

FECA's Florida Legislative Report

April 19, 2019

This week, HB 693 and SB 1000, relating to Communication Services, were heard in their final committees and each bill adopted strike-all amendments, which alleviate some of our concerns. The amendment includes language addressing:

- Safety and interference with existing or future electric utility lines in public rights-of-way (ROW).
- The National Electric Safety Code and FDOT's Utility Accommodation Manual were added to the applicable codes that wireless companies must comply with when placing poles in ROWs.
- That applications can be denied by local authorities (municipalities and counties) for the installation of new wireless utility poles in the ROW if placement of the pole would interfere with sight lines, clear zones, public safety, or if fails to comply with the FDOT UAM, the NESC and other applicable codes.
- Permitting and placement of wireless poles in public ROWs will not delay issuing permits for other utility work, including electricity the ROWs.

SB 642, relating to Criminal Justice, was amended in committee becoming the latest bill to include language addressing felony theft levels. The legislation raises the third-degree felony theft threshold from \$300 to \$750; the language does not include an exemption for the theft of electricity as found in the House Bills.

SB 76, relating to Texting While Driving, was amended to be the "Florida Hands-Free Driving Law." The legislation would enforce a ban on the use of a handheld wireless communications device while operating a motor vehicle as a primary offense. The list of devices includes: cell phones, tablets, laptops, two-way messaging devices, or electronic games. The House companion does not include these limitations.

This week, Statewide filed a brief at the Florida Supreme Court in opposition to the Citizen Initiative: Right to Competitive Energy Market for Customers of Investor-Owned Utilities; Allowing Energy Choice. Several other entities also filed briefs including the IOUs, AIF, The Chamber, Attorney General Moody, the Florida House and Senate, municipal electrics, League of Cities/Association of Counties and others. The link to the Statewide's brief is provided below.

Below are the current bills of interest that have been filed thus far. A new section has been added for bills that have passed both chambers and await final

approval or veto by the Governor. Each week, the report will prioritize in the following manner: New legislation filed, priority, monitor, tracking, bills that appear to be dead and bills ready for the Governor's Approval. 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

Texting While Driving

(SB 76/HB 107)

Sponsors: Sen. Simpson /Rep. Toledo

Summary:

The Legislation allows for the purpose of nonvoice interpersonal communication by way of texting, emailing and instant messaging to be enforced as a primary offence. The Senate bill expands the legislation to enforce "hands-free driving." The "hands-free" component prohibits the use of the following devices if not used in a hands-free manner: cell phones, tablets, laptops, two-way messaging devices, or electronic games.

Committee Assignments:

SB 76: Ready for the Floor

HB 107: Ready for the Floor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: ON AGENDA (4/23) -SENATE Special Order; ON AGENDA (4/23) – HOUSE Special Order

Public Safety

(SB 642/HB ____)

Sponsors: Sen. Brandes /Rep. ____

Summary:

This legislation as amended is a broad public safety bill encompassing language from HB 7072 and SB 406, relating to theft. Current law 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 raises the lowest amount for this conviction from \$300 to \$750.

Committee Assignments:

SB 642: Ready for the Floor

HB ____:

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Subcommittee on Criminal Justice Appropriations – PASSED as AMENDED; SENATE Appropriations – PASSED as AMENDED

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: Senate Messages

ACTION RECOMMENDED: OPPOSE

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: Appropriations Committee

HB 693: Commerce Committee

ACTION RECOMMENDED: NEUTRAL/CONCERN

ACTION ITEM: SENATE Appropriations -PASSED as AMENDED; HOUSE Commerce Committee – PASSED as amended

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

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: Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Appropriations – PASSED

Public Safety

(SB ____ /HB 7125)

Sponsors: Sen. ____ /Judiciary Committee

Summary:

This legislation is an overarching public safety overhaul that encompasses language housed in HB 589, relating to theft. Current law 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 \$1000. However, the language adds utility services theft to the list of activities that receive a felony of the third degree regardless of the amount stolen.

Committee Assignments:

SB ____:

HB 7125: Appropriations

ACTION RECOMMENDED: NEUTRAL

TRACKING

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: Ready for the Floor

HB 591: SENATE Messages

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: Ready for the floor

HB 797: Ready for the floor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE Commerce – PASSED as Amended; SENATE Appropriations – PASSED as Amended

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: Ready for the Floor

HB 1009: Ready for the Floor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Appropriations – PASSED; HOUSE Judiciary – PASSED; ON AGENDA (4/24) HOUSE Special Order

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: Rules

HB 1159: Ready for the Floor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE State Affairs Committee - PASSED

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

HB 7111: State Affairs

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE State Affairs Committee – PASSED; ON AGENDA (4/24) – HOUSE Special Order

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

HB ____:

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Appropriations Subcommittee on Transportation, Tourism and Economic Development - PASSED

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

READY FOR GOVERNOR'S APPROVAL

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: Refer to HB 327

HB 327: **PASSED; Ready for Governor's Approval**

ACTION RECOMMENDED: NEUTRAL

CITIZEN INITIATIVE

Click [here](#) for FECA's Opposition Brief filed 4/18/19

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, including all briefs filed in opposition to the initiative.

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

- The sponsor first must register 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