

Legislative Wrap-Update

by David Cullen, Sierra Club Florida legislative lobbyist

The final chapter of this year's session is almost over. The Florida House adjourned three and a half days early because of a severe difference with the Senate on whether to expand Medicaid or not, with the result that no budget was adopted (the one thing the legislature is mandated to accomplish by the State Constitution) and, from an environmental perspective, many bad bills died.

There will be a special session from June 1-20 to develop and adopt a balanced budget. The joint proclamation for the special session does not include any of the bills that died as a result of the early House adjournment, so those bills will remain dead absent a 2/3 vote in both chambers to take them up. However, Amendment 1 funding is still on the table both because it is a budget issue and because it is constitutionally mandated.

The legislature's policy with respect to Amendment 1 so far is disappointing to say the least. During the regular session the House proposed to put only \$8 million into Florida Forever and the Senate proposed only \$15 million. Worse, each chamber uses over \$230 million to fund existing agency operating and regulatory expenses from Amendment 1. These dollars are proposed for items like salaries of officers who enforce hunting, boating, and fishing rules, regulating fish farms, and funding salaries in the Division of Cultural Affairs.

The special session gives legislators one more chance to finish the job and renew state spending on water and land conservation and programs like Florida Forever, Everglades Restoration, Florida Communities Trust, and Rural Family Lands.

SCF issues during the 2015 session:

Go to www.flsenate.gov and www.myfloridahouse.gov to see the full text of bills.

Energy - Clean Power Plan – EPA's Clean Power Plan goal of reducing carbon emissions from power plants by 35% is one of National Sierra Club's main goals. It was also the subject of hostile bills filed by Sen. Gibson (D- Duval county) and Rep. Wood (R - Polk County) requiring legislative ratification of the State's implementation plan (SIP) to meet the carbon emission goal before submitting it to EPA and further, that any rules required to meet the goal would also have to be ratified before they could become effective.

Rep. Wood's bill, **HB 849**, passed its first committee by a vote of 8-4, but Sen. Gibson agreed not to pursue a hearing for her bill, **SB 1076**, and it was never heard in committee. Therefore, both bills died. A 'Thank You!' is in order for Sen. Gibson.

On a similar subject, companion memorials (messages from the Florida Legislature) **HB 949** by Rep. Rodrigues and **SB 1228** by Sen. Evers, that urged the U.S. Congress to direct EPA to go easier on coal burning power plants did not pass. The House bill passed all its committee stops, but the Senate version only passed out of its first committee.

Fracking - Bills to ban fracking in Florida.

SB 166 by Sens. Soto and Bullard and **HB 169** by Rep. Jenne call for a ban on fracking and/or well stimulation in the state. Not surprisingly, neither bill was heard in even its first committee. But there was plenty of action on fracking...

Bills 'regulating' fracking and providing secrecy for well operators

Rep. Rodrigues and Sen. Richter filed companion bills. **HB 1205** and **SB 1468** (Regulation of Oil and Gas Resources) purported to impose regulation on the practice of fracking in Florida. However, both used such a narrow definition of fracking (termed 'high-pressure well stimulation') that many instances where toxic chemicals are injected into the ground would not be regulated.

The House version also included local preemption that would prevent local jurisdictions from protecting their residents.

The bills called for well operators to disclose the chemicals they inject into the ground to both the Department of Environmental Protection (DEP) and the national website, FracFocus, but the linked bills **HB 1209** and **SB 1582** grant a public records exemption to well operators making it incredibly easy to claim the chemicals were secret and prohibiting DEP from releasing information about the chemicals if they had been marked 'proprietary business information'. FracFocus does not publish trade secrets or proprietary information.

In any event, residents or visitors near fracking sites would have no way of knowing what chemicals they and their families might be exposed to until long after any damage was done.

Rep. Rodrigues' regulation bill, **HB 1205** passed the House on a mostly party line 82-34 vote [Vote \[Seq# 367\]](#) but his public records exemption bill was postponed on final passage and did not pass. The Senate bills by Sen. Richter sailed through their early committees but ran into stiff opposition from the public (Sierra worked with numerous groups including ReThink Energy, Physicians for Social Responsibility, Our Santa Fe River, the Environmental Caucus, and many anti-fracking activists - and we'll undoubtedly work with them again!)

The Senate bills also started to run into trouble with Senators on both sides of the aisle, particularly in Senate Appropriations where Republican Senators Hukill, Garcia, and Flores joined Democrats Montford, Joyner, and Smith in opposing **SB 1468** (the regulation bill). And **SB 1582**, the public records exemption bill, was opposed by Republicans Latvala, Lee, and Hukill in addition to Democrats Joyner, Margolis, Montford and Smith. Sen. Ring from Broward was the only Democrat who supported both bills.

The Senate bills were on the Senate floor at the same time the House decided to go home early so they died for the session. But this issue will be back. Meet with your legislators to make sure they know how YOU feel about fracking.

Advance Cost Recovery bills

It is notable that five bills were filed in the House to modify or repeal advance cost recovery for nuclear plants that allow utilities to charge customers for plants that are never built for a couple of reasons. First, the issue was bi-partisan. House bills **67**, **353**, and **473** were filed by Republican Reps. Latvala, Burgess, and Ahearn, and **399** and **4001** were filed by Democratic Reps. Dudley and Rehwinkel-Vasilinda. Most notable though is the sad fact that not even one

was heard in committee. That's an indication of how much power (no pun intended...) the utilities wield in Tallahassee.

Utilities Regulation

SB 288 by Sen. Latvala and HB 7109 Florida Public Service Commission did offer small improvements in accountability of the PSC, but the early adjournment prevented Sen. Latvala from being able to fight for the Senate version which required the Public Counsel to be a party to settlements and for the PSC to meet in the service territories they regulate. These provisions were not in the version that had passed the House before it adjourned. Sen. Latvala felt he had to accept the weakened bill in order to reduce the amount rate payers are charged for nuclear asset cost recovery. The bill provides for a dedicated revenue stream from a nuclear asset recovery charge that can be bonded at a lower interest rate.

The bill also provides for term limits for PSC members, ethics training, a requirement that those who lobby the PSC register as lobbyists, maximum deposit amounts, and requires utilities to help customers get the best rates.

Ad Valorem exemption for commercial renewable energy

SB 400/402 and HB 865/867 by Sen. Brandes and Rep. Rodrigues

These bills would have placed a Constitutional amendment to exempt renewable source devices from ad valorem taxation of commercial property on the 2016 ballot and the linked implementing bills would immediately go into effect if the amendment were adopted by voters. Unfortunately, these bills only passed their first committee and went no further.

Solar Constitutional Amendment

Remember, Sierra Club Florida is working with Floridians for Solar Energy to get petitions signed for a Constitutional amendment to remove obstacles to solar energy! –If you haven't already, go to the website for a petition and send it in so the coalition can track and turn in completed petition forms to your Supervisor of Elections. <http://www.flsolarchoice.org/>

Water Quality - The House and Senate took very different approaches to the big water policy bills. The House started very quickly with a Proposed Committee bill in the State Affairs Committee which had one hearing in the Appropriations Committee. **HB 7003** was passed by the full House on only the third day of session by a vote of 106-9. [Vote \[Seq# 5\]](#) DEP said they had not even had time to fully review the bill when it was first proposed.

Sierra Club Florida opposed the bill because it weakened the protections from last session's Springs bill, removed deadlines, and relied exclusively on collaborative Basin Management Action Plans (BMAP) and Best Management Practices to accomplish water quality goals instead of enforceable standards. The bill was also a major step backward for the Everglades and Caloosahatchee and St. Lucie watersheds and estuaries because it eliminated the enforcement leverage provided by permits (if standards aren't met the permit can be revoked) in favor of a Lake Okeechobee BMAP.

The Senate was more deliberate and started with a reworking of last year's Springs bill with a Shared Use Non-Motorized Trails portion grafted onto it. There were three hearings on the bill

in the Environmental Protection and Conservation Committee, but in the end, the House Water bill was amended onto it, and the Springs protections were further weakened.

On final passage in the Senate the House version, **HB 7003**, was substituted for **SB 918** and amended to match the Senate version of the bill. Since the House had adjourned by then, there was no way for the House to agree to the amendment(s) and the bills died for the session.

The path taken by the water bill between last session and this was exceedingly frustrating. The Springs bill from last year had real promise, but it was progressively weakened and laden with bad policies until Sierra had to oppose it.

The bill's approach to water supply is a good example. The main focus of the bill was water supply for human use (not natural systems.) The policy throughout was that whenever an applicant for water is denied a Consumptive Use Permit (CUP), the mandatory response is that taxpayers come up with whatever water is requested. The concept of sustainability is completely ignored. Since the state is looking at adding another 5 million residents (and who knows how many visitors) in the next 20 years, this is a fatally flawed planning strategy. But that's what the legislature is passing. We were only saved by the House's adjournment. We can be sure we'll see these short-sighted policies again next year.

Land Application of Septage

Since July 1, 2010 the following has been law in Florida:

381.0065 Florida Statutes

(6) LAND APPLICATION OF SEPTAGE PROHIBITED.—Effective January 1, 2016, the land application of septage from onsite sewage treatment and disposal systems is prohibited.

Septage is the stuff they pump out of septic tanks. For years pumpers have been applying it to the land as a way of getting rid of it despite Florida's water quality problems with nutrients. Roughly 2/3 of the land application sites are in Springs Protection Zones in karstic areas of the state where contaminated groundwater can move quickly to springs through conduits and sinkholes.

Instead of using the past five years to prepare to obey the law that will be effective next January, pumpers, wastewater treatment facilities, and the counties they serve have done just about nothing to prepare for the prohibition and have instead focused on trying to repeal the law. That strategy may not have panned out very well for them this year.

Rep. Brad Drake's **HB 687** passed the full House by a vote of 99-12 [Vote \[Seq# 94\]](#) after it was amended from a full repeal to pushing back the date by two years to 2018. The companion bill, **SB 648** by Sen. Evers, only made it through its first committee of reference. The issue was not included in the call of the special session so the law will come into effect and land application will have to stop.

Growth Management

This session started with a number of bills dealing with different aspects of growth management from sector plans, to the DRI process, to Regional Planning Councils, to Connected-City Corridors, to Constrained Agricultural Parcels as well as a number of bills relating to the Bert

Harris Act. Most of them were rolled into **SB 1216** by Sen. Simpson and **HB 933** by Rep. LaRosa.

1000 Friends of Florida and Sierra Club Florida succeeded in having the worst parts of **SB 1216** amended out of the bill which passed the full Senate 39-0 and the House by a vote of 83-31 [Vote \[Seq# 284\]](#)

Of greatest concern was the Constrained Agricultural Parcels section that preempted local control and would have forced West Palm Beach to approve up to 10 square miles of development right next to the EAA. That section was removed from the bill.

The DRI process is eliminated for future amendments to sector plans in favor of the coordinated state review process. Language was also clarified to ensure that localities are not prohibited from requesting information about aspects of a sector plan if they choose to do so.

The bill also made numerous changes to Regional Planning Council statutes. The number of RPCs is reduced from eleven to ten, and the Councils' role is eliminated in planning for transportation, electrical power plant facilities and transmission lines, and natural gas pipelines. **SB 1216** was sent to Governor Scott on May 7.

Freedom of Speech bill

SB 1312 Strategic Lawsuits Against Public Participation by Sen. Simmons/ **HB 1041** by Rep. Moskowitz/ anti-SLAPP suit bill on the basis of protecting right of citizen to petition government free speech passed both chambers and was delivered to Gov. Scott on May 7. (SLAPP suits have been used to discourage citizens from opposing development and land use decisions. Sen. Simmons and Rep. Moskowitz deserve a big 'Thank You!')

Recycling

SB 966 Disposable Plastic Bags by Sen. Bullard passed out of its first committee this session which puts it in play for next year. The companion bill, **HB 661** by Rep. Richardson, was not heard in its first committee. Committee chairs tend not to take up time with bills whose companions in the opposite chamber are not moving, so we'll have to work very hard to get the House version heard next year.

Toxics

SB 374 by Sen. Sobel and **HB 607** by Rep. Cruz – Chemicals in Consumer Products would have required the Department of Health to publish a list of chemicals of high concern and their presence in products intended for use by pregnant women and children. The bills were not heard in any committees.

GMOs

HB 351 by Rep. Rehwinkel-Vasilinda and **SB 416** by Sen. Ring - Labeling of Genetically Engineered Foods would have mandated labeling requirements for genetically engineered raw foods and for foods made with genetically engineered ingredients. Neither bill was heard in committee.