such damage occurred may file a request for a hearing with the commission for a determination of prudence on the environmental damage the public utility caused within the boundaries of the municipality or county or adjacent bodies of water. Such request must be submitted by the municipality or county as prescribed by the commission.

The commission may not conduct any hearing regarding recovery for remediation of such environmental damage until after the commission makes its determination or the request is dismissed.

If the commission determines that the public utility failed to act prudently, the public utility may not recover any expenditures to remedy the environmental damage from ratepayers.

Impact on SEFLUC:

Monitor

Status:

SB 656

10/26/17 - Filed