

FECA's Florida Legislative Report

February 22, 2019

This week, HB 651, relating to Medically Essential Electric Utility Service, was heard and passed out of the [House Energy and Utilities Subcommittee](#). We have met with the sponsor and several committee members to discuss our concerns with the bill regarding the expansion of the PSC's jurisdiction over co-ops. During the committee meeting, the sponsor voiced the need for a uniform state-wide program, mentioning that co-ops currently meet medically essential service standards and it was not the intention to require PSC oversight. The discussion of the bill included the committee's commitment to work with the munis and co-ops to address our concerns.

The FIEC held its second meeting to hear public testimony on the re-regulation ballot initiative's potential financial impact on state and local tax revenues. The link to view the FIEC meeting is below. The next FIEC will be on March 4, 2019. An additional meeting has been added to the agenda for March 11, 2019; with the final meeting held on March 14, 2019.

We had a co-op meeting with the new Florida Division of Emergency Management (FDEM) Director Jared Moskowitz. The purpose of the meeting was to make introductions to the new administration at FDEM and to get answers to pressing questions including, INF funding, FEMA reimbursements and auditing practices. Michelle sent out a memo detailing the meeting. If you want more information on this meeting, please reach out to Michelle at mhershel@feca.com.

Below are the current bills of interest that have been filed thus far. Each week, the report will prioritize in the following manner: New legislation filed, priority, monitor, and tracking. Any new activities will be highlighted in **RED**. If you would like more detailed information or an explanation on any legislation or why it is located in a specific area, please do not hesitate to reach out to Allison or Mike.

NEW LEGISLATION FILED

Business Organizations

(SB ____/HB 1009)

Sponsors: Sen. ____ / Rep. Byrd

Summary:

HB 1009 would add certain indemnification requirements for all not-for-profit corporations including electric cooperatives. The bill would allow for both permissible and mandatory indemnification by not-for-profit corporations for past and present directors for liability incurred in a court proceeding. We believe electric cooperatives presently carry sufficient Director liability insurance to cover these additional requirements.

Committee Assignments:

SB ____:

HB 1009: Not Yet Available

ACTION RECOMMENDED: NEUTRAL

REPORT LOCATION: TRACKING

Community Solar Program

(SB 1156/HB ____)

Sponsors: Sen. Berman / Rep. ____

Summary:

The bill is only applicable to IOUS. It allows a community solar facility to sell electricity at retail through subscriptions. The solar facility must be interconnected with the utility in the service territory where the solar facility is located. The bill specifically states that a subscriber organization is not a utility SOLELY as a result of its ownership or operation of a community solar facility. An IOU must provide a bill credit to a subscriber's monthly bill for at least 25 years. The PSC must adopt rules for the community solar program by Nov 1, 2020 and require each IOU to file tariffs implementing the program.

Committee Assignments:

SB 1156: Not Yet Available

HB ____:

ACTION RECOMMENDED: OPPOSE

REPORT LOCATION: MONITOR

PRIORITY

Medically Essential Electric Utility Service

(SB ____ /HB 651)

Sponsors: Sen. ____/Rep. D. Smith

Summary:

Under current law only IOUs are required to follow notification and certification requirements relating to medically essential electric utility service & service disconnection which are overseen by the FPSC. Under this bill, the requirements for medically essential electric service would apply to co-ops and munis and would extend the FPSC's authority over us. It would require emergency management plans to develop an interjurisdictional arrangement in consultation with each utility

to identify facilities are deemed to be critical to public health, safety, welfare or security. Emphasizing expeditious restoration of services to the facilities deemed critical during times of disaster.

Impact / Importance to Co-ops:

This legislation would expand the jurisdictional authority of the PSC over co-ops and munis to include requirements and certifications for medically essential electric services.

Committee Assignments:

SB ____:

HB 651: Health and Human Services Committee; Commerce Committee

ACTION RECOMMENDED: OPPOSE

ACTION ITEM: HOUSE Energy and Utilities Subcommittee - PASSED

Exempting Renewable Energy Sources from Definition of Public Utility

(SB 222/HB ____)

Sponsors: Sen Rodriguez / Rep

Summary: This bill is very similar to SB 292 from last session. Last year, it did not have a companion and was never heard in committee.

Exempt certain renewable energy sources from the definition of “public utility” which would make them unregulated by the PSC. The eligibility would meet the following criteria: Property owner must own and operate on their property; max capacity of 2.5MWs; produces and sells energy to users located on the property.

Impact / Importance to Co-ops:

Entities generating renewable energy would be selling electricity at retail without oversight. The bill is silent on many aspects such as wheeling power, safety requirements, and interconnection agreements with incumbent utilities.

Committee Assignments:

SB 222: Innovation, Industry and Technology; infrastructure and Security; Community Affairs; Rules

HB ____:

ACTION RECOMMENDED: OPPOSE

MONITOR

Theft

(SB 406/HB 589)

Sponsors: Sen. Brandes / Rep. Donalds

Summary: This bill is very similar to SB 928/HB713 from last session. Last year, an amendment that addressed our concerns was adopted to the House version. Neither bill passed their chamber. SB 406 begins with the original language found in SB 928.

The theft of utility services is punishable as provided in Section 812.014, F.S. Currently under this Section, a person could be convicted of grand theft and a felony of the third degree if the property stolen is valued at several amounts but the lowest amount is \$300 or more, but less than \$5,000. This

legislation would raise the lowest amount for this conviction from \$300 to \$1500 which could reduce the number of eligible convictions for theft of utility services.

House Bill 589, the companion to SB 406, has been filed but the language is different. HB 589 houses language developed last year to specifically identify theft of utility services as a third-degree felony.

Committee Assignments:

SB 406: Appropriations Subcommittee on Criminal and Civil Justice; Appropriations

HB 589: Criminal Justice Subcommittee; Justice Appropriations Subcommittee; Judiciary Committee

ACTION RECOMMENDED: NEUTRAL

TRACKING

Traffic Offenses

(SB 158/HB 71)

Sponsors: Sen. Baxley /Rep. McClain

Summary:

Current law dictates the required driving behavior used when encountering any emergency, sanitation, utility service or wrecker vehicle on any drivable roadway. The legislation amends current statute defining who is considered a vulnerable road user and provides criminal penalties for a person who commits a moving violation that causes serious bodily injury or death of a vulnerable road user.

Committee Assignments:

SB 158: Infrastructure and Security; Appropriations Subcommittee on Criminal and Civil Justice and Appropriations

HB 71: Transportation & Infrastructure Subcommittee; Criminal Justice Subcommittee; State Affairs Committee

ACTION RECOMMENDED: NEUTRAL

Public Meetings / Local Government Utility

(SB 450/HB 327)

Sponsors: Sen. Gibson /Rep. Davis

Summary:

The legislation creates a public meeting requirements exemption for the portion of a meeting held by a utility owned and operated by a unit of local government when discussing the security of the technology, processes or practices of certain utilities. The exemption covers any portion of the meeting regarding the vulnerabilities within the system that could make it susceptible to attacks or expose the utility service to disruption or damage.

Committee Assignments:

SB 450: Innovation, Industry and Technology; Governmental Oversight and Accountability; Rules

HB 327: Oversight, Transparency and Public Management Subcommittee, Commerce Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE Energy and Utilities Subcommittee - PASSED

Regional Rural Development Grants

(SB 596/HB 671)

Sponsors: Sen. Albritton /Rep. Clemons

Summary:

This legislation provides for a matching grant program to assist rural areas of opportunity as defined in statute. Regional economic development organizations representing rural counties and communities may apply annually for the grants that range from \$150,000 to \$250,000 depending on the regional impact of the organization. Under the Rural Infrastructure Fund, changes were made to allow the department to award grants of up to 50% of the total project costs to facilitate local government or private infrastructure efforts; expanding the list to include improving access and availability of broadband Internet services.

Committee Assignments:

SB 596: Innovation, Industry and Technology; Appropriations

HB 671: Workforce Development & Tourism Subcommittee; Transportation & Tourism Appropriations Subcommittee; Commerce Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Commerce and Tourism - PASSED

Public Record Exemption: Utility Held Customer Information and Data

(SB 600/HB 591)

Sponsors: Sen. Gibson /Rep. Yarborough

Summary:

Current law allows for public record requests to garner customer meter-derived data and billing information by a utility that is owned or operated by a unit of local government. With the installation of smart meter technology by many municipal electric utilities, the ability for more detailed information in increments less than one billing cycle is possible. This legislation would limit the level of the public records request to one billing cycle to protect and safeguard the customer's consumption data.

Committee Assignments:

SB 600: Innovation, Industry and Technology; Government Oversight and Accountability; Rules

HB 591: Oversight, Transparency and Public Management Subcommittee; Commerce Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE Energy and Utilities Subcommittee- PASSED

Underground Facility Damage Prevention and Safety

(SB 848/HB 263)

Sponsors: Sen. Broxson /Rep. Payne

Summary:

The legislation creates the Underground Facility Damage Prevention Review panel to receive and respond to complaints of damage to underground facilities. The panel will consist of nine

members; one from the electric utility industry. The legislation outlines the procedure for complaints to be filed, the response time for parties to respond to the complaint, and penalties allowable by the panel. It also outlines the appeals process through DOAH. The legislation sets penalties for anyone knowingly removing or damaging permanent underground facility markers.

Committee Assignments:

SB 848: **Innovation, Industry and Technology; Infrastructure and Security; Rules**

HB 263: Energy & Utilities Subcommittee; Government Operations & Technology Appropriations Subcommittee; Commerce Committee

ACTION RECOMMENDED: NEUTRAL

Public Utility Storm Protection Plans

(SB 796 /HB 797)

Sponsors: Sen. Gruters /Rep. Fine

Summary:

This legislation requires IOUs to submit storm protection plans to the PSC on an annual basis as a part of the storm hardening plans. It requires the PSC to conduct an annual proceeding to allow public utilities to justify and recover certain costs through a storm protection cost recovery clause.

Committee Assignments:

SB: 796: **Innovation, Industry, and Technology; Infrastructure and Security; Appropriations**

HB 797: **Energy & Utilities Subcommittee; Government Operations & Technology Appropriations; Commerce Committee**

ACTION RECOMMENDED: NEUTRAL

CITIZENS INITIATIVE

The link on the Florida Division of Elections site for the of the Citizens Initiative:

<https://dos.elections.myflorida.com/initiatives/initdetail.asp?account=73832&seqnum=1>

Broad outline of ballot initiative process (highlighted portion indicating where the initiative is in process):

- The sponsor first must be registered as a political committee.
- The initiative petition, which includes ballot title, summary and text of the proposed amendment, must be submitted to Florida's Secretary of State which simply approves the form of the petition.
- The sponsor must obtain a letter from the Division of Elections confirming it has obtained at least 76,623 verified signatures
- Once the requisite signatures are verified by the Division of Elections, the Secretary of State is required to "immediately" submit the proposed amendment to the Attorney General (AG) and the Fiscal Impact Estimating Conference (FIEC).

- The FIEC is required to complete a financial impact statement within 45 days of receipt of the proposed amendment. The proposed amendment was received on January 30, 2019, therefore, the financial impact statement must be completed by **March 15.**
- Within 30 days of receipt of the proposed amendment from the Secretary of State, the AG is required to petition the Supreme Court requesting an advisory opinion within 30 days. The AG received the proposed amendment on January 30, 2019, therefore, the AG must petition the Supreme Court by **February 28.**
- Prior to placement on the ballot, the Florida Supreme Court must review the proposed amendment to ensure it (i) only addresses a “single-subject”, and (ii) the title and summary are clearly drafted to allow voters to fully comprehend the contemplated changes.
- Assuming that the Supreme Court approves the proposed amendment, the sponsor still must obtain at least 766,200 verified signatures before the proposal can be placed on the ballot.

Florida Impact Estimating Conference:

Meeting Information Outline and Materials from February 21, 2019.

<https://thefloridachannel.org/videos/2-21-19-financial-impact-estimating-conference-principals-workshop/>

1. Bob McKee (Department of Revenue): 10:35 – 19:02
2. Mike Nasi (Energy Fairness): 36:20- 1:00:50
3. John Reed / Terry Deason (Concentrix Advisors): 1:02:05 – 1:48:45
4. Robert Weissert (Tax Watch): 1:49:38 – 2:04:10
5. French Brown and Enrique Glasser (Florida Chamber): 2:04:15- 2:32:25
6. William Garner (Floridians for Energy Choice): 2:32:46 – 2:38:45
7. Steve Shriver (Fishkind & Associates): 2:40:10 – 3:05:11
8. Matt Corsey (Energy Fairness): 3:05:30 – 3:18:36

All Materials from the workshop:

http://edr.state.fl.us/Content/constitutional-amendments/2020Ballot/RightToEnergyNotebookBook2_2-21-19.pdf