AGENDA

1. Introductions

2. Utility Council Business
   a. October 9, 2014 Meeting Minutes
   b. Board of Governors' Report
      2) Membership Recruitment
      3) Contract Renewal with Anfield Consulting Group, Inc.

3. Perspective on 2015 Legislative Session – Representative Ray Pilon (District 72)

4. Legislative Committee – Edgar Fernandez/Frank Bernardino
   a. 2015 Legislative While Papers
   b. Legislative Day in Tallahassee; February 16-17, 2015

5. Regulatory Committee – Lisa Wilson-Davis/Frank Bernardino

6. UC Meeting Schedule for 2015

7. Other Issues

8. Adjourn
American Water Works Association

AWWA FLORIDA
Utility Council

FWEA UC/FSAWWA UC Joint Meeting
Toho Water Authority
Kissimmee, FL
October 9, 2014
1:00 PM

Attendees:

Patricia DiPiero  Lee County Utilities  Edgar G. Fernandez  Miami Dade
Brian Wheeler  TOHO  Ted McKim  Reedy Creek
David Richardson  GRU  Debbie Bradshaw  OUC
Lisa Wilson-Davis  City of Boca Rotan  Paula Dye  Tampa Bay Water
Marjorie Craig  Polk County Utilities  Rich McLean  Pinellas County Utility
Chuck Drake  Tetra Tech  Bob Conner  Lakeland Water Utilities
Terri Lowery  Jones Edmunds  Rich Hutton  GRU
Doug Andrews  Marion County Utilities  Dennis Davis  Jones Edmunds
Rob Teagarden  OUC  Suzanne Goss  JEA
Chris Rader  City of Altamonte  Chris Pettit  PBCWD
Larry Elliott  Carollo Engineering  David Hagan  Greeley & Hanson
Jay Morris  CPH, Inc  Rob Bolton  City of Vero Beach
Pat Lehman  PRWA  Richard Anderson  PRWA
Dale Helms  Parsons Brinckerhoff  Sandra Kiser  HDR
Jeff Greenwell  Hill Co PUD  Lisa Wilson-Davis  Boca Rotan
Katie Ibarea  FWEAUC  Michael Sweeney  TOHO Water Authority
David Childs  FWEAUC  Chris Pettit  Palm Beach County
Frank Bernardino  Anfield Consulting  Lee Killinger  Anfield Consulting

ON the phone – Charlotte

Welcome/Introductions

Meeting began at 1:40PM

Approval of Minutes – May 30th

- Motion Edgar Fernandez
- Second Brian Wheeler
- Approved Yes
Budget Update

In the bank is $115,000

- Motion Edgar Fernandez
- Second Brian Wheeler
- Approved Yes

Extension of Agreement with Anfield Consulting for Advocacy/Government Relations

Motion - Renew with a 1-year contract at $70,000

- Motion Rob Teagarden
- Second Brian Wheeler
- Approved Yes

Meeting Schedule Update

Save the Date - Fly In Tallahassee – Week of February 16th

UC Meeting - Champions Gate – December 2, 2014 2-4 PM

2030 Florida Water Summit – December 2, 2014 9 AM – 12 PM

Adjournment 2:00 pm
<table>
<thead>
<tr>
<th>NAME</th>
<th>REPRESENTING</th>
<th>EMAIL</th>
<th>PHONE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patty DiPiazza</td>
<td>LCU</td>
<td><a href="mailto:dpiazza@leegov.com">dpiazza@leegov.com</a></td>
<td>407.538.8534</td>
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<tr>
<td>Peter &amp; Sharon</td>
<td>MOAED</td>
<td>gsf.Camis SqlDataAdapter</td>
<td>706.552.8883</td>
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<tr>
<td>McKinn</td>
<td>RCI</td>
<td><a href="mailto:ted.mckim@disney.com">ted.mckim@disney.com</a></td>
<td>407.824.4876</td>
</tr>
<tr>
<td>David Richardson</td>
<td>GRU</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debbie Bradshaw</td>
<td>OUC</td>
<td>db@<a href="mailto:bradshaw@our.com">bradshaw@our.com</a></td>
<td>407/719 - 2350</td>
</tr>
<tr>
<td>Paula Dye</td>
<td>Tampa Bay Water</td>
<td><a href="mailto:pdye@tampabaywater.org">pdye@tampabaywater.org</a></td>
<td>727 - 736-2230</td>
</tr>
<tr>
<td>Margaret Craig</td>
<td>Polk County Utilities</td>
<td><a href="mailto:Margarite.Laughlin@Polk-County.net">Margarite.Laughlin@Polk-County.net</a></td>
<td>863.298.7935</td>
</tr>
<tr>
<td>Rich McCormack</td>
<td>Procaco &amp; ULE</td>
<td>RMC@Procaco &amp; ULE, Inc</td>
<td>727-964-9203</td>
</tr>
<tr>
<td>Chuck Drake</td>
<td>Tetra Tech</td>
<td><a href="mailto:Charles.drake@tetratech.com">Charles.drake@tetratech.com</a></td>
<td>407.356.7715</td>
</tr>
<tr>
<td>Bob Lowry</td>
<td>Lusk-Tech Utilities</td>
<td><a href="mailto:robert.murray@lusk-tech.com">robert.murray@lusk-tech.com</a></td>
<td>863.834.6287</td>
</tr>
<tr>
<td>Terri Lowery</td>
<td>Jones Edmunds</td>
<td><a href="mailto:tlowery@jonesedmunds.com">tlowery@jonesedmunds.com</a></td>
<td>352.871.7062</td>
</tr>
<tr>
<td>Rick Hymas</td>
<td>GRU</td>
<td><a href="mailto:hymas@gru.com">hymas@gru.com</a></td>
<td>352.375.1218</td>
</tr>
<tr>
<td>Doug Andrews</td>
<td>Marion County Utilities</td>
<td><a href="mailto:dgary.andrews@marion-utility.com">dgary.andrews@marion-utility.com</a></td>
<td>352.871.7039</td>
</tr>
<tr>
<td>Joan Davis</td>
<td>Jones Edmunds</td>
<td><a href="mailto:jdavis@jonesedmunds.com">jdavis@jonesedmunds.com</a></td>
<td>904.665.8331</td>
</tr>
<tr>
<td>Suzanne Goss</td>
<td>JEA</td>
<td><a href="mailto:js.goss@jea.com">js.goss@jea.com</a></td>
<td></td>
</tr>
<tr>
<td>Robert Teegarden</td>
<td>OUC</td>
<td><a href="mailto:rteegarden@ocean.com">rteegarden@ocean.com</a></td>
<td>407.571.8338</td>
</tr>
<tr>
<td>Chris Rader</td>
<td>City of Altamonte</td>
<td><a href="mailto:crander@altamonte.org">crander@altamonte.org</a></td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td>Representing</td>
<td>Email</td>
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<td>-----------------------</td>
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<tr>
<td>Chris Petit</td>
<td>PBCWUD</td>
<td><a href="mailto:cpettit@pbcwater.com">cpettit@pbcwater.com</a></td>
<td>561-493-4609</td>
</tr>
<tr>
<td>Larry Elliott</td>
<td>Caruso Ewers</td>
<td><a href="mailto:Lelliott@carusol.com">Lelliott@carusol.com</a></td>
<td>407-478-4422</td>
</tr>
<tr>
<td>David Haggan</td>
<td>Greeley &amp; Hansen</td>
<td><a href="mailto:dtrues@greeley-hansen.com">dtrues@greeley-hansen.com</a></td>
<td>813-373-36160</td>
</tr>
<tr>
<td>Jay Mims</td>
<td>CPH, Inc.</td>
<td><a href="mailto:jmims@cpbaik.com">jmims@cpbaik.com</a></td>
<td>407-484-0452</td>
</tr>
<tr>
<td>Rob Bolton</td>
<td>City of Vero Beach</td>
<td><a href="mailto:r.bolton@covb.org">r.bolton@covb.org</a></td>
<td>772-978-5220</td>
</tr>
<tr>
<td>Dale Helms</td>
<td>Parsons Brinckerhoff</td>
<td><a href="mailto:Helms@pbworld.com">Helms@pbworld.com</a></td>
<td>407-567-7625</td>
</tr>
<tr>
<td>Sandra Kiser</td>
<td>HDR</td>
<td><a href="mailto:Sandra.Kiser@hdrinc.com">Sandra.Kiser@hdrinc.com</a></td>
<td>407-426-4252</td>
</tr>
<tr>
<td>Jeff Greenwell</td>
<td>Hill, Conley</td>
<td><a href="mailto:jeff.greenwell@hillconley.com">jeff.greenwell@hillconley.com</a></td>
<td>407-612-7752</td>
</tr>
<tr>
<td>Bruce Davis</td>
<td>Borla</td>
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<tr>
<td>Ken Doerr</td>
<td>Fuzzy</td>
<td></td>
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</tr>
<tr>
<td>Michael Sweeney</td>
<td>The Water Authority</td>
<td><a href="mailto:msweeney@toho.water.com">msweeney@toho.water.com</a></td>
<td>407-944-5129</td>
</tr>
<tr>
<td>Navid Childs</td>
<td>PNCIA UC</td>
<td><a href="mailto:Navid@pncia-uc.com">Navid@pncia-uc.com</a></td>
<td>850-222-7320</td>
</tr>
<tr>
<td>Brian Wheeler</td>
<td>TWA</td>
<td><a href="mailto:bwheeler@toho.water.com">bwheeler@toho.water.com</a></td>
<td>407-944-5331</td>
</tr>
</tbody>
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Board of Governors' Report
TO: Officers and Members of the Board of Governors
Florida Section of the American Water Works Association

FROM: Patrick Lehman, Utility Council Chair
Name and Title of Officer or Council Chair Submitting Item

SUBJECT: BOG Report

DATE: Sunday, November 30, 2014
Date of Board of Governors Meeting When Item Will Be Presented

DISCUSSION:

- The Utility Council approved extension of the Agreement for Advocacy/Government Relations Services with Anfield Consulting Group, Inc. through 2015 with an increase in compensation to $70,000. Costs are paid through membership dues to the Utility Council.

- Utility Council is seeking to increase participation by non-member utility, especially in the small and medium size utilities. An outreach program to subsidize membership through a $5,000 transfer from the General Fund is sought to provide the benefit of the legislative and regulatory advocacy provided by the Utility Council.

- Regional utility councils have formed or are being formed in specific areas of the state (southeast urban area, Orlando/central Florida area, and northeast Florida area). The Utility Council is coordinating with these regional organizations to develop a working relationship to best coordinate issues at both the regional and state level.

- The Utility Council will host its annual legislative day in Tallahassee in February 2015. Notice and information on the event will be distributed at a later date. The event is open to all FS/AWWA members.
TO: Officers and Members of the Board of Governors
Florida Section of the American Water Works Association

FROM: Patrick Lehman, Utility Council Chair
       Name and Title of Officer or Council Chair Submitting Item

SUBJECT: Action Item

DATE: Sunday, November 30, 2014
       Date of Board of Governors Meeting When Item Will Be Presented

STATEMENT OF ISSUE:

RECOMMENDATION / REQUEST FOR APPROVAL:

- One (1) year extension of Agreement for Advocacy/Government Relations Services with Anfield Consulting Group, Inc.
- Utility Council budget for 2015 including $5,000 transfer from General Fund to provide for sponsorship for small/medium utility membership.

BACKGROUND HISTORY:

- The FS/AWWA entered into an Agreement for Advocacy/Government Relations Services with Anfield Consulting Group, Inc. in December 2011. Anfield has provided excellent service to the Utility Council during the term of the agreement. The Utility Council approved an extension of the term of the agreement through 2015 and increasing the compensation to $70,000 for the year (an increase of $10,000). Cost are paid through membership dues to the Utility Council.
- Utility Council membership has declined over recent years due to the recession and utility cost cutting, especially in small and medium size utilities. Advocacy provided by the Utility Council in legislative and regulatory issues is a benefit to all members of the FS/AWWA. Funds in the amount of $5,000 from the General Fund will allow the opportunity for the Utility Council to reach out to small and medium size utilities and offer discounted membership dues so that they can receive the benefit from the Utility Council in legislative and regulatory issues.

DISCUSSION:

See above.
November 30, 2014

Frank Bernardino, Project Officer
Anfield Consulting Group, Inc.
324 East Virginia Street
Tallahassee, Florida 32301

Re: Agreement for Advocacy/Government Relations Services Between the Florida Section American Water Works Association and Anfield Consulting Group, Inc.
Agreement Amendment for One (1) Year Extension for 2015

Dear Mr. Bernardino:

The FSAWWA desires to extend the above referenced Agreement for a one (1) year period through calendar year 2015. In accordance with SECTION 5 - TERM OF AGREEMENT, the agreement may be extended upon mutual written agreement of both parties and confirmed by execution of a new agreement, in writing, signed by both parties.

SECTION 6 - COMPENSATION, paragraph A is revised as follows:

“Compensation shall be a retainer/flat fee, of $60,000 $70,000 for a 12 month period, payable in equal installments of $5,000 $5,833.33 per month, with the first installment due upon effective date of this Agreement. The fee includes all overhead and day-to-day regular expenses, such as regular U.S. mail and telephone charges.”

Should this Amendment of the Agreement be acceptable, please sign both copies of this letter and return one copy to me. This letter shall be attached and incorporated as part of the Agreement. All other provisions of the Agreement remain in place and unchanged.

Sincerely,

__________________________________
Carl Larrabee
Chair, FSAWWA

__________________________________
Date

__________________________________
Albert Balido
Principal, Anfield Consulting Group, Inc.

__________________________________
Date
### PROPOSED BUDGET for CALENDAR YEAR 2015

[Approved by UC on October 9, 2014]

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### Revenue

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<td><strong>Subtotal</strong></td>
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### Net for Year

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Welcome/Introductions

Meeting began at 2:00PM

Approval of Minutes – October 9, 2014

- Motion Edgar Fernandez
- Second Rob Teegarden
- Approved Yes

Budget Update

In the bank is $115,983

FSAWWA Board of Governors approved a budget transfer from the General Fund for $5,000 to provide for sponsorship for small/medium utility membership.

Legislative Committee Update - Edgar Fernandez/Frank Bernardino/Lee Killinger

The following FSAWWA UC White Papers were discussed and approved:

Water Infrastructure Funding

- Motion Edgar Fernandez
- Second Suzanne Goss
- Pass
Consultants Competitive Negotiation Act (CCNA)

A motion was made to change section (g) from $800,000 to $8 M and $500,000 to $5 M

- Motion Edgar Fernandez
- Second Chris Pettit
- Pass

Utilities Relocation Funding

A motion was made to change the title to Utilities Relocation Study. An additional motion was also made to incorporate FISE into the Recommended Actions language.

- Motion Edgar Fernandez
- Second Suzanne Goss
- Pass

Minimum Flows and Levels

- Motion Chris Pettit
- Second Suzanne Goss
- Pass

Utilities Worker Safety

- Motion Chris Pettit
- Second Edgar Fernandez
- Pass

Computer Crimes

- Motion Chris Pettit
- Second Suzanne Goss
- Pass

Rep Pilon – Provided an update on water issues and a recap of the water summit. A lot at the state level is revolving around Amendment 1 (A1). The money will end up in the House. Last year was a better year in submitting for projects, but this year...here is the question – “If you are the legislature are you not looking at a way to invoke legislation to appropriate the funds?” Money must be dedicated and determined by the legislature. Expect to be challenged by groups on how the money will be distributed, but right now, there are no rules on how it will be distributed under Amendment 1.

The money from the Doc Stamps used to be put in the General Fund and used across the board. The 33% Doc Stamp will now only be allocated for environmental projects, thus taking that money away from the general fund.

Since it is an amendment both the House and Senate will have to agree on how the money will be spent. Will probably see legislation on how to distribute the funds.

AWWA has the opportunity to establish legislation for funding under A1. Will not see it set up like HB444 since it has to uphold for 20 years. Now is a good chance to enhance the concepts of HB 444.

If A1 is not done right, it could be pivotal in the 2016 election.
Frank B./Lee K – Sat down with the Speaker to discuss and said he the House has two beliefs:

1. Belief that current programs can be funded by A1
2. Speaker wants to do something so large and create something new, that future Representative will not want to touch

The only part that is self-executing is the ability to get the funds moved into the trust fund, but the uses are not self-executing. The language in the amendment is much broader than what was expected on all sides.

If it is divided up by WMDs not all projects are in the Regional Water Supply Plans, so a plan needs to come together on how to divvy up the money.

**Meeting Schedule Update**

Save the Date - Fly In Tallahassee – Week of February 16th

FSAWWA UC/FWEA UC Joint Meeting – March 27, 2015 - OUC

**Adjournment 4:00 pm**
<table>
<thead>
<tr>
<th>Name</th>
<th>Agency</th>
<th>Telephone</th>
<th>Email</th>
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<tbody>
<tr>
<td>Betty DiPierro</td>
<td>Lee County Utilities</td>
<td>239-533-8534</td>
<td><a href="mailto:dipierro.com@lee.gov.com">dipierro.com@lee.gov.com</a></td>
</tr>
<tr>
<td>Ray Piler</td>
<td>F-1 House of Reps</td>
<td>941-955-8074</td>
<td><a href="mailto:r.piler@myfloridahouse.gov">r.piler@myfloridahouse.gov</a></td>
</tr>
<tr>
<td>Tim Broderick</td>
<td>AECOM (7 FICE)</td>
<td>407-718-7180</td>
<td><a href="mailto:tbroderick@aecom.com">tbroderick@aecom.com</a></td>
</tr>
<tr>
<td>Dave Slessen</td>
<td>Pinellas County Util.</td>
<td>727-464-4441</td>
<td><a href="mailto:dslessen@pinellascounty.org">dslessen@pinellascounty.org</a></td>
</tr>
<tr>
<td>Chris Pettit</td>
<td>Palm Beach County WUD</td>
<td>561-493-6009</td>
<td><a href="mailto:cpettit@glxwater.com">cpettit@glxwater.com</a></td>
</tr>
<tr>
<td>Lisa Wilson-Davis</td>
<td>City of Boca Raton</td>
<td>561-333-7310</td>
<td><a href="mailto:lwilson-davis@myboca.us">lwilson-davis@myboca.us</a></td>
</tr>
<tr>
<td>Debbie Bradshaw</td>
<td>OUC</td>
<td>407/719-2350</td>
<td><a href="mailto:ddbradshaw@ouc.com">ddbradshaw@ouc.com</a></td>
</tr>
<tr>
<td>Edard de la Fece</td>
<td>de la Parte &amp; Gilbert</td>
<td>813-281-2775</td>
<td><a href="mailto:edalaparte@dgfirm.com">edalaparte@dgfirm.com</a></td>
</tr>
<tr>
<td>Marjorie G. Craig</td>
<td>Polk County Utilities</td>
<td>863-370-0304</td>
<td><a href="mailto:marjorie.craig@polk-county.net">marjorie.craig@polk-county.net</a></td>
</tr>
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<td>Toho Water Authority</td>
<td>407-944-5130</td>
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<td>OUC</td>
<td>407-641-2550</td>
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</tr>
<tr>
<td>Suzanne Gross</td>
<td>JEA</td>
<td>904-445-8331</td>
<td><a href="mailto:suzanne.gross@jea.com">suzanne.gross@jea.com</a></td>
</tr>
<tr>
<td>Frank Bernardino</td>
<td>Antfield Consulting</td>
<td>561-718-2345</td>
<td><a href="mailto:frank.antfield@jea.com">frank.antfield@jea.com</a></td>
</tr>
<tr>
<td>Lee M. Kuimenti</td>
<td>Antfield Consulting</td>
<td>561-322-8917</td>
<td><a href="mailto:lee@antfieldconsulting.fl.com">lee@antfieldconsulting.fl.com</a></td>
</tr>
<tr>
<td>Pat Lehmann</td>
<td>Peace River BusA</td>
<td>941-346-1234</td>
<td><a href="mailto:plehmann@regionalwater.org">plehmann@regionalwater.org</a></td>
</tr>
<tr>
<td>Kim Kunihiro</td>
<td>Orange County Utilities</td>
<td>407-254-9555</td>
<td><a href="mailto:Kim.Kunihiro@ocfl.net">Kim.Kunihiro@ocfl.net</a></td>
</tr>
<tr>
<td>Stephanie Clarke</td>
<td>Milestones Marketing LLC</td>
<td>405-465-3320</td>
<td><a href="mailto:skark@milestonesmarketing.com">skark@milestonesmarketing.com</a></td>
</tr>
<tr>
<td>Doug Andrews</td>
<td>Marion County Utilities</td>
<td>352-307-4624</td>
<td><a href="mailto:dandrews@marioncountyfl.org">dandrews@marioncountyfl.org</a></td>
</tr>
<tr>
<td>Rob Denis</td>
<td>Liquid Solutions Group</td>
<td>407-349-3400</td>
<td><a href="mailto:rdenis@liquidsolutionsgroup.com">rdenis@liquidsolutionsgroup.com</a></td>
</tr>
<tr>
<td>Paul Riepe</td>
<td>Tampa Bay Water</td>
<td>727-791-2317</td>
<td><a href="mailto:poly@tampabaywater.org">poly@tampabaywater.org</a></td>
</tr>
<tr>
<td>Name</td>
<td>Agency</td>
<td>Telephone</td>
<td>Email</td>
</tr>
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<td>--------------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>Diane Salz</td>
<td>Gov Affairs - PR MWWA</td>
<td>850.339.8550</td>
<td><a href="mailto:disalz@yahoo.com">disalz@yahoo.com</a></td>
</tr>
<tr>
<td>Jason Pamilo</td>
<td>Hillsborough County</td>
<td>813.247.3071</td>
<td><a href="mailto:pamilo@hillsboroughcounty.org">pamilo@hillsboroughcounty.org</a></td>
</tr>
<tr>
<td>Jacqueline W. Torbert</td>
<td>Orange County Util Div</td>
<td>407-497-7309 (cell)</td>
<td><a href="mailto:jacqueline.torbert@ocfl.net">jacqueline.torbert@ocfl.net</a></td>
</tr>
</tbody>
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American Water Works Association

AWWA® FLORIDA
Utility Council

Agenda FSAWWA Utility Council
Legislative Committee Report

1) Opening Remarks – Edgar G. Fernandez

2) Discussion and Approval of AWWA Position White Papers

1. Water Infrastructure Funding Legislation
2. CCNA Continuing Contract Limits
3. Line Relocation Costs
4. Minimum Flows and Levels
   • Water Quality Link
   • Definition of “Significant Harm”
5. Utility Employee Safety
6. Computer Crimes
7. Florida 2040 Agenda – “The Year of Water”

3) Additional issues or new issues

4) 2015 Tallahassee Legislative Fly in Feb. 16th & 17th
FSAWWA Utility Council Issue Paper

TITLE: Water Infrastructure Funding

ISSUE SUMMARY: In 2005, as a result of visionary leadership in the Florida Legislature and concerted efforts of allied groups, the Legislature passed, and the Governor signed, SB 444, which provided a dedicated revenue source for water protection and sustainability. That bill provided $100 million dollars a year on a recurring basis for:

- the State’s Total Maximum Daily Load (or TMDL) pollution elimination program;
- the development of new water supply projects;
- the restoration of our wetlands and other water dependent natural areas; and
- the treatment and disposal of wastewater in poor communities.

Despite the significant funding called for in the bill, the total represented less than 1% of the State’s total budget- a small price to pay for the State’s water security. Unfortunately, when faced with dramatic shortfalls in revenues, the Legislature chose to disproportionately reduce water funding in the state budget compared to other public funding areas. The cuts were opposed by an unprecedented, broad-based coalition including well-known and well-connected representatives from local government, utilities, business, environment, and agriculture, who worked collectively to educate legislators on the state’s pressing water needs and preserve critical funding for water projects. Despite that group’s best efforts, however, the funding was eliminated from the FY 2009/2010 budget.

Further impacting our ability to protect and enhance the availability of Florida’s water resources was the reduction in ad valorem collections the water management districts were forced to make beginning in 2011. These resulted in an average 33% reduction in revenues. Combined with the losses resulting from the drop in property values from 2008 through 2010 the districts collectively currently only collect approximately 50% of the revenue in 2007 (approx. $500 million). To date, this much-needed funding has not been restored. Moreover, the water resource challenges, which need to be addressed by such funding, are growing.

During the 2014 AWWA Tallahassee Day we canvassed the Capitol educating policy makers of Florida’s challenge of needing to invest over $43 Billion dollars over the next 20 years to address new water quality regulations, expand services for water and wastewater and provide adequate levels of flood control. The AWWA talking points also noted that in the last 10 years the legislature had only dedicated an average of 0.25% of the State budget to address water infrastructure.

Perhaps as a result of some of this advocacy, last year the Legislature provided $435,030,272 for various water resources programs, which represents a 100% increase in funding for this area of the budget relative to the previous budget year. As it pertains
to support for local government infrastructure needs the Legislature provided $88,505,684 in grants for water projects. Unfortunately, even with this victory the total investment by the State in this area of the budget only represents 0.05% of all State revenues.

**IMPACT TO AWWA MEMBERS:** The establishment of a state funding program would provide much-needed assistance to local governments to ensure they are well positioned for future growth; and stimulate a significant sector of the states' economy that supports and provides services associated with the financing, design and construction of water infrastructure projects.

**LEGISLATIVE COMMITTEE POSITION:** The State of Florida needs increase the amount of funds allocated to water infrastructure. FSAWWA must play an active role with the Legislature as they work to implement the Water and Land Conservation Constitutional Amendment approved by the Florida voters on November 4th.

**RECOMMENDED ACTIONS:** Strongly continue to SUPPORT ongoing efforts to promote the passage of legislation that creates a dedicated funding mechanism to enhance local and regional water projects that focus on alternative water supply development, water quality protection and development, and comprehensive water supply infrastructure needs. Such funding should not be used to create additional and burdensome regulatory programs.
TITLE: Consultants Competitive Negotiation Act (CCNA)

ISSUE SUMMARY: Section 287.055, Florida Statutes, requires state government agencies, municipalities or political subdivisions, school boards and school districts, to select a consulting firm based on qualifications rather than on a “lowest bid” basis. The CCNA allows “continuing contracts,” defined as contracts for professional services entered into in accordance with all the procedures of the CCNA whereby the firm provides professional services for which the estimated construction cost of each individual project under the contract does not exceed $2 million, the fee for professional services for each individual study under the contract does not exceed $200,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause.

On December 18, 2013, the Attorney General’s Office issued an advisory opinion (AGO 2013-28) in response to a question asking whether an entity was compliant with the CCNA if it awarded a contract for continuing services for professional services of a specified nature even if the estimated cost of an individual construction project exceeds $2 million. The AGO found that the entity would not be in compliance with the CCNA. In support, the AGO examined the legislative history of the CCNA, finding that “the Legislature intended, by amending the CCNA in 1988, to include monetary limitations on ‘continuing contracts’ in cases involving construction projects and to extend those monetary limitations to such ‘continuing contracts’ within the scope of the Act.” The AGO then found that a continuing contract for “professional services of a specified nature as outlined in the contract” and containing individual construction projects in excess of the $2 million would be outside the scope of the “continuing contract” exception of the CCNA and would be subject to the other competitive procedures of the Act.

IMPACT TO FSAWWA MEMBERS: As utilities develop project management processes for the implementation of their CIPs, many project bundles will include construction projects in excess of the $2 million threshold. The accompanying requirement to undertake the competitive procedures of the CCNA for every project bundle can delay the ability of a utility to efficiently and effectively roll out projects for bid. This will result in the expenditure of additional resources and administrative costs to undertake the competitive procedures of the CCNA, delays in getting projects to the street, and negative impacts on those consultants that rely on utilities for consistent work.

LEGISLATIVE COMMITTEE POSITION: The statutes should be amended in order to provide utilities with the flexibility to award contracts in excess of the current limits for continuing services contracts.
RECOMMENDED ACTION: SUPPORT language amending the CCNA to raise the allowable dollar thresholds under the CCNA or to allow for continuing contracts for professional services of a specified nature as outlined in a contract regardless of the costs of any individual construction project.

CURRENT BILL STATUS: Not filed

(g) A “continuing contract” is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which the estimated construction cost of each individual project under the contract does not exceed $28 million, for study activity if the fee for professional services for each individual study under the contract does not exceed $2800,000, or for work of a specified nature as outlined in the contract required by the agency, with the contract being for a fixed term or with no time limitation except that the contract must provide a termination clause. Firms providing professional services under continuing contracts shall not be required to bid against one another.
FSAWWA Utility Council Issue Paper

TITLE: Utilities Relocation Funding

PROPOONENT: Florida Section of American Water Works Assoc. (FAWWA).

ISSUE SUMMARY: The need for water and waste water infrastructure in Florida has been well documented in recent years. In a 2013 study the American Society of Civil Engineers found that Florida would need $32.40 billion dollars to meet its new drinking water and wastewater infrastructure by 2020. Similarly in a 2007 report to Congress the Environmental Protection Agency (EPA) reported an additional need of $7.2 billion over the same time period to repair aging transmission and distribution infrastructure. These estimates do not even take into account the additional costs of enhancing and protecting the quality of waters in the State through the implementation of Total Maximum Daily Loads (TMDLs) and the recently approved Numeric Nutrient Criteria (NNC) rule.

In response to these dramatic needs and mandates, local governments throughout the State are exploring ways to secure funding support as an alternative to increasing rates. Among the most significant activities utilities are forced to take, often without having the opportunity to adequately plan for the expenditure is the relocation of lines associated with the implementation of a road or bridge widening or improvement program. These unbudgeted costs have been identified nationally as a recurring problem, one which could benefit from improved interagency coordination and funding support from the State.

Although to date limited data exists detailing the annual impact of facilities relocation on Florida water and wastewater utilities formulas have been developed in other states to determine an estimate of the impact. For example, in South Carolina the Legislature convened a study commission which found that “In comparing the relocation costs to the dollars administered by SCDOT each year for highway and bridge construction.....the historical ten year average ratio between construction costs (road widening and bridge replacement) and relocation expenses is approximately 15.6 to 1.”

The same study found that “for every million dollars in new funding for non-Interstate road widenings and bridge replacement projects, there will be an estimated $64,000 in non-reimbursed utility relocation costs incurred by publicly owned water and wastewater providers.” When one considers that Florida’s Department of Transportation (FDOT) annual work plan currently is in excess of $8 billion dollars a year one could conservatively estimate the line relocation costs could be in excess $75 million per year.
In recognition of the impact the costs were having upon local utilities in 2014 the Florida Legislature approved a provision in SB 218 which “provides an exception for payment of certain utility work necessitated by a project on the State Highway System for municipally owned utilities or county-owned utilities located in rural areas of critical economic concern as defined in s. 288.0656(2). Specifically SB 218 authorizes the Department of Transportation to pay for such costs critical economic concern if the department determines “that the utility is unable, and will not be able within the next 10 years, to pay for the cost of utility work necessitated by a department project on the State Highway System.”

**IMPACT TO AWWA MEMBERS:** The current statewide impact of utility line relocation creates a significant financial impact to all water and wastewater utilities in the state often requiring the unplanned redirection of limited funds to these projects. The establishment of a state funding assistance program would only provide much-needed relief to local governments, but significantly stimulate the sector of the states’ economy which supports and provides services associated with the financing, design and construction of new water and wastewater infrastructure projects.

**LEGISLATIVE COMMITTEE POSITION:** Strongly continue to **SUPPORT** efforts to promote the passage of legislation that enhances communication and collaboration between the FDOT and local utilities with respect to the implementation of the transportation work plan, and provides funding assistance to local utilities permitting them to direct their limited financial capacity to address new water supply development and wastewater infrastructure needs.

**RECOMMENDED ACTIONS:** Work with the FWEA legislative team to secure approval of an interim study in order to determine the true fiscal impact of line relocations on local utilities and to make recommendations as to how to limit or eliminate the same.
FSWAWA Utility Council Issue Paper

TITLE: Minimum Flows and Levels

ISSUE SUMMARY: Under current law (Part II of Chapter 373, Florida Statutes and implementing regulatory rules), regulatory authority over the consumptive use of water is primarily exercised through the Consumptive Use Permitting (CUP) program by the water management districts (WMDs), under the general supervision of the Florida Department of Environmental Protection (DEP).

Sections 373.042 and 373.0421, Florida Statues, require DEP and WMDs to adopt Minimum Flows and Levels (MFLs) to protect the water resources and ecology of the State. The WMDs and DEP are required to set minimum flows or levels for the water bodies at the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area. DEP or the WMDs are required to establish MFLs based on a priority list and schedule, which is updated annually by the applicable WMD and approved by FDEP. MFLs are calculated using best available information and consider natural seasonal fluctuations; non-consumptive uses; and environmental values associated with coastal, estuarine, riverine, spring, aquatic, and wetlands ecology. When the flow or level of water in a water body is below, or is projected to fall below an existing MFL within a 20 year timeframe, the DEP or WMD is required to expeditiously implement a recovery or prevention strategy as part of the applicable regional water supply plan. For a new or revised MFL, the FDEP or WMD shall simultaneously approve the recovery or prevention strategy, if required. The recovery or prevention strategy shall include phasing or a timetable which allow for the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses, including development of additional water supplies and implementation of conservation and other efficiency measures concurrent with, to the extent practical, and to offset, reductions in permitted withdrawals.

Previously, a WMD could not use an MFL or recovery or prevention strategy adopted by a neighboring MFL without separately going through its own rulemaking process. This resulted in challenges and inconsistencies in implementation through the CUP framework, particularly when an MFL being established overlaps the jurisdiction of adjacent WMDs. Chapter 2013-299, Laws of Florida (originally SB 244) amended the statutory language regarding the establishment of MFLs to address these situations. Under the new statutory requirements, the priority list and schedule annually submitted to DEP must identify those listed water bodies that have the potential to be affected by withdrawals in an adjacent district for which DEP’s adoption of a water reservation pursuant to s. 373.224(4) or a MFL may be appropriate. The WMDs are also required to provide the DEP with technical information and staff support for the development of a reservation, MFL, or recovery or prevention strategy adopted by DEP.
The first utilization of the new statutory provisions occurred, when the Suwannee River Water Management District requested FDEP to set an MFL and recovery strategy for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs within the North Florida Water Supply Planning (NFWSP) area. The NFWSP is a joint planning area covering portions of the Suwannee River Water and St. Johns River Water Management Districts. The MFL portion of the rule adopted by DEP as a result of the NFWSP effort was successfully challenged at the Division of Administrative Hearings. However, the recovery strategy portion of the rule was upheld with the Administrative Law Judge finding "it would be contrary to the law for DEP to attempt to achieve recovery solely by reducing permitted withdrawals." The participating parties are currently awaiting next steps from the DEP and WMDs.

The Central Florida Water Initiative (CFWI) effort includes the South Florida, Southwest Florida and St. Johns River Water Management Districts, as well as stakeholder representatives from local governments, utilities, agriculture, and environmental groups. One of the goals of the CFWI was to develop a consistent methodology for the establishment of MFLs and water reservations, a standard procedure to peer review MFLs and reservations, guidelines for using MFLs in water use permitting programs, water supply planning and water shortage determinations, measures for using MFLs and reservation criteria in evaluations of groundwater availability, and a collaborative process for updating priority water body lists for establishing new MFLs and reservations, and for re-evaluating adopted MFLs. So far the FDEP and WMDs have been unable or unwilling to achieve this goal. At present, the Regulatory and Solutions Planning Teams for the CFWI are currently developing a list of projects and accompanying regulatory strategies for inclusion in the Regional Water Supply Plan that was completed in April 2014. It is still possible, but unlikely that this effort will achieve some or all of the MFL goals originally envisioned for the CFWI.

So far it is unlikely that either regulatory effort will lead to a consistent MFL framework. Put simply, consistency in the development and implementation of MFLs will be difficult to achieve.

The MFL program has generally been considered a success. However, there have been a number of criticisms of the program that have the potential to lead to proposed legislation. Although the WMDs have adopted several hundred MFLs encompassing most waters of statewide significance such as the Floridan aquifer in south-central Florida, the Everglades and the St. Johns, Peace and Caloosahatchee Rivers, some groups believe the WMDs have not done enough to protect the water resource and criticize the WMDs for not adopting MFLs for locally significant water bodies. Recent attention and efforts have focused on springs, aquifers and sand lakes in the central and northern sections of the state. As a result, certain stakeholders are calling for legislatively mandated MFLs, specifically mandated protections for springs or in one case a statewide Floridan aquifer MFL. Additionally, state law requires the WMDs to consider "harm" to the water resources when issuing consumptive use permits, to set MFLs at the limit at which further withdrawals will result in "significant harm" to the water resources or ecology, and to implement water shortage (drought) requirements in a
matter that will avoid "serious harm" to the water resource. These terms have not been
defined in state law and have been interpreted inconsistently in the implementing
regulatory rules adopted by the WMDs, leading to regulatory confusion and continued
debate. Lastly, concerned stakeholders have objected to MFLs established for
Outstanding Florida Waters (OFW) allowing for additional withdrawals in areas where
the stakeholders feel "significant harm" has already occurred due to the violation of the
OFW and anti-degradation sections of Florida's Water Quality Standards.

During the 2014 session, a number of bills were proposed that would have impacted
MFL development. Senator Soto and Representative Stewart introduced companion
bills (SB 76/HB 49) entitled the Springs Revival Act that would have required each
WMD to identify the first and second magnitude springs within the district that are in
decline based on historic average water quality and flow levels and to develop a 5-year
plan to restore historic average water quality and flow levels to the springs identified.
The WMDs would also be required to submit a quarterly report on the progress of
restoration to the Governor, Speaker of the House and Senate President. Additionally,
Senator Simmons and a group of 4 other Senators introduced omnibus springs
legislation (SB 1576) that would have overhauled water resource regulation and
impacted areas well beyond its intended reach. Importantly, the bill introduced
language that would have required MFLs for specific springs to be set and the "harm"
(permitting) standard instead of the traditional "significant harm" standard currently
contained in statute. Although the legislation drew significant opposition and went
through several iterations, it is widely expected to be the starting point for similar
legislation during the 2015 Legislative Session. The 2014 Legislation was duplicative of
the established MFL and Total Maximum Daily Load (TMDL) programs already included
in Florida law, and has the potential to complicate and confuse a currently effective
statutory regime.

LEGISLATIVE COMMITTEE POSITION:

1. The establishment of additional laws regarding MFL development is unnecessary.
The 2013 legislative amendments to Section 373.042, F.S., resolved the outstanding
issue of inter-district MFLs, and the CFWI and NFWSP are working to resolve regional
issues in their designated geographic areas of concern. The WMDs and FDEP are
doing a good job with the limited financial and technical resources available to establish
MFLs on a priority basis for the most important water bodies in the state of Florida. The
water resources in areas without MFLs are adequately protected by general
consumptive use permit standards that prevent harm to the water resource. Finally,
once an MFL is established, if its determined the water body is currently below or within
20 years will be below the MFL, a recovery/prevention strategy will be simultaneously
adopted to ensure attainment of the MFL as soon as practicable.

2. The establishment of a statewide Floridan aquifer MFL based on historic conditions
or any other single level will adversely impact the ability of utilities to meet the public
water supply needs of their customers. First, water levels vary geographically too
greatly to justify a single statewide MFL. Second, an MFL based on specific historic
conditions would require a drastic reduction in permitted use for most public suppliers,
agriculture and industry in most parts of the state and would restrict use of the Floridan aquifer as an alternative water supply source in south Florida. Any MFL adopted by the Legislature for political reasons rather than good science could result in the unnecessary and prohibitively expensive development of alternative water supply sources without a corresponding benefit to the environment. Lastly, any Legislation requiring the establishment of MFLs for specific water bodies and the imposition of a moratorium on new, modified or renewed consumptive use permits until the new MFLs are adopted would prove disruptive to the water supply planning process.

3. The establishment of an additional statutory regime requiring restoration of any water body to historic average water quality and flow levels is complex, confusing, and duplicative of existing MFL and TMDL programs. The establishment of MFLs includes policy considerations, as well as an examination of climatic and anthropogenic changes, while the TMDL program already provides for the restoration of established water quality criteria. Determination of historic water quality and flow levels neglects consideration of changes related to rainfall pattern vacillation and climate change factors such as seal level rise.

RECOMMENDED ACTIONS:

**MONITOR** and work with groups interested in resolving issues for legislation that will be introduced to require specific protection for springs and spring-fed rivers or to resolve the debates regarding the various harm variations currently lacking statutory definition and regulatory consistency.

**OPPOSE** any legislation that would impose a statewide MFL, prohibit the issuance of new, modified or renewed consumptive use permits until MFLs are adopted for locally significant water bodies or require unfunded mandates to achieve compliance with MFLs.

**OPPOSE** any legislation mandating a recovery of water bodies to “historic water quality and flow levels” within a specific time period or linking flow rates to specific water quality criteria.
Utility Worker Safety

ISSUE SUMMARY: Section 784.07, Florida Statutes, provides for the reclassification of a misdemeanor or felony degree of specified assault and battery offenses when those offenses are knowingly committed against law enforcement officers, firefighters, and other specified persons engaged in the lawful performance of their duties.

Utility workers perform their work on private and public property to ensure service connectivity for its customers. During certain events, such as traffic accidents, fires, hurricanes, etc., utility employees will work side by side with a variety of public service providers, such as law enforcement, fire fighters, emergency personnel, etc. Because of the nature of work performed by utility workers, companies prepare and train their employees for all types of hazards associated with their jobs, including dealing with hostile customers during service disconnects or storm events.

Local government and investor owned utilities throughout Florida have experienced an increase in the assault or battery upon their utility workers, such as robberies, physical harm, death threats, etc. in the course of performing their duties. Over the past few years, efforts have been made to add “utility workers” to the list of specified persons that is already defined in current law. By doing so, a felony or misdemeanor degree of certain assault and battery offenses against a utility worker engaged in the lawful performance of his or her duties would be treated in the same manner as if those offenses were committed against a law enforcement officer or firefighter engaged in the lawful performance of his or her duties. Utility worker was further defined to mean “any person employed by an entity that owns, operates, leases, or controls any plant, property, or facility for the generation, transmission, manufacture, production, supply, distribution, sale, storage, conveyance, delivery, or furnishing to or for the public of electricity, natural or manufactured gas, water, steam, sewage, or telephone service, including two or more utilities rendering joint service.” The efforts have met resistance from gun rights advocates and have thus far failed to pass.

Alabama and Missouri have recently passed legislation that is substantially similar to that sought by the Utility Council. Alabama SB 66 (2013) increased the penalties for threatening a utility worker, including cable and broadband workers, if those workers were within the scope of their official duties. Missouri HB 1516 (2011) was substantially similar to the language currently being proposed by the Utility Council. Both bills were supported by the gun rights groups in Alabama and Missouri. Outreach efforts have been undertaken to attempt to obtain correspondence from legislators and gun rights groups indicating the support of or lack of opposition to the legislation passed in the two states.
Attempts have been made to reach out to those groups opposing the bill without success.

**IMPACT TO FSAWWA MEMBERS:** Upon passage of the proposed legislation, penalties against an individual that commits an assault or battery against a utility worker would be elevated to the same level as the penalties for an individual that commits such an offense against a law enforcement officer, firefighter, and other specified person engaged in the lawful performance of their duties. The penalties would be as follows:

- In the case of assault, from a misdemeanor of the second degree (maximum of 60 days in a county jail) to a misdemeanor of the first degree (maximum of one year in a county jail);
- In the case of battery, from a misdemeanor of the first degree (maximum of one year in a county jail) to a felony of the third degree (maximum of 5-years state imprisonment);
- In the case of aggravated assault, from a felony of the third degree (maximum of 5-years state imprisonment) to a felony of the second degree (maximum of 15-years state imprisonment);
- In the case of aggravated battery, from a felony of the second degree (maximum of 15-years state imprisonment) to a felony of the first degree (maximum is generally 30-years state imprisonment); and
- Fines may also be imposed in accordance to the degree of the offense.

**LEGISLATIVE COMMITTEE POSITION:** SUPPORT legislation if it is filed.
FSAWWA Utility Council Issue Paper

TITLE: Computer Crimes

ISSUE SUMMARY: During the 2014 Legislative Session, the Legislature passed CS/CS/CS/HB 641 regarding Computer Crimes (Chapter No. 2014-208, Laws of Florida). The bill substantially amends Chapter 815, Florida Statutes, entitled the "Computer Crimes Act." The bill added legislative intent language recognizing the proliferation of new technologies and their impact on computer related crimes. The bill additionally amends and creates several definitions, as well as creates new computer related offenses and exceptions to those offenses. Lastly, the bill creates new second and third degree felony offenses related to public utilities.

New Section 815.061, Florida Statutes provides for Offenses against public utilities. As used within the Section, "public utility" includes: a public utility as defined in Section 366.02, F.S. (electric or gas); utility as defined in Section 367.021, F.S. (water or wastewater utility); natural gas transmission company; person, corporation, etc. owning, operating, managing or controlling gas transmission or distribution facilities; and any separate legal entity created under Section 163.01, F.S., for the purpose of providing utility services in the state (power and electric). Local government owned water and wastewater are not expressly included in the definition of "public utility."

Local government owned water and wastewater utilities are included in the definition of "utility" contained within Section 367.021, F.S. That section provides that: "Utility" means "a water or wastewater utility and, except as provided in s. 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation." However, Section 367.022, F.S., exempts water and wastewater systems "owned, operated, managed, or controlled by governmental authorities" from regulation by the Public Service Commission and the provisions of Chapter 367.

LEGISLATIVE COMMITTEE POSITION: Government owned utilities may be better served by the inclusion of a provision expressly covering them within the definition of a public utility under Section 815.061, F.S., to avoid any linkage to Chapter 367, Florida Statutes.

RECOMMENDED ACTIONS: SUPPORT language amending Section 815.061, F.S., if necessary, to expressly include government owned water and wastewater utilities within the definition of a "public utility."