

MEMORANDUM

To: SEFLUC

From: Edward P. de la Parte and Nicolas Porter

Date: December 16, 2019

RE: 2020 Legislation – SEFLUC December Update

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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. **HB 147/SB 690 – Water Resources (Jacobs/Albritton)**
2. **SB 246/HB 101 Public Construction (Hooper/Andrade)**
3. **SB 454 – Discharge of Domestic Wastewater (Rodriguez)**
4. **SB ? – Fines for Wastewater Discharges (Gruters)**
5. **SB 492 – Public Notification of Pollution (Cruz)**
6. **SB 504/HB 279 – Local Government Public Construction Works (Perry/Smith)**
7. **HB 405/SB 686 – Stormwater Management Systems (Good/Gruters)**
8. **SB 712 – Water Quality Improvements (Mayfield)**
9. **SB 200/HB 547 – Advanced Well Stimulation Treatment (Montford/Fitzhagen)**
10. **HB 637 - Impact Fees (DiCeglie)**
11. **HB 715 – Recycled Water (Maggard)**
12. **HB 729 - Regulatory Reform (Rodriguez (AM))**
13. **SB 1112/HB 861 – Bottled Water Excise Tax (Taddeo/Willhite)**
14. **HB 865/SB 538 – Emergency Reporting (Rodriguez/Diaz)**
15. **HB 139 – Drinking Water in Public Schools (Jenne)**
16. **HB 801 – Public Records (Gregory)**
17. **SB 178/HB 579 – Public Financing of Construction Projects (Rodriguez/Aloupis)**

## BILLS

### **1. HB 147/SB 690 –Water Resources (Jacobs/Albritton)**

#### **Summary:**

- Requires FDEP to conduct a comprehensive quantitative overview of the state’s water resources, including the funds needed for infrastructure capacity to meet future demands, funds necessary to provide expected levels of service and protection to public safety, funds necessary for infrastructure to be operated in compliance with regulations, replacement costs for infrastructure nearing end of service life, infrastructure and funds needed to protect and enhance state’s water, infrastructure and funds necessary to provide adequate flood protection.
- Overview must be based on short-term, 5-year, period and long-term 20-year period, and include water supply development and resource projects and conservations, water quality protection and restoration, wastewater, stormwater, flood control, and environmental restoration.
- Overview must identify potential public and private funding options.
- First report submitted in 2022, and every 5 years thereafter.

**Impact on SEFLUC:** Monitor

#### **Status:**

##### **HB 147**

**9/11/19** – Filed

**9/23/19** – Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee; Now in Agriculture & Natural Resources Subcommittee.

##### **SB 690**

#### **Status:**

**10/28/19** – Filed

**11/06/19** – Referred to Environment & Natural Resources; Appropriations Subcommittee on Agriculture, Environment, & General Government; Appropriations.

### **2. SB 246/HB 101 Public Construction (Hooper/Andrade)**

#### **Summary:**

- Amends existing law to provide that for construction services, local government can withhold from each progress payment up to 5% of payment as retainage. Existing law allows 10% retainage up to 50% completion, and 5% after 50% completion.

**Impact on SEFLUC:** Monitor

**Status:**

**SB 246**

9/10/19 - Filed

9/19/19 – Referred to Government Oversight and Accountability; Community Affairs; Appropriations

10/7/19 – On Governmental Oversight and Accountability Agenda

10/14/19 – Favorable with CS by Governmental Oversight and Accountability

10/15/19 – Committee Substitute Text Filed

10/21/19 – Now in Community Affairs

10/28/19 – On Committee Agenda

11/04/19 – Favorable by Community Affairs

11/05/19 – Now in Appropriations

**HB 101**

8/29/19 – Filed

09/23/19 - Referred to Business & Professions Subcommittee; Oversight, Transparency & Public Management Subcommittee; Commerce Committee; Now in Business & Professions Subcommittee

10/30/19 – On Committee Agenda – Business & Professions Subcommittee

11/06/19 – Now in Oversight, Transparency & Public Management Subcommittee

**3. SB 454 – Discharge of Domestic Wastewater (Rodriguez)**

**Summary:**

- Puts deep injection wells in similar category as ocean outfalls for domestic wastewater discharge
- Prohibits the construction of new deep injection wells for domestic wastewater discharge
- Requires wastewater utilities discharging through a deep injection well to install functioning reuse system (minimum 60% of flow for reuse)
- Discharge of domestic wastewater through deep injection wells prohibited after December 31, 2023, except as backup discharge as part of functioning reuse system or other wastewater management system.

**Impact on SEFLUC:** Monitor

**Status:**

**SB 454**

10/4/19 – Filed

10/15/19 – Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

**4. SB ? – Fines for Wastewater Discharges (Gruters)**

**Summary:**

- Gov. DeSantis has called for a 50% increase in penalties for discharge of wastewater to Florida waterways.

- Sen. Gruters has indicated a bill would be filed imposing a \$1 per gallon fine on governments responsible for spills, or alternatively a \$2 per gallon investment in wastewater systems to prevent further spills.

**5. SB 492 – Public Notification of Pollution (Cruz)**

**Summary:**

- Revises existing public notice of pollution statute to expand the definition of “reportable pollution release” to include discharge of PFOAs and other substances which “would result in a violation of water quality standards adopted by FDEP or Dept. of Health.
- Requires local government entities to notify installation owner and FDEP of any “reportable pollution release” it discovers, within 24 hours of discovery.

**Impact on SEFLUC:** Monitor

**Status:**

**SB 492**

**10/9/19** – Filed

**11/01/19** – Referred to Environment and Natural Resources; Community Affairs; Rules

**6. SB 504/HB 279 – Local Government Public Construction Works (Perry/Smith)**

**Summary:**

- Specifies the manner in which the estimated cost of a public building construction project is to be determined in deciding whether it is in the local government’s best interest to perform the project using its own services or through an outside contractor, by accounting for all costs associated, including employee compensation, equipment costs, insurance, cost of materials.
- Prohibits the local government from performing the project using its own employees and equipment if the project request and increase in the number of government employees or increase in such capital expenditures.

**Impact on SEFLUC:** Monitor

**Status:**

**SB 504**

**10/15/19** – Filed

**11/01/19** – Referred to Community Affairs; Governmental Oversight and Accountability; Rules

**12/02/19** – On Committee agenda – Community Affairs

**HB 279**

**10/02/19** – Filed

**10/14/19** – Referred to Oversight, Transparency & Public Management Subcommittee; Business & Professions Subcommittee; State Affairs Committee; Now in oversight, Transparency & Public Management Subcommittee

## **7. HB 405/SB 686 – Stormwater Management Systems (Good/Gruters)**

### **Summary:**

- Provides for FDEP and WMDs to amend ERP Applicant’s Handbook to include revised BMP design criteria that increase removal of nutrients from stormwater discharges for all new development and redevelopment projects and measure for consistent application of the net improvement performance standard to ensure new pollutant loadings are not discharged into impaired water bodies.
- Creates rebuttable presumption that SMS meeting design criteria does not cause or contribute to water quality violation.

**Impact on SEFLUC:** Monitor

### **Status:**

#### **HB 405**

**10/18/19** – Filed

**10/30/19** – Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee.

#### **SB 686**

**10/28/19** – Filed

**11/06/19** – Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government Appropriations

### **Compare Bills**

**SB 712 – Water Quality Improvements (Mayfield)**

## **8. SB 712 – Water Quality Improvements (Mayfield)**

### **Summary:**

- Requires DEP and the Department of Health (DOH) to submit a report on a type two transfer of DOH’s onsite sewage program to DEP.
- Requires local governments with impaired waterbodies/springs to adopt, implement, notify residents of, educate residents on, and enforce Florida-Friendly Fertilizer Ordinances.
- Requires certain agricultural operations that fail to adopt a basin management action plan (BMAP) or an alternative restoration plan within a specified timeframe
- Requires DEP, subject to appropriation, to establish a real-time water quality monitoring program and encourages the formation of public-private partnerships.
- Expands the septic remediation plan, currently in effect for springs, to be applied to all BMAPs.
- Makes agricultural BMPs enforceable in alternative restoration plan areas.
- Requires wastewater treatment facilities to notify customers within a specified timeframe of unlawful discharges of raw or partially treated sewage into any waterway or aquifer (sanitary sewer overflows or SSOs). Violations can result in penalties.

- Doubles the maximum administrative penalty for violations of DEP regulations/permits/statutes.

**Impact on SEFLUC:** Monitor

**Status:**

**10/30/19** – Filed

**11/18/19** – Referred to Community Affairs; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

**12/02/19** – On Committee Agenda

**Compare Bills**

**HB 405 Stormwater Management Systems (Good)**

**SB 686 Stormwater Management Systems (Gruters)**

**9. SB 200/HB 547 – Advanced Well Stimulation Treatment (Montford/Fitzhagen)**

**Summary:**

- Prohibits high pressure well stimulation and matrix acidization. The prohibition only applies to oil and gas wells.

**Impact on SEFLUC:** Monitor

**Status:**

**SB 200**

**8/28/19** – Filed

**9/19/19** – Referred to Environment and Natural Resources; Innovation, Industry and Technology; Appropriations

**10/28/19** – On Committee agenda – Environment and Natural Resources

**11/04/19** – Favorable by Environment and Natural Resources

**11/05/19** – Now in Innovation, Industry and Technology

**Similar Bills:**

**HB 547 Advanced Well Stimulation (Fizenhagen)**

**Status:**

**HB 547**

**11/6/19** - Filed

**11/15/19** – Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee; Now in Agriculture & Natural Resources Subcommittee.

**10. HB 637 - Impact Fees (DiCeglie)**

**Summary:**

- Revises conditions that local governments must satisfy before enacting impact fees, including greater specificity in calculation of impact fees by excluding costs which do not meet the definition of a capital asset.
- Requires segregation of revenues and expenditures of any impact fees regarding infrastructure in a separate trust fund.
- Must prepare an annual financial report for each impact fee trust fund and post to website.
- Government may not require collection of impact fee earlier than the date the building permit is issued.
- Impact fees are assignable and transferrable from one development parcel to another in the same impact fee jurisdiction for the same type of public facility.
- Government must establish impact fee review committee.

**Impact on SEFLUC: Monitor**

**Status:**

**HB 637**

11/14/19 – Filed

12/03/19 – Referred to Local, Federal & Veterans Affairs Subcommittee; Ways & Means Committee; State Affairs Committee; Now in Local, Federal & Veterans Affairs Subcommittee

**Similar Bills:**

**SB 1066 Impact Fees (Gruters)**

**Status:**

**SB 1066**

11/26/19 – Filed

**11. HB 715 – Recycled Water (Maggard)**

**Summary:**

- Builds upon Potable Reuse Commission’s 2019 Report regarding potable reuse implementation framework.
- Defines indirect and direct potable reuse water as “recycled water.”
- Identifies recycled water as a water source for public supply systems.
- Provides that consideration of emerging constituents may be required due to existing requirements such as antidegradation and discharge standards, including monitoring and treatment technology.
- Defines groundwater augmentation, raw water augmentation, and surface water augmentation as alternative water supplies eligible for AWS funding.
- Requires DEP to adopt rules for implementation of water recycling projects that revise existing regulations to account for recycled water as a source for public supply and other requirements.
- Requires DEP to convene technical advisory committees regarding rulemaking.
- Any rules adopted by DEP must be ratified by Legislature.

- Provides for working group to develop consensus regarding CUP impact offsets, extended permit duration incentives, and cost share funding.
- Provides that beginning January 1, 2026, domestic wastewater treatment facilities are prohibited from disposing of effluent, reuse, and reclaimed water by surface water discharge, excepting permitted surface water augmentation projects, permitted wet weather discharges, facilities in fiscally constrained counties, and facilities within a rural area of opportunity.

**Impact on SEFLUC:** Monitor

**Status:**

**11/20/19** – Filed

**12/03/19** – Referred to Agriculture & Natural Resources Subcommittee; Agricultural & Natural Resources Appropriations Subcommittee; State Affairs Committee

**12. HB 729 - Regulatory Reform (Rodriguez)**

**Summary**

- Establishes Red Tape Reduction Advisory Counsel.
- Requires establishment of regulatory baseline of agency rules.
- Provides that new rules may not cause total number of rules to exceed regulatory baseline.

**Impact on SEFLUC:** Monitor

**Status:**

**HB 729**

**11/21/19** – Filed

**13. SB 1112/HB 861 – Bottled Water Excise Tax (Taddeo/Willhite)**

**Summary**

- Requires bottled water operators using waters extracted from waters of the state to pay excise tax of 12.5 cents per gallon extracted.
- Tax does not apply to water obtained from a public water system.

**Impact on SEFLUC:** Monitor

**Status:**

**SB 1112**

**12/03/19** – Filed

**HB 0861**

**12/04/19** – Filed



**14. HB 865/SB 538 – Emergency Reporting (Rodriguez/Diaz)**

**Summary**

- Requires a local government to provide notification to the State Watch Office of various incidents, including Technical hazards or environmental concerns, including wastewater releases; hazardous material spills, environmental crimes, water quality issues, utility disruptions.

**Impact on SEFLUC:** Monitor

**Status:**

**HB 865**

12/05/19 – Filed

**SB 538**

10/16/19 – Filed

11/01/19 – Referred to Infrastructure and Security; Community Affairs; Rules

**15. HB 139 – Drinking Water in Public Schools (Jenne)**

**Summary**

- Requires all schools built before 1986 to install a point of use lead filter at each drinking water source, post a sign communicating non drinking water sources are not to be used for human consumption, publish information about filtering of drinking water sources.

**Impact on SEFLUC:** Monitor

**Status:**

**HB 139**

9/10/19 – Filed

9/23/19 – Referred to PreK-12 Innovation Subcommittee; PreK-12 Appropriations Subcommittee; Education Committee

**16. HB 799/801 – Public Records (Gregory)**

**Summary**

- Revises Public Records Act exemptions relating to trade secrets to state that amounts paid and types of commodities or services purchased are not exempt, and that trade secret exemption is waived if the record is not verified by submitter as a trade secret at time of submittal to the agency.

**Impact on SEFLUC: Monitor**

**Status:**

**HB 799**

11/26/19 - Filed

**HB 801**

11/26/19 – Filed

**17. SB 178/HB 579 – Public Financing of Construction Projects (Rodriguez/Aloupis)**

**Summary**

- Requires a public entity that commissions or manages a construction project within the coastal building zone using funds appropriated from the state to conduct a sea-level impact projection (SLIP) study prior to commencing construction. The bill applies this requirement after July 1, 2021, only if certain baseline projections of sea-level rise and flooding impacts are ultimately adopted as the state’s official estimates by the Sea-Level Rise Task Force.
- Requires DEP to adopt rules establishing standards for the SLIP studies, and the standards must include certain requirements for how the studies will be conducted and the information they must contain.
- Authorizes DEP to bring a civil action to seek injunctive relief to cease construction, enforce the section or rules adopted pursuant thereto, or seek recovery of state funds expended on a coastal structure, if construction commences without complying with the section.

**Impact on SEFLUC: Monitor**

**Status:**

**SB 178**

8/23//19 – Filed

9/19/19 - Referred to Environment and Natural Resources; Infrastructure and Security; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

11/4/19 - Favorable by Environment and Natural Resources; YEAS 5 NAYS 0

12/9/19 - CS by Infrastructure and Security; YEAS 7 NAYS 0

**HB 801**

11/7/19 – Filed

11/15/19 - Referred to Agriculture and Natural Resources Subcommittee; Appropriations Committee; State Affairs Committee