As you probably know, FSAWWA has seven councils that focus on specific topics or services that are of particular interest to its members. This month, I’d like to shine a spotlight on the Utility Council.

The primary purpose of the Utility Council is to monitor legislative and regulatory actions, at both the state and federal levels, that may affect water and wastewater utilities in the state, and advocate on behalf of those utilities. The council consists of 130 member utilities, providing drinking water to more than 21 million residents.

Membership in the council is separate from an AWWA utility or individual membership and council members pay separate annual dues. The primary purpose of these dues is to retain professional firms to help provide a recognized and unified voice in Tallahassee when presenting the position of FSAWWA utility members before legislative and regulatory agencies. As a current utility director, and having worked for water and sewer utilities for more than 30 years, I have found the work of the council to be invaluable, and I highly encourage all of our Florida water utilities to consider membership.

This year, the council is expertly led by Chair Lisa Wilson-Davis, and she provided the following report.

2018 Legislative Session

The Florida Legislature concluded its work for the 2018 regular session on March 11, with a vote on the $88.7 billion budget and ceremonial drop of the handkerchief. Similar to 2017, the House and Senate were forced to extend the regular session by several days in order to vote on the budget, conforming bills, and a tax package that the members failed to complete in time for the session’s scheduled end on March 9. Despite a difficult year, with Hurricane Irma battering the state, the horrific shooting at Marjory Stoneman Douglas High School, and sexual harassment and resignation scandals, the Republican-led Senate and House seemed to work better with one another this year.

Over 3,000 bills were filed this session, but only about 200 passed both the Senate and House and moved on to be considered by Gov. Rick Scott. The Legislature took action on a number of hot topics, including the opioid epidemic, responding to the school shooting, expanding Bright Futures scholarships and increasing university funding to hire elite faculty (Senate President Negron’s priority), emergency power sources for nursing homes and assisted-living facilities, tax cuts, and scholarships for K-12 students who are victims of bullying to enroll in private schools (House Speaker Corcoran’s top priority). Gov. Scott ultimately vetoed two bills, the first dealing with the Palm Beach County Housing Authority and the second an omnibus environmental regulation bill supported by the FSAWWA Utility Council (FSAWWAUC), along with the FWEA Utility Council (FWEAUC), and detailed in this report.

In 2018, which is an election year, all seats in the Florida House of Representatives, half of the Florida Senate, all cabinet offices, and the governor’s office are up for grabs, in addition to local and federal races. Regardless of the outcome of the races, there will be a number of new members serving throughout the various levels of government, and building relationships with these future elected officials is critical.

HB 5001 - General Appropriations Act

This year saw the passing of the largest budget in state history, passed by the Legislature and signed into law by Gov. Scott on March 16 (see sidebar for highlights). In approving the budget, the governor vetoed approximately $64 million from the budget, his lowest veto amount during his entire tenure, of which only one item, valued at $750,000, was in the Florida Department of Environmental Protection (FDEP) budget.

HB 1149 - Environmental Regulation (Payne)

This is a multisubject, general environmental bill touching on environmental resource permits (ERPs), reuse and aquifer recharge, recycling, and domestic wastewater collection system operation and maintenance. The bill sets forth criteria by which an expired individual ERP can be reissued upon request by the applicant, allows the repair or replacement of a dock within 5 feet of the original location and of the same shape and size to be reconstructed, and allows a mitigation area, which is created by a local government and scored using a uniform mitigation assessment method (UMAM), to be used when no other mitigation bank is available.

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The bill encourages use of reclaimed water by providing examples of types of reuse that can be used for impact offset credits for water use, and provides direction to the department and water management districts to enter into an agreement to provide coordinated reviews “of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a consumptive use permit.”

Regarding recycling, this bill requires local governments to address contamination of recyclable materials to be collected by contract operators. In south Florida, the bill directs the South Florida Water Management District to use the C-51 Reservoir to reduce impacts of Lake Okeechobee releases to the St. Lucie and Caloosahatchee estuaries “to the extent practicable.”

Finally, the bill creates the Blue Star certification program for domestic wastewater collection systems. Systems that apply for and receive certification according to the standards in the bill will have a presumption of compliance for quality standards for pathogens in total maximum daily loads and receive reduced penalties for sanitary sewer overflows, which may be used on investment in assessment and maintenance activities to address the cause of the overflow. Certified systems can also receive 10-year operating permits.

Gov. Scott vetoed HB 1149 on April 6, the same day he announced his intention to run for the U.S. Senate. His veto came after immense public outcry, which was due to a serious misinformation campaign about the aquifer recharge sections of the bill from several extreme environmental groups.

**HB 7043 - State Assumption of Federal Section 404 Dredge and Fill Permitting Authority (Natural Resources and Public Lands Subcommittee)**

This legislation authorizes FDEP to assume “Assumption” (delegation) of the Clean Water Act § 404 (“Federal Dredge and Fill”) Program, which is currently administered by the U.S. Army Corps of Engineers. The FDEP’s approach is to take over the Corps program “as is” by adopting the applicable Corps and U.S. Environmental Protection Agency (EPA) regulations into state rule by reference. The FDEP contemplates implementing the federal permitting program using current ERP staff and budget. This legislation confirms that FDEP has specific authority to pursue delegation and adopt the federal rules by reference and ensures that no conflicts between state and federal law prevent final approval by EPA. The FDEP’s implementation of the program implicates other laws, such as the Endangered Species Act and jurisdiction over federal versus state waters. The FDEP is optimistic that these issues will be resolved through negotiated agreements with the requisite federal agencies and receive final program approval from the EPA by the end of 2018.

The governor signed this bill on March 23 and it was effective upon his signature.

**HB 7087 – Tax Package (Renner)**

The bill provides for a wide range of tax reductions designed to directly impact both families and businesses. For sales tax purposes, the bill provides a tax-rate reduction for: tax on commercial rentals (business rent tax) and includes new, extended, or expanded sales tax exemptions for certain generators for nursing homes and assisted living facilities; certain purchases of agriculture-related fencing materials and building materials for repair of damage from Hurricane Irma; and certain equipment and electricity used in aquaculture. The bill provides for a three-day "back to school" holiday for clothing and school supplies and a seven-day "disaster preparedness" holiday for specified disaster preparedness items. For property tax purposes, the bill provides tax relief for certain property damaged by hurricanes or tropical storms for certain citrus processing equipment idled due to citrus greening or Hurricane Irma, and for certain surviving spouses of disabled ex-service members.

The bill also updates the list of military operations for which deployed service members may receive property tax relief, clarifies the tax-exempt status of entities created under the Florida Interlocal Cooperation Act of 1969, and clarifies the property tax treatment of multiple-parcel buildings. For corporate income tax purposes, the bill provides an additional $8.5 million for tax credits for Fiscal Year (FY) 2018-19 for voluntary brownfields cleanup and an
additional $5 million for community contribution tax credits spread over the next two fiscal years (may also be taken against sales tax).

Further changes include: a 9 percent reduction in certain traffic fines if the driver attends a driver improvement course, exemptions from documentary stamp taxes for certain transfers of property between spouses and for certain notes given for loans made in connection with local housing finance authorities and certain disaster recovery related loans, reduction in the tax rate on certain aviation fuel uses, exemption from fuel taxes for certain purchases of fuel for export and agricultural-related uses, a delay in the beginning date for a natural gas fuel tax, a provision that "marketplace contractors" are not considered employees under state and local law, and a requirement that a performance audit of a school board or county program intended to be funded by a sales surtax precedes a referendum to enact such local sales surtax. The total state and local government revenue impact of the bill in FY 2018-2019 is -$121.5 million (-$73.8 million recurring).

Of special note is language included in the tax package that was a stand-alone bill by Rep. Randy Fine dealing with how local tourist development taxes can be spent. This language allows such taxes to be spent on infrastructure projects that would directly grow tourism, such as roads, sidewalks, bike paths, boardwalks, drainage projects, solid waste facilities, and other capital projects.

The bill was approved by the governor on March 23 and became effective July 1, 2018, except as otherwise provided.

**SB 324/HB 697 – Impact Fees (Young/Miller)**

The impact fee bills require that the collection of an impact fee be no earlier than the issuance of the building permit for the property that is subject to the fee. The bill also codifies the dual rational nexus test. It requires impact fees to have a rational nexus with the need for additional capital facilities and the expenditures of the funds collected. The local government would have been required to specifically earmark funds collected by the impact fees for use in acquiring, constructing, or improving capital facilities to benefit the new users. The bill also prohibits the use of impact-fee revenues to pay existing debt unless certain conditions are met. Both FSAWWAUC and FWEAUC, along with other concerned entities, like the League of Cities and Association of Counties, worked to convince the bill sponsors to amend the bills to include language that explicitly stated that the statutory provisions related to impact fees do not apply to water and sewer connection fees. The bill would have been effective on July 1, 2018.

The amended bill was voted out of the full House, but died on the calendar in the Senate. It’s expected that similar language will be filed again next year.

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I want to thank Lisa for this great report and all of the members of the Utility Council for their service to the section. As you can see, the council is working hard to help Florida utilities better serve their employees, customers, and the environment.