

FECA's Florida Legislative Report

March 8, 2019

On Monday, The FIEC continued to hear testimony and discuss the state and local financial impact for the Citizens' Initiative for Energy Choice. The FIEC will reconvene in their final meeting on Monday. They must submit their report to the Supreme Court by March 15, 2019. Links to the meeting (with an outline of speakers) and the materials are provided below.

The 2019 Legislative Session began on Tuesday. This week HB 589, relating to theft, passed its first committee and includes language allowing felony prosecution of electricity theft regardless of the amount stolen. The Senate companion also moved through committee but does not contain the carve-out. In addition, the Senate filed two other bills addressing broader criminal justice reforms that incorporate the language regarding the felony theft levels. The new bills do not contain the carve out language but vary in the amounts that constitute a felony. Under current law a person could be convicted of a felony of the third degree if the property stolen is valued over \$300. The bill proposes to raise the threshold amounts to either \$700, \$1000, or \$1500. **Please let us know as soon as possible if an increase in the stolen property's value would significantly impact the prosecution of electricity theft cases in your area.**

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

The Office of Public Counsel

(SB 196 /HB ____)

Sponsors: Sen. Powell/Rep. _____

Summary:

This legislation requires the public counsel to be appointed to a 4-year term limit (maximum of 12 consecutive years) by the Committee on Public Counsel Oversight. The appointment and 4-year term would begin on January 15, 2021.

Committee Assignments:

SB 196: Innovation, Industry and Technology; Governmental Oversight and Accountability; Rules
HB ____:

ACTION RECOMMENDED: NEUTRAL

State Renewable Energy Goals

(SB 1762 /HB 1291)

Sponsors: Sen. Rodriguez/Rep. Eskamani

Summary:

This legislation directs the Office of Energy, within DACS, to develop a plan to have 100% of the state's energy generated renewable resources by 2050. All state agencies colleges/universities and public utilities must cooperate with the plan. The plan must include an interim goal of 40% renewables by 2030. The plan must consider the impact it would have on power purchase agreements with utilities. An outline of the plan must be submitted to the Governor, the Senate President and the House Speaker by January 1, 2021.

Committee Assignments:

SB 1762: Not Yet Available

HB 1291: Not Yet Available

ACTION RECOMMENDED: OPPOSE

Criminal Justice

(SB 7072 /HB ____)

Sponsors: Sen. Committee Bill /Rep. ____

Summary:

This legislation is an overarching criminal justice overhaul that encompasses modified language housed in SB 406, relating to theft. 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 \$700 which could reduce the number of eligible convictions for theft of utility services.

Committee Assignments:

SB 7072: Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

Emergency Mitigation and Response

(SB 1610 /HB ____)

Sponsors: Sen. Montford/Rep. ____

Summary:

This legislation creates the Hurricane Michael Recovery Task Force in conjunction with the Division of Emergency Management to make recommendations to the Legislature regarding additional assistance needed in response, recovery and mitigation of the effects of Hurricane Michael.

Committee Assignments:

SB 1610: Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism and Economic Development; Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

Criminal Justice

(SB 1334 /HB ____)

Sponsors: Sen. Brandes /Rep. ____

Summary:

This legislation is an overarching criminal justice overhaul that encompasses the language housed in SB 406, relating to theft. 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.

Committee Assignments:

SB 1334: **Criminal Justice; Judiciary; Appropriations**

HB ____:

ACTION RECOMMENDED: NEUTRAL

PRIORITY**Medically Essential Electric Utility Service**

(SB 1370 /HB 651)

Sponsors: Sen. Farmer/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 1370: **Innovation, Industry and Technology; Health Policy; Rules**

HB 651: Health and Human Services Committee; Commerce Committee

ACTION RECOMMENDED: OPPOSE

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

ACTION ITEM: HOUSE Criminal Justice Subcommittee – PASSED as AMENDED

**** Amendment: Conforms the Criminal Punishment Code offense severity ranking chart to changes made by the bill.**

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: Innovation, Industry and Technology; Community Affairs; Rules

HB ____:

ACTION RECOMMENDED: OPPOSE

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

ACTION ITEM: EDR Criminal Justice Impact Conference – Discussion (No Votes)

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: Governmental Oversight and Accountability; Rules

HB 327: Commerce Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Innovation, Industry, and Technology Committee – PASSED as AMENDED; HOUSE Oversight, Transparency & Public Management Subcommittee – PASSED as AMENDED

****AMENDMENT: Conforms the relating to clause and public necessity to reflect the bill creates bot a public meeting exemption and a public records exemption.**

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: Transportation & Tourism Appropriations Subcommittee; Commerce Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE Workforce Development & Tourism Subcommittee - 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: SENATE Innovation, Industry and Technology Committee – PASSED as AMENDED; HOUSE Oversight, Transparency & Public Management 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

ACTION ITEM: SENATE Innovation, Industry and Technology – PASSED as AMENDED

****AMENDMENT:**

- Adds to the Legislature's findings that high winds can cause vegetation and debris to blow into utility lines and that a majority of the power outages that occurred during recent storms were caused by vegetation blown by the wind.
- The filed transmission and distribution storm protection plan must cover 30 years.
- Removed the requirement that plans may not include undergrounding of more than 4% of the utility's distribution lines per year.
- Removed the section reducing storm costs recovered if a utility has a tax windfall from tax reform.
- Removed the return of any surplus in the storm protection reserve account through the storm recovery clause.

Business Organizations

(SB 892/HB 1009)

Sponsors: Sen. Passidomo / 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 892: Commerce and Tourism; Judiciary; Appropriations Subcommittee on Transportation, Tourism and Economic Development; Appropriations

HB 1009: Civil Justice Subcommittee; Appropriations Committee; Judiciary Committee

ACTION RECOMMENDED: NEUTRAL

Private Property Rights

(SB 1400 /HB 1159)

Sponsors: Sen Albritton/Rep. LaRosa

Summary:

A local government ordinance may not require permits, fees and other notices for pruning, trimming, or removing trees on residential property under certain conditions. The bill also removes the current requirement for local government approval to perform certain right-of-way tree maintenance by electric utilities.

Committee Assignments:

SB 1400: Community Affairs; Judiciary; Rules

HB 1159: Local, Federal & Veterans Affairs Subcommittee

ACTION RECOMMENDED: NEUTRAL

Fleet Vehicle Rebate Programs

(SB 1368 /HB ____)

Sponsors: Sen. Simpson/Rep. ____

Summary:

This legislation creates an electric and hybrid fleet vehicle rebate program administered by the Dept. of Agriculture and Consumer Services (DACS). The program reserves 40% of the allocated dollars for governmental applicants, the remaining funds for commercial applicants. The rebate will first-come, first-serve basis and cannot exceed 50% of the eligible costs of the fleet. Each eligible applicant can receive a maximum of \$25,000 per vehicle, up to \$250,000 per fiscal year. The rebate program will be assessed each year to determine its viability.

Committee Assignments:

SB 1368: Agriculture; Infrastructure and Security; Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

Renewable Energy Standards

(SB 1372 /HB ____)

Sponsors: Sen. J. Rodriguez/Rep. ____

Summary:

The legislation would mandate a renewable portfolio standard (RPS) for only IOUs. It does not define the parameters of the RPS. The PSC would adopt rules for each IOU to meet a specific RPS by a certain year through directly procuring renewable generation or purchasing of renewable energy credits. The PSC draft rule must be presented to the Legislature by 2020 for the Legislature's adoption.

Committee Assignments:

SB 1372: Innovation, Industry and Technology; Governmental Oversight and Accountability; Rules

HB ____:

ACTION RECOMMENDED: OPPOSE

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.

March 4, 2019 Meeting

<https://thefloridachannel.org/videos/3-4-19-financial-impact-estimating-conference-principals-workshop-part-1/>

- William Garner (Proponent): 1:25 – 10:01
- Rich Blaser (Proponent): 10:19 – 29:52
- Chris Hendric (Wal-Mart/Proponent): 30:10 – 38:30
- Jon Wellingoff (Grid Policy/Proponent): 38:40 – 1:10:34
- Joe Gibbons (Floridians for Affordable Reliable Electric/Opponent): 1:11:30 – 1:18:40
- French Brown (Florida Chamber/Opponent): 1:18:50 – 1:21:01
- John Reed/Terry Deason (Concentrix/Opponent): 1:21:05 – 1:37:30
- Robert Weissert (Florida TaxWatch/Opponent): 1:37:48 – 1:40:54
- Amy Baker
 - "map" of amendment requirements: 1:40:59
 - National level ISO/out-of-state wholesale market: 1:44:45 – 1:56:40
 - FERC jurisdiction discussion: 1:56:45 – 2:04:08
 - Stranded costs/benefits: 2:04:10 – 2:17:59
 - Regulatory Takings issue: 2:18:00 – 2:20:45
 - Revenue/Impact Matrix: 2:23:30 – 3:11:24

- Discussion of the Legislature Protecting State Revenue Sources: 2:26:00

<https://thefloridachannel.org/videos/3-4-19-financial-impact-estimating-conference-principals-workshop-part-2/>

- Discussion by the panel on the basic outlines on various terminologies and state/local impacts.

Materials from the Meeting on March 5, 2019

http://edr.state.fl.us/Content/constitutional-amendments/2020Ballot/RightToEnergyNotebookBook3_3-4-19.pdf