

FECA's Florida Legislative Report

April 5, 2019

This week, HB 589, relating to Theft, passed its final House Committee with an amendment. The amendment added several criminal activities that would receive 3rd degree felony charges. Unfortunately, an error in drafting the amendment inadvertently removed our language which preserves the theft of electricity as a felony. After discussions with the sponsor, the error was noted in committee and the language should be added back to the bill at the next stop. We will continue to work with the sponsor and look forward to supporting an amendment that restores the language.

SB 1000/ HB 693 is legislation that initially addressed reducing the Communications Service Taxes collected by local governments. Amendments have removed the tax cut while adding language that would allow small wireless companies to put up poles in public rights-of-way (ROW) without permits or other regulatory requirements by local governments. We met with the telecom and cable representatives about concerns we have with the bill which include: 1) limited space on ROWs for additional poles; 2) discriminatory and inequitable regulation of wireless poles; and 3) safety issues. We will continue to work with the industry to alleviate our concerns. The link to the [bill](#) and [staff analysis](#) are provided and attached; a more in-depth summary and info request will be sent to the Engineers Listserv.

Several bills included in the report do not appear to be moving and are now at the end of the report. We will continue to monitor these bill as they could re-appear as amendments later in session. 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, tracking and bills that appear to be dead. 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

Communications Services

(SB 1000 /HB 693)

Sponsors: Sen. Hutson/Rep. Fischer

Summary:

The Legislation makes changes to the statutes that govern the use of public rights-of-way by providers of communications service providers. Changes the adoption or enforcement of any ordinances, regulations, or requirements as to the placement or operation of communications facilities in the public ROW by a provider.

Committee Assignments:

SB 1000: Finance and Tax; Appropriations Committee

HB 693: Commerce Committee

ACTION RECOMMENDED: NEUTRAL/CONCERN

ACTION ITEM: ON AGENDA (4/9) - SENATE Finance and Tax Committee

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. However, it expressly states the FPSC would not regulate or supervise the co-op Programs.

Committee Assignments:

SB 1370: Innovation, Industry and Technology; Health Policy; Rules

HB 651: Ready for the floor

ACTION RECOMMENDED: OPPOSE

ACTION ITEM: ON HOUSE SPECIAL ORDER (4/10)

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

HB 589: Ready for the Floor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE Judiciary – PASSED as AMENDED

****Amendment –Added certain activities in current statute that would maintain a 3rd degree felony. This language removed the theft of electricity from the list. The sponsor acknowledged in Committee that removing the electric utility language was a mistake and he plans to put the language back in the bill.**

Criminal Justice

(SB 7072 /HB ____)

Sponsors: Sen. Bradley /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 \$750 which could reduce the number of eligible convictions for theft of utility services.

Committee Assignments:

SB 7072: Subcommittee on Criminal Justice Appropriations; Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: ON AGENDA (4/9) – SENATE Subcommittee on Criminal Justice Appropriations

TRACKING

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: Ready for the Floor

HB 327: SENATE Messages

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Rules - 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: Ready for the Floor

HB 671: Transportation & Tourism Appropriations Subcommittee; Commerce Committee

ACTION RECOMMENDED: NEUTRAL

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: Rules

HB 591: SENATE Messages

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Government Oversight and Accountability - PASSED

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: Appropriations

HB 797: Commerce Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE Government Operations & Technology Appropriations - PASSED

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: Appropriations Subcommittee on Transportation, Tourism and Economic Development; Appropriations

HB 1009: Judiciary Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: ON AGENDA (4/9) – SENATE Appropriations Subcommittee on Transportation, Tourism and Economic Development

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: Commerce Committee; State Affairs Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Community Affairs Committee – PASSED; HOUSE Commerce Committee – PASSED; ON AGENDA (4/8)- SENATE Judiciary Committee

Constitutional Amendments

(SB 7096 /HB 7111)

Sponsors: Sen. Judiciary/Rep. Grant

Summary:

The legislation requires petition gatherers to register with the Secretary of State and be a Florida resident before obtaining signatures on petition forms. Requires the name of the sponsor of an initiative to appear on the ballot with the percentage of donations received from certain in-state donors. Prohibits compensation for the petition gatherers to be based on the number of petitions gathered. Effective upon becoming law and will impact any initiatives currently in the process; not yet on the ballot.

Committee Assignments:

SB 7096: Appropriations Subcommittee on Transportation, Tourism and Economic Development; Appropriations

HB 7111: State Affairs

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Judiciary – PASSED; ON AGENDA (4/9) – SENATE Appropriations Subcommittee on Transportation, Tourism, and Economic Development

TRACKING/ NO COMPANION

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

ACTION ITEM: ON AGENDA (4/9) – SENATE Infrastructure and Security Committee

Criminal Justice

(SB 1334 /HB ____)

Sponsors: Sen. Brandes /Rep. ____

Summary:

Follow SB 406 or SB 7072. 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: Judiciary; Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

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: Governmental Oversight and Accountability; Rules

HB ____:

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: Infrastructure and Security; Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

CITIZEN INITIATIVE

Click [here](#) for Re-reg Initiative on the Florida Division of Elections website.

Click [here](#) for the Supreme Court Docket for the Re-reg Initiative.

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.

SUPREME COURT CASE CALENDAR:

April 18, 2019 -	Opponents Briefs
May, 8, 2019 -	Answer Briefs
May 28, 2019 -	Replies by Opponents
August 28, 2019 -	Oral Arguments

BILLS THAT APPEAR DEAD

Traffic Offenses

(SB 158/HB 71)

Sponsors: Sen. Baxley /Rep. McClain

Summary:

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.

ACTION RECOMMENDED: NEUTRAL

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.

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

ACTION RECOMMENDED: OPPOSE

Heat Illness Prevention

(SB 1538 /HB 1285)

Sponsors: Sen. Torres/Rep. C. Smith

Summary:

This legislation will impact the electric co-ops for those employees that regularly perform work in an outdoor environment. It requires the implementation of a heat exposure program.

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.

ACTION RECOMMENDED: OPPOSE

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.

ACTION RECOMMENDED: OPPOSE

Renewable Energy Standards

(SB 1372 /HB _____)

Sponsors: Sen. J. Rodriguez/Rep. _____

Summary:

The legislation would mandate a renewable portfolio standard (RPS) for only IOUs.

ACTION RECOMMENDED: OPPOSE