

MEMORANDUM

To: SEFLUC

From: Edward P. de la Parte and Nicolas Porter

Date: March 13, 2023

RE: 2023 Legislation – SEFLUC 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. ***HB 23/SB 162 Water and Wastewater Facility Operators (Bell/Collins)***
2. ***HB 111/SB 1170 Public Financing of Potentially At-risk Structures and Infrastructure (Hunschofsky)***
3. ***SB 170/HB 1515 Local Ordinances (Trumbull/Brackett)***
4. ***SB 172/HB 177 Safe Waterways Act (Berman/Gossett-Seidman)***
5. ***SB 192/HB 175 Everglades Protection Area (Avila/Busatta Cabrera)***
6. ***SB 194/HB 125 Utility System Rate Base Values (Hooper/McClain)***
7. ***HB 207/SB 592 Notice of Contaminated Water Systems (Edmonds/Powell)***
8. ***SB 436/HB 383 Public Construction (DiCeglie/Griffitts)***
9. ***HB 361/1721 Municipal Water and Sewer Utility Rates (Robinson/Jones)***
10. ***HB 371/SB 910 Management and Storage of Surface Waters (Killebrew/Burton)***
11. ***HB 423/SB 1538 Implementation of the Recommendations of the Blue-Green Algae Task Force (Cross/Stewart)***
12. ***SB 458/HB 827 Wastewater Grant Program (Rodriguez/Basabe)***
13. ***HB 661/SB 1420 Sanitary Sewer Lateral Inspection Programs (Truenow/Rodriguez)***
14. ***SB 734/HB 1079 Saltwater Intrusion Vulnerability Assessments (Polsky/Cross)***
15. ***SB 880/HB 1405 Biosolids (Brodeur/Tuck)***
16. ***SB 930 Excise Tax on Water Extracted for Commercial or Industrial Use (Stewart)***
17. ***HB 1197/SB 1240 Land and Water Management (Maggard/Burgess)***
18. ***HB 1331/SB 1380 Municipal Utilities (Busatta Cabrera)***
19. ***HB 1379/SB1632 Pollutant Load Reduction/Environmental Protection (Steele/Brodeur)***
20. ***SB 7002 Ratification of Rules of DEP***

BILLS

1. HB 23/SB 162 Water and Wastewater Facility Operators (Bell/Collins)

Summary:

- Requires issuance of reciprocity licenses for water and wastewater treatment plant operators who are licensed by another state, the federal government, a territory or tribal government with “comparable” license examination to Florida.
- Requires issuance of reciprocity licenses for applicants who performed comparable water or wastewater operator duties in U.S. Armed Forces.
- House Committee substitute added definition of the term drinking water and wastewater personnel, and requires DEP to adopt rules to implement the provision.

Status:

HB 23

12/06/22 Filed
12/23/22 Referred to Water Quality, Supply & Treatment Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Infrastructure Strategies Committee
02/15/23 On Committee agenda - Water Quality, Supply & Treatment Subcommittee
02/22/23 Favorable with CS by Water Quality, Supply & Treatment Subcommittee; 17 Yeas, 0 Nays
02/28/23 Now in Agriculture & Natural Resources Appropriations Subcommittee

SB 162

01/10/23 Filed
01/19/23 Referred to Environment and Natural Resources; Regulated Industries; Fiscal Policy

2. HB 111/SB 1170 Public Financing of Potentially At-risk Structures and Infrastructure (Hunschofsky/Calatayud)

Summary:

- Creates definitions for “areas at risk due to sea level rise” and “potentially at risk structure or infrastructure.”
- Beginning July 1, 2024, a state-financed constructor may not commence construction of a potentially at risk structure or infrastructure without preparing SLIP study and submit to DEP for publication, including design and siting alternatives and list of flood mitigation strategies evaluated as part of the design.

Status:

HB 111

01/04/23 Filed
01/10/23 Referred to Agriculture, Conservation & Resiliency Subcommittee;
Agriculture & Natural Resources Appropriations Subcommittee; Infrastructure Strategies
Committee
HOUSE Now in Agriculture, Conservation & Resiliency Subcommittee

SB 1170

02/24/23 Filed
03/02/23 Referred to Environment and Natural Resources; Appropriations Committee
on Agriculture, Environment, and General Government; Fiscal Policy

3. **SB 170/HB 1515 Local Ordinances (Trumbull/Brackett)**

Summary:

- Before enactment of a proposed ordinance, local government must prepare a business impact estimate of direct economic impact of ordinance on private business, estimated regulatory costs, and number of businesses affected.
- Enforcement of ordinances suspended if challenged within 90 days of adoption.
- Does not apply to ordinances required for compliance with state or federal law or regulation, budgeting, implementation of a contract.
- Provides that courts may assess attorney's fees and costs against a local government if a local ordinance is challenged on the grounds that the ordinance is arbitrary or unreasonable.
- Provides for continuance of consideration of proposed ordinance at public meetings without further noticing, addressing recent appellate decision.

Status:

SB 170

01/24/23 Filed
01/26/23 Referred to Community Affairs; Rules
01/30/23 On Committee agenda - Community Affairs, 02/08/23, 9:30 am, 401 S
02/08/23 Favorable with CS by Community Affairs; 7 Yeas, 2 Nays
02/09/23 Committee Substitute Text (C1) Filed
SENATE Now in Rules
02/13/23 On Committee agenda - Rules, 02/23/23, 9:30 am, 412 K
02/23/23 Favorable with CS by Rules; 15 Yeas, 0 Nays
02/24/23 Committee Substitute Text (C2) Filed
SENATE Placed on Calendar, on 2nd reading
03/06/23 Placed on Special Order Calendar, 03/08/23

HB 1515

03/06/23 Filed

4. **SB 172/HB 177 Safe Waterways Act (Berman/Gossett-Seidman)**

Summary:

- Requires Department of Health to adopt rules that require owners of beach waters and public bathing places to notify local county health department and resample water within 24 hours of a test result indicating the sample fails to meet Department standards.
- Department must issue health advisories and require beach waters and public bathing place closures if they fail to meet standards and if necessary to protect public health, safety, or welfare until water quality is restored.
- Municipalities and Counties required to post health advisory signs around beach waters and public bathing areas they own when health advisory is issued.

Status:

SB 172

01/12/23 Filed

01/19/23 Referred to Health Policy; Appropriations Committee on Health and Human Services; Fiscal Policy

HB 177

01/11/23 Filed

**01/17/23 Referred to Healthcare Regulation Subcommittee; Health Care Appropriations Subcommittee; Health & Human Services Committee
HOUSE Now in Healthcare Regulation Subcommittee**

5. SB 192/HB 175 Everglades Protection Area (Avila/Busatta Cabrera)

Summary:

- Requires comprehensive plan amendments within 2 miles of Everglades Protection Area to be reviewed by FDEP in consultation with all Indian tribes of the state, to determine if proposed plan amendment adversely impacts Everglades Protection Area or Everglades restoration and protection objectives.
- If DEP determines impacts will occur, local government must modify the plan to include measures to eliminate or mitigate the adverse impacts.

Status:

SB 192

01/13/23 Filed

01/26/23 Referred to Community Affairs; Environment and Natural Resources; Rules

03/02/23 On Committee agenda - Community Affairs, 03/07/23, 4:00 pm, 401 S

03/07/23 Favorable with CS by Community Affairs; 9 Yeas, 0 Nays

HB 175

01/10/23 Filed

01/17/23 Referred to Agriculture, Conservation & Resiliency Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Infrastructure Strategies Committee

HOUSE Now in Agriculture, Conservation & Resiliency Subcommittee

6. SB 194/HB 125 Utility System Rate Base Values (Hooper/McClain)

Summary:

- Establishes alternative procedure for establishing rate base values by a private utility when acquiring an existing utility system.

Status:

SB 194

01/13/23 Filed

01/26/23 Referred to Regulated Industries; Appropriations Committee on Agriculture, Environment, and General Government; Fiscal Policy

HB 125

01/06/23 Filed

01/17/23 Referred to Energy, Communications & Cybersecurity Subcommittee; State Administration & Technology Appropriations Subcommittee; Commerce Committee

02/08/23 On Committee agenda - Energy, Communications & Cybersecurity Subcommittee, 02/15/23, 9:00 am, 102 H

02/15/23 Favorable with CS by Energy, Communications & Cybersecurity Subcommittee; 18 Yeas, 0 Nays

HOUSE Committee Substitute Text (C1) Filed

02/21/23 Reference to State Administration & Technology Appropriations Subcommittee removed; Remaining reference: Commerce Committee

HOUSE Now in Commerce Committee

7. HB 207/SB 592 Notice of Contaminated Water Systems (Edmonds/Powell)

Summary:

- Adds requirement that water suppliers regulated by the Department of Health must provide notice of water problems and corrective measures via text message to each owner or occupant of affected residences when health hazards exist due to contamination from pollutants or hazardous substances.
- Applicable to water systems not covered by Florida Safe Drinking Water Act

Status:

HB 207

01/17/23 Filed

01/25/23 Referred to Healthcare Regulation Subcommittee; Health Care Appropriations Subcommittee; Health & Human Services Committee

HOUSE **Now in Healthcare Regulation Subcommittee**

SB 592

02/08/23 **SENATE** **Filed**

02/16/23 **SENATE** **Referred to Health Policy; Environment and Natural Resources; Rules**

8. SB 436/HB 383 Public Construction (DiCeglie/Griffitts)

Summary:

- Construction contracts between local government and contractor must include a dollar valuation using reasonable market values of the estimated costs to complete list of items required for construction services to be rendered complete.
- Within 20 days of the date the list is created, local government must pay the contractor the remaining balance of the contract including retainage, excluding the estimated costs to complete the items on the list.
- If local government has provided written notice specifying a failure to meet contract requirements in the development of the list of items to be completed, local government shall pay remaining balance, less 150% of the estimated cost to complete the items the local government intends to keep on the list.
- Failure by local government to pay remaining balance, less amount equaling the estimated cost to complete items on list, results in requirement to pay all unpaid contract sums, including retainage.
- Definition of “public works project” in Section 255.0992 amended to eliminate \$1 million in value threshold, and include both local or state appropriated funds for public works.
 - Impacts limitations on bidding based on geographic location of contractor, employee pay and benefit requirements.
- HB 383 also includes amendment to Section 553.792 regarding local government building permit approval.

Status:

SB 194

01/24/23 **Filed**

02/09/23 **Referred to Community Affairs; Governmental Oversight and Accountability; Rules**

HB 383

01/23/23 **Filed**

02/01/23 **Referred to Local Administration, Federal Affairs & Special Districts Subcommittee; Commerce Committee; State Affairs Committee**

02/22/23 **Favorable with CS by Local Administration, Federal Affairs & Special Districts Subcommittee; 14 Yeas, 4 Nays**

02/23/23 **Committee Substitute Text (C1) Filed**

02/28/23 Reference to Commerce Committee removed; Remaining reference: State Affairs Committee
HOUSE Now in State Affairs Committee

9. **HB 361/SB 1721 Municipal Water and Sewer Utility Rates (Robinson/Jones)**

Summary:

- Any municipality providing water or sewer service to customers in another municipality using facilities located in the recipient municipality must charge the same rates and fees to the recipient municipality customers as within its own municipal boundaries.

Status:

HB 361

01/23/23 Filed

02/01/23 Referred to Energy, Communications & Cybersecurity Subcommittee; Local Administration, Federal Affairs & Special Districts Subcommittee; Commerce Committee

02/01/23 Now in Energy, Communications & Cybersecurity Subcommittee

SB 1721

03/06/23 Filed

10. **HB 371/SB 910 Management and Storage of Surface Waters (Killebrew/Burton)**

Summary:

- Revises ERP exemptions to implementation of measures or practices for the primary purpose of environmental habitat creation, enhancement, or water quality improvement on government-owned lands.
- Exemption applies if the alterations result in a net increase in wetland resource functions, and result in habitat that resembles the characteristics of a functional wetland habitat in the same region.

Status:

HB 371

01/23/23 Filed

02/01/23 Referred to Water Quality, Supply & Treatment Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Infrastructure Strategies Committee

02/01/23 Now in Water Quality, Supply & Treatment Subcommittee

SB 910

02/17/23 Filed

02/28/23 Referred to Environment and Natural Resources; Community Affairs; Rules

11. HB 423/SB 1538 Implementation of the Recommendations of the Blue-Green Algae Task Force (Cross/Stewart)

Summary:

- Require inspection of OSTs at least every 5 years through program implemented by FDEP.
- Require pollutant load reductions in BMAPs to meet or exceed total amount of pollutant load reductions needed to meet the total TMDL requirements.
- Require BMAPs to consider projected increases in pollutant loading related to population growth and agricultural growth.

Status:

HB 423

01/24/23 Filed

02/01/23 Referred to Water Quality, Supply & Treatment Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Infrastructure Strategies Committee

02/01/23 Now in Water Quality, Supply & Treatment Subcommittee

SB 1538

03/03/23 Filed

12. SB 458/HB 827 Wastewater Grant Program (Rodriguez/Basabe)

Summary:

- Expands projects that qualify for FDEP wastewater grants to include those that are directed to a water body listed as impaired. Existing law limits grants to areas under BMAP or restoration plan.

Status:

SB 458

01/31/23 Filed

02/09/23 Referred to Environment and Natural Resources; Appropriations Committee on Agriculture, Environment, and General Government; Fiscal Policy

03/06/23 Favorable with CS by Environment and Natural Resources; 8 Yeas, 0 Nays

03/06/23 Committee Substitute Text (C1) Filed

HB 827

02/14/23 Filed

02/21/23 Referred to Water Quality, Supply & Treatment Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Infrastructure Strategies Committee

HOUSE Now in Water Quality, Supply & Treatment Subcommittee

03/08/23 Favorable by Water Quality, Supply & Treatment Subcommittee; 17 Yeas, 0 Nays

13. HB 661/SB 1420 Sanitary Sewer Lateral Inspection Programs (Truenow/Rodriguez)

Summary:

- **HB 661** – Local government is encouraged to establish SSL evaluation and rehabilitation program. If damages to SSL is identified and a program to eliminate extraneous flow is established, specifies procedures and timelines for notice to property owner, and makes local government responsible for cost of repair work on private property. Specifications for repair and inspection.
- **SB 1420** – Local government “may” establish evaluation and rehabilitation program. If damages to SSL is identified and a program to eliminate extraneous flow is established, specifies procedures and timelines for notice to property owner, and makes local government responsible for cost of repair work on private property. Specifications for repair and inspection.

Status:

HB 611

02/08/23 Filed

02/14/23 Referred to Water Quality, Supply & Treatment Subcommittee; Local Administration, Federal Affairs & Special Districts Subcommittee; Infrastructure Strategies Committee

HOUSE Now in Water Quality, Supply & Treatment Subcommittee

03/06/23 On Committee agenda - Water Quality, Supply & Treatment Subcommittee,

03/08/23, 8:00 am, 404 H

03/08/23 Temporarily Postponed by Water Quality, Supply & Treatment Subcommittee

SB 1420

03/02/23 SENATE Filed

14. SB 734/HB 1079 Saltwater Intrusion Vulnerability Assessments (Polsky/Cross)

Summary:

- Authorizes DEP to provide Resiliency Florida grants to coastal counties to conduct saltwater intrusion vulnerability assessments to analyze effect of intrusion on county water supply and threats to utility infrastructure.

Status:

SB 734

02/13/23 Filed

02/23/23 Referred to Environment and Natural Resources; Appropriations Committee on Agriculture, Environment, and General Government; Appropriations

HB 1079

02/23/23 Filed

02/28/23 Referred to Agriculture, Conservation & Resiliency Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Infrastructure Strategies Committee

HOUSE Now in Agriculture, Conservation & Resiliency Subcommittee

15. SB 880/HB 1405 Biosolids (Brodeur/Tuck)

Summary:

- Provides for DEP to provide grants for projects to convert wastewater residuals to class A and class AA biosolids.
- Provides that DEP may not authorize a land application site permit for a class B biosolid within subwatershed of waterbody designated as impaired for either nitrogen or phosphorus or within an adjoining upstream subwatershed containing surface waters that flow to a waterbody designated as impaired for either nitrogen or phosphorus unless the applicant affirmatively demonstrates that the phosphorus and nitrogen in the biosolids will not add to the nutrient load in the impaired subwatershed.

Status:

SB 880

02/16/23 Filed

02/23/23 Referred to Environment and Natural Resources; Appropriations Committee on Agriculture, Environment, and General Government; Appropriations

SB 1405

03/03/23 HOUSE Filed

16. SB 930 Excise Tax on Water Extracted for Commercial or Industrial Use (Stewart)

Summary:

- Imposes excise tax of \$0.001 per gallon of water extracted from waters of the state for commercial or industrial use. Excludes use for public water supplies, agriculture, restroom, sanitation or cooking.

Status:

SB 930

02/17/23 Filed

02/28/23 Referred to Environment and Natural Resources; Finance and Tax; Appropriations

17. HB 1197/SB 1240 Land and Water Management (Maggard/Burgess)

Summary:

- Prohibits a county or municipality from adopting law or regulation relating to water quality, water quantity, pollution control, pollutant discharge prevention or removal, or wetlands.

- Preempts the regulation of all such subjects to the state.
- Does not apply to regulation of county or municipality's own water, wastewater, or stormwater system.

Status:

HB 1197

02/27/23 **Filed**

03/06/23 **Referred to Water Quality, Supply & Treatment Subcommittee; Local Administration, Federal Affairs & Special Districts Subcommittee; Infrastructure Strategies Committee**

HOUSE **Now in Water Quality, Supply & Treatment Subcommittee**

SB 1240

02/27/23 **Filed**

03/06/23 **Referred to Environment and Natural Resources; Appropriations Committee on Agriculture, Environment, and General Government; Fiscal Policy**

18. HB 1331/SB 1380 Municipal Utilities (Busatta Cabrera)

Summary:

- Authorizes surcharge of up to 10% by municipality on customers located outside municipal boundaries.
- Excludes municipalities that own, operate, manage, or provide water or wastewater utilities from exemption from regulation by Public Service Commission.
- Provides that municipality that owns water or wastewater utility may transfer portion of earning to general fund at a fixed percentage established by local referendum.

Status:

HB 1331

03/02/23 **Filed**

19. HB 1379/SB1632 Pollutant Load Reduction/Environmental Protection (Steele/Brodeur)

Summary:

- New comprehensive plan requirements for provision of sanitary sewer services to certain developments with onsite sewage treatment and disposal within 10 year planning horizon.
- Establishes Indian River Lagoon Protection Program.
- Additional BMAP requirements.
- Prohibits disposal of wastes from sewage disposal facilities without advanced waste treatment in listed water bodies, by specified dates, including water not attaining nutrient standards by 2033.
- Sewage facilities cannot dispose of any wastes without providing advanced treatment within 10 years after determination or adoption that a waterbody does not attain nutrient standards, is subject to BMAP, or an reasonable assurance plan.

Status:

HB 1379

03/02/23 Filed

HB 1632

03/03/23 Filed

20. SB 7002 Ratification of Rules of DEP

Summary:

- Ratifies revisions to Ch. 62-600 FAC made by DEP pursuant to 2020 Clean Waterways Act concerning wastewater facilities
- Ratification required due to costs of annual reporting, preparation of power outage contingency plan, implementation of collection system action plan, and update of emergency response plan relating to cybersecurity.

Status:

SB 7002

02/13/23 Filed

SENATE On Committee agenda - Environment and Natural Resources, 02/21/23, 9:30 am, 301 S

02/21/23 Submitted as Committee Bill and Reported Favorably by Environment and Natural Resources; 9 Yeas, 0 Nays

SENATE Committee Bill Text Filed

02/28/23 Referred to Community Affairs; Rules