

May 10, 2011

## Florida Legislature 2011 Session Summary

*Provided by Mike Rogers, Wilson & Associates, Tallahassee, FL*

### Energy & Utilities Legislation Passed During 2011 Regular Session

- HB 1231 - Relating to Telecommunications, by Horner
- HB 7215 - Relating to Department of Agriculture and Consumer Services, by Agriculture & Natural Resources
- SB 2106 - Relating to Florida Energy and Climate Commission, by Budget

### Renewable Energy

For the third straight year major legislation that supporters said would encourage the development of renewable energy and produce jobs failed to win support in the Legislature. This year the chairmen of the respective House and Senate energy committees said they were working closely together to avoid late session breakdowns between the chambers that had occurred in the past. But the bills failed to make it through their final committee stops. In the end a lack of leadership and too much control by the utilities, mainly Florida Power & Light Co., killed renewable energy in 2011. Other energy and utilities legislation also went nowhere.

By mid-April, committee bills HB 7217 and SB 2078 had picked up an unusual combination of supporters and opponents as they passed their early committee votes. The bills would have allowed the state's four largest utilities to recover up to \$375 million for renewable energy projects over five years. A similar bill made it through the House last year but it died without being taken up in the Senate amid concerns about rate increases. Both bills this year enjoyed support from Florida Power & Light Co., the state's largest utility with 4.5 million customers. FPL said it was ready to develop 500 megawatts of renewable energy if the Legislature allowed customers to be charged separately for renewable energy. Other supporters included the unlikely allies Audubon of Florida, the Florida Chamber of Commerce and Associated Industries of Florida.

But some renewable energy supporters said the bill gave the big utilities too much control. The Florida Alliance for Renewable Energy opposed the bill without an amendment that would have required utilities to buy power from smaller renewable energy producers. Other opponents, led by the Florida Retail Federation, mounted a newspaper ad campaign saying the renewable energy would cost too much. Other groups opposing the bill included AARP, the Florida Industrial Power Users Group, Americans for Prosperity-Florida, and the National Federation of Independent Businesses. The House bill died after it wasn't taken up by the House State Affairs Committee during its final meeting on April 21. Rep. Clay Ford, R-Pensacola and chairman of the House Energy & Utilities Subcommittee, said the bill was on hold because of concerns raised by Gov. Rick Scott and other opponents. In the Senate, the bill died a more public death when Sen. J.D. Alexander, R-Lake Wales and Budget Committee chairman, said on April 26 the bill was a "terrible idea" and he declared it dead. His committee didn't vote on the bill. Sen. Mike Bennett, R-Bradenton and one of the sponsors of several other renewable energy bills that were not heard by committees, said inexperienced committee chairs in the House and Senate allowed utilities to load up the main energy bill so that it died.

"They (utilities) don't want to do anything that might dilute their monopoly," he said. "They can expound all they want about renewable energy. The only way they want renewable energy is if they can control it." Utility representatives say their customers shouldn't have to pay the higher cost of buying power from small producers who don't have to provide service and reliability to customers systemwide. "FPL strongly supports legislative action to enable further investments in renewable energy," spokesman Mayco Villafana said. "While other states are already pursuing renewable energy more aggressively -- creating and attracting new construction and manufacturing jobs -- major renewable projects in Florida sit on hold and more than a million Floridians remain unemployed."

### Climate Change

Sen. Alan Hays, R-Umatilla, proposed SB 762, which repealed a 2008 law directing the Florida Department of Environmental Protection to adopt a greenhouse gas emissions cap-and-trade program. The bill passed the Senate 33-6 but died in House messages when the session ended. SB 2106, a budget conforming bill, eliminates the Florida Energy and Climate Commission and transfers its responsibilities to the Florida Department of

Agriculture and Consumer Services. The Governor's Energy Office also goes to the agriculture department under budget language. Some renewable energy supporters see the move as positive because of Agriculture Commissioner Adam Putnam's support for renewable energy on farms.

Also, the Senate approved HB 7215, which changes the Office of Water Coordination in the agriculture department to the Office of Energy and Water. Putnam proposed the change after taking office in January, suggesting that the department should work even closer with farmers to develop biomass energy sources.

### **Nuclear Energy**

Sen. Mike Fasano, R-New Port Richey, and Rep. Michelle Rehwinkel Vasilinda, D-Tallahassee, proposed bills to repeal the law that allows utilities to charge customers for nuclear plants regardless of whether they are built. But SB 200 and HB 4161 were never taken up in committees. Rep. Rehwinkel Vasilinda urged support for the legislation and for renewable energy following the tsunami and nuclear plant accident in Japan but she apparently didn't win over any legislative leaders.

### **Public Service Commission**

There was sparse controversy surrounding the confirmation of Public Service Commission Chairman Art Graham Jr. But with former Gov. Charlie Crist's outspoken appointees having been ousted last year, there was less confirmation controversy. And there was less push for PSC reform legislation with a 2009 controversy seemingly having faded. But lawmakers did also agree to remove PSC oversight and control of basic landline telecommunications services.

The four Public Service Commission members who were appointed by Crist in 2010 and reappointed by Scott in January won approval mostly without controversy. The four replaced outspoken former members Nancy Argenziano and Nathan L. Skop, who were passed over by the PSC Nominating Council, and reform-minded commissioners appointed by Crist who the Senate refused to confirm in 2010. During a committee hearing, Fasano chided Graham for meeting with Aqua Utilities Florida representatives over drinks during a conference in Washington, D.C. while the company has a rate case pending before the commission. Graham said he did not discuss any cases that were coming before the commission.

Meanwhile, Fasano introduced SB 212, which would define prohibited "ex parte" communications and extend a lobbying ban to commissioner's aides but the bill only cleared one committee. Lawmakers did pass a major telecommunications bill -- HB 1231 -- which deregulated basic landline telephone service. The bill would allow for rates for basic service to be raised with regulatory approval and it would remove the Public Service Commission from regulating the lines. The measure -- which has already been signed into law by Scott -- requires the elimination of 11 jobs at the PSC.