

MEMORANDUM

To: SEFLUC

From: Edward P. de la Parte and Nicolas Porter

Date: February 11, 2019

RE: 2019 Legislation – SEFLUC February 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 92/HB 95 – C-51 Reservoir Project (Book/(Jacobs))**
2. **HB 63 – Property-Assessed Clean Environment (Rodrigues)**
3. **SB 66 – Drinking Water in Public Schools (Book, Taddeo)**
4. **SB 158/HB 71 – Traffic Offenses (Baxley/McClain)**
5. **SB 78/HB 169 – Public Financing of Construction Projects (Rodriguez/Fernandez)**
6. **SB 82/HB 145 – Vegetable Gardens (Bradley/Fetterhoff)**
7. **SB 144 – Impact Fees (Gruters)**
8. **HB 85/SB 214 – Onsite Sewage Treatment and Disposal Systems (Robinson/Gruters)**
9. **HB 101/SB 246 – Retainage / Public Construction (Andrade/ Hooper)**
10. **HB 105 – Domestic Wastewater Collection System Assessment and Maintenance (Jacobs)**
11. **HB 127/SB 142 – Permit Fees (Williamson/Perry)**
12. **HB 141/SB 216 – Water Quality Improvements (Fine, Sirois/Gruters)**
13. **SB 146 – Advanced Well Stimulation Treatment (Stewart)**
14. **HB 157 – Fertilizers (Thompson)**
15. **HB 167 – Local Government Public Construction Works (Andrade)**
16. **HB3 – Preemption of Local Regulations (Grant)**
17. **SB 796 – Public Utility Storm Protection Plans (Gruters)**

BILLS

1. SB 92/HB 95 – C-51 Reservoir Project (Book/Jacobs)

Summary:

- Revises the portions of the C-51 reservoir project for which the South Florida Water Management District may negotiate to include any portion of the project not already committed to utilities for AWS purposes;
- Revises water storage and use requirements specified for the project if state funds are appropriated for the project, including:
 - Operation of Phases I must be in accordance with any operation and maintenance agreement adopted by the Districts.
 - Requires maximization of reduction of harmful discharges to Lake Worth lagoon.
 - Provides that water received from Lake O may be available to support CUPs if use is in accordance with district rules (existing language says water is Not available to support CUPs).
- Specifies that Phase II of the project may be funded by appropriation, in addition to other sources;
- Authorizes the District to enter into a capacity allocation agreement with a water supply entity for pro rata share of unreserved capacity in water storage facility and may request the department waive repayment of all or a portion of a loan issued through water storage facility revolving loan fund (373.475);
- Committee Substitutes remove revision to statute which limits Land Acquisition Trust Fund allocation only Phase II of the project.

Impact on SEFLUC: Opportunity for CUP water availability from Lake Okeechobee.

Status:

SB 92

11/27/18 – Filed

12/13/18 – Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations.

1/22/19 – CS by Environment and Natural Resources

HB 95

12/12/18 – Filed

1/3/19 – Referred to Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee; Now in Agriculture & Natural Resources Subcommittee.

1/23/19 – CS by Agriculture & Natural Resources Subcommittee

2. HB 63 – Property-Assessed Clean Environment (Rodrigues)

Summary:

- Legislative findings
 - All properties not using advanced technologies for wastewater removal contribute to the water quality problems affecting the state and particularly coastal areas.

- Improved property retrofitted with advanced onsite treatment system or converted to central sewage significantly benefits quality of water.
- Amends definition of “qualifying improvements” to include sewage treatment improvements;
- Adds registered septic tank contractors to list of contractors authorized to make or install a qualifying improvement;
- Revises the contract language to be provided to prospective purchaser if qualifying improvement has been made.

Impact on SEFLUC: Monitor, currently unrelated to utilities.

Status:

HB 63

11/29/18 – Filed

1/3/19 – Referred to Local, Federal & Veterans Affairs Subcommittee; Ways & Means Committee; State Affairs Committee; Now in Local, Federal & Veterans Affairs Subcommittee.

3. SB 66 – Drinking Water in Public Schools (Book, Taddeo)

Summary:

- Legislative findings relating to adverse health effects of lead exposure and need to control or eliminate sources of lead to prevent childhood lead poisoning;
- Defining the term “drinking water source” to include any water source used for drinking, food preparation, or cooking;
- Requiring each school district built before 1986 to locate all drinking water sources in certain schools, install a barcode on each source, and install filters that meet certain specifications on all such sources, and post certain signage on certain water sources and to publish a list of drinking water sources on the school district’s website.

Impact on SEFLUC: Monitor

Status:

SB 66

11/20/18 – Filed

12/13/18 - Referred to Education; Appropriations Subcommittee on Education; Appropriations.

4. SB 158/HB 71 – Traffic Offenses (Baxley/McClain)

Summary:

- Enhances penalties for moving violations causing injury or death to “vulnerable road users,” which is defined to include a pedestrian, including a person actually engaged in work upon a highway or in work upon utility facilities along a highway, or engaged in provision of emergency services within the right of way.

Impact on SEFLUC: Monitor

Status:

SB 158

12/14/18 – Filed

1/10/19 – Referred to Infrastructure and Security; Appropriations Subcommittee on Criminal and Civil Justice; Appropriations

HB 71

12/4/18 – Filed

1/3/19 – Referred to Transportation & Infrastructure Subcommittee; Criminal Justice Subcommittee; State Affairs Committee; Now in Transportation & Infrastructure Subcommittee.

5. SB 78/HB 169 – Public Financing of Construction Projects (Rodriguez/Fernandez)

Summary:

- Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection study and having such study published and approved by the Department of Environmental Protection.

Impact on SEFLUC: Monitor

Status:

SB 78

11/20/18 – Filed

12/13/18 – Referred to Environment and Natural Resources; Infrastructure and Security; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations.

HB 169

1/3/19 – Filed

1/16/19 - Referred to Agriculture and Natural Resources Subcommittee; Appropriations Committee; State Affairs Committee

6. SB 82/HB 145 – Vegetable Gardens (Bradley/Fetterhoff)

Summary:

- Prohibiting local governments from regulating vegetable gardens on residential properties; specifying that such local ordinances or regulations are void and unenforceable;
- Does not prohibit adoption of local ordinance or regulation of general nature that does not specifically regulate vegetable gardens, including, but not limited to, regulations and ordinances relating to water use during drought conditions, fertilizer use, or control of invasive species.
- HB 145 CS provides definition of “vegetable garden” as a plot of ground where herbs, fruits, flowers, and vegetable cultivated for human ingestion.

Impact on SEFLUC: Monitor

Status:

SB 82

11/21/18 - Filed

12/13/18 – Referred to Community Affairs; Rules

1/08/19 – Favorable by Community Affairs; 5 Yeas, 0 Nays; Now in Rules

HB 145

1/2/19 – Filed

1/9/19 - Referred to Local, Federal and Veterans Affairs Subcommittee; Commerce Committee; State Affairs Committee

1/23/19 - CS by Local, Federal and Veterans Affairs Subcommittee; YEAS 13 NAYS 1

1/28/19 - Now in Commerce Committee

7. SB 144 – Impact Fees (Gruters)

Summary:

- Revising the minimum requirements for impact fees adopted by a local government:
 - Collection of the impact fee may not be required to occur earlier than the date of issuance of the building permit for the property that is subject to the fee.
 - The impact fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.
 - The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the funds collected and the benefits accruing to the new residential or commercial construction.
 - The local government must specifically earmark funds collected under the impact fee for use in acquiring, constructing, or improving capital facilities to benefit new users.
 - Revenues generated by the impact fee may not be used, in whole or in part, to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.
- Exempting water and sewer connection fees from the Florida Impact Fee Act, etc.

Impact on SEFLUC: Monitor

Status:

SB 144

12/13/18 – Filed

1/10/19 - Referred to Community Affairs; Finance and Tax; Appropriations

02/05/19 S On Committee agenda-- Community Affairs, 02/05/19, 2:00 pm, 301 Senate Building --Temporarily Postponed on Tuesday, February 5, 2019 2:30 PM

8. HB 85/SB 214 – Onsite Sewage Treatment and Disposal Systems (Robinson/Gruters)

Summary:

- Directs Department of Health (“DOH”) to identify all onsite sewage treatment & disposal systems in the state, update database of such system through existing information available from the state, local, or commercial data sources (does not allow inspection of property to obtain information) and submit report to Governor & Legislature;
- Requires periodic inspection of such systems, requires DOH to administer onsite sewage treatment & disposal system inspection program & adopt rules meeting minimum inspection requirements and exceptions;
- Requires owners to pay costs of inspections & pump-outs; requires that inspections & pump-outs be performed by certain registered contractors; provides notice requirements;
- Requires system disclosure summary for certain properties & acknowledgement of such disclosures by purchaser before or at execution of contract for sale.

Impact on SEFLUC: Monitor

Status:

HB 85

12/11/18 – Filed

1/3/19 – Referred to Agriculture & Natural Resources Subcommittee; Health Care Appropriations Subcommittee; State Affairs Committee; Now in Agriculture & Natural Resources Subcommittee.

SB 214

1/2/19 – Filed

1/22/19 – Referred to Health Policy; Environment and Natural Resources; Appropriations Subcommittee on Health and Human Services; Appropriations

9. HB 101/SB 246 – Retainage / Public Construction (Andrade/ Hooper)

Summary:

- Revises amounts that public entity may withhold from progress payment to contractor as retainage until & after 50-percent completion of construction services (reduces from 5% to 2.5%).

Impact on SEFLUC: Monitor

Status:

HB 101

12/17/18 – Filed

1/3/19 – Referred to Business & Professions Subcommittee; Oversight, Transparency & Public Management Subcommittee; Commerce Committee; Now in Business & Professions Subcommittee.

SB 246

1/7/19 – Filed

1/22/19 - Referred to Governmental Oversight and Accountability; Community Affairs; Appropriations

2/4/19 – On Governmental Oversight and Accountability agenda 2/12/19

10. **HB 105 – Domestic Wastewater Collection System Assessment and Maintenance (Jacobs)**

Summary:

- Establishes Blue Star Collection System Assessment & Maintenance Program within DEP for domestic wastewater utilities;
- Provides that certified utilities are presumed to comply with state water quality standards;
- Directs DEP to issue certain permits to certified utilities; authorizes DEP to reduce penalty amounts;
- Provides that certain utilities are eligible to participate in Clean Water State Revolving Fund Program & receive Small Community Sewer Construction Assistance Grants.

Impact on SEFLUC: Support

Status:

HB 105

12/17/18 – Filed

1/3/19 - Referred to Agriculture and Natural Resources Subcommittee; Agriculture and Natural Resources Appropriations Subcommittee; State Affairs Committee

11. **HB 127/SB 142 – Permit Fees (Williamson/Perry)**

Summary:

- Requires governing bodies of counties & municipalities to post their permit & inspection fee schedules & building permit & inspection utilization reports on their websites; requires governing bodies of local governments to post their building permit & inspection utilization reports on their websites by specified date; provides requirements for such governing bodies; provides reporting requirements.

Impact on SEFLUC: Monitor

Status:

HB 127

12/19/18 – Filed

1/3/19 – Referred to Local, Federal & Veterans Affairs Subcommittee; Business & Professions Subcommittee; State Affairs Committee; Now in Local, Federal & Veterans Affairs Subcommittee

1/23/19 - Favorable by Local, Federal and Veterans Affairs Subcommittee; YEAS 14 NAYS 0

1/23/19 - Now in Business and Professions Subcommittee

SB 142

12/12/18 – Filed

1/10/19 -Referred to Community Affairs; Innovation, Industry, and Technology; Rules

2/5/19 - Favorable by Community Affairs; YEAS 5 NAYS 0; Now in Innovation, Industry, and Technology

12. HB 141/SB 216 – Water Quality Improvements (Fine, Sirois/Greuters)

Summary:

- Provides appropriation (a minimum of the lesser of 7.6 percent or \$50 million) from Land Acquisition Trust Fund for certain projects related to Indian River Lagoon Comprehensive Conservation & Management Plan;
- Authorizes DEP, with other specified entities, to provide grants for such projects;
- Directs DEP to submit an annual report;
- **Requires each wastewater that unlawfully discharges sewage into waterway or aquifer to notify its customers;**
- **Requires wastewater treatment facility that unlawfully discharges raw or partially treated sewage into any waterway (undefined term) or aquifer to either:**
 - Pay a civil penalty to DEP in an amount equal to \$1 for each gallon of sewage discharged; or
 - Calculate the number of gallons of sewage discharged and with DEP’s approval, spend \$2 for each gallon to upgrade or remediate the problems that gave rise to unlawful discharge.

Impact on SEFLUC: Civil penalty fees for unlawful discharges into waterways or aquifers – how will this be implemented? What constitutes a waterway? Does this include discharges caused by third parties’ negligent actions?

Status:

HB 141

12/28/18 – Filed

1/9/19 - Referred to Agriculture and Natural Resources Subcommittee; Agriculture and Natural Resources Appropriations Subcommittee; State Affairs Committee

SB 216

1/2/19 – Filed

1/22/19 - Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriation

13. SB 146 - Advanced Well Stimulation Treatment (Stewart)

Summary:

- Defining the term “advanced well stimulation treatment”; prohibiting the performance of advanced well stimulation treatments; clarifying that permits for drilling or operating a well do not authorize the performance of advanced well stimulation treatments, etc.

Impact on SEFLUC: Monitor

Status:

SB 146

12/13/18 – Filed

1/10/19 - Referred to Environment and Natural Resources; Innovation, Industry, and Technology; Appropriations

14. HB 157 – Fertilizers (Thompson)

Summary:

- Requires county and municipal governments to adopt and enforce a model ordinance for Florida-friendly fertilizer use on urban landscapes;
- Specifies that county and municipal governments must require use of specified slow release fertilizers;
- Provides additional requirements for counties and municipalities within estuary runoff areas;
- Authorizes county and municipal governments to adopt additional standards.

Impact on SEFLUC: Monitor

Status:

HB 157

1/2/19 – Filed

1/9/19 - Referred to Agriculture and Natural Resources Subcommittee; Local, Federal and Veterans Affairs Subcommittee; State Affairs Committee

15. HB 167 – Local Government Public Construction Works (Andrade)

Summary:

- Requires governing board of local government to consider estimated costs of certain projects using generally accepted cost-accounting principles that account for specified costs when making specified determination; requires estimated total construction project costs for certain projects to include specified costs.

Impact on SEFLUC: Monitor

Status:

HB 167

1/3/19 – Filed

1/16/19 - Referred to Oversight, Transparency and Public Management Subcommittee; Business and Professions Subcommittee; State Affairs Committee

16. HB 3 – Preemption of Local Regulations

Summary:

- Prohibits local governments from imposing new regulations on businesses unless the local government has determined the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage, the regulation does not unnecessarily restrict entry into the business or adversely affect the availability of the

business' services to the public, and least restrictive and most cost effective regulation is used.

- Regulation must sunset after 2 years.
- Regulation must pass by two-thirds vote.
- Statement of estimated regulatory costs and lowest cost alternative evaluation required.
- Existing business regulations expire July 1, 2021.

Impact of SEFLUC: Extremely problematic

Status:

HB 3

2/6/19 - Filed

17. SB 796 - Public Utility Storm Protection Plans

Summary:

- Requiring public utilities to individually submit to the Public Service Commission, for review and approval, a transmission and distribution storm protection plan as part of the storm hardening plan required by the commission; requiring the commission to conduct an annual proceeding to allow utilities to justify and recover certain costs through a storm protection cost recovery clause; providing that utilities may not include certain costs in their base rates.

Impact of SEFLUC: Monitor

Status:

SB 796

2/6/19 - Filed