

FECA's Florida Legislative Report

May 6, 2019

The 2019 Legislative Session adjourned “Sine Die” after passing the \$91.1 billion budget on Saturday, May 4. Overall, the electric co-ops ended up in very good shape. This is due to the endless hours Allison spent advocating at the Capitol, while working in concert with Michelle and Jon to review and analyze volumes of legislation. I am very proud of our team and thank each of them for the long hours they invested over the last four months.

In the final days of Session, language making prospective changes to the procedure for collecting signatures for citizens’ initiatives to amend Florida’s Constitution was included in HB 5. The legislation would require signature gatherers to be paid hourly versus paying on a per-signature basis. However, this ban does not apply to pre-existing contracts. For example, if the sponsors of the re-regulation initiative have pre-existing contracts with out-of-state signature collectors to pay on a per-signature basis, then these contracts would be grandfathered in under this law. Nevertheless, the bill requires all signature gatherers to register with the Secretary of State and consent to resolving disputes in Florida’s courts. If Gov. DeSantis approves HB 5, the law could have a positive impact on how citizens’ initiative signatures are gathered.

Several pieces of legislation died that had the potential to negatively impact the electric co-ops. This includes HB 651, Medically Essential Utility Services, which would have required all electric utilities, including co-ops, to institute comprehensive Medically Essential programs. Other bills that died are listed below.

HB 589, relating to Theft, was absorbed by HB 7125 to create a large criminal justice reform package. The threshold to be charged with a felony of the third degree for theft was increased from \$300 to \$750. The new threshold will not go into effect until October 2019, so it will likely be sometime before we see the true impact of the change.

Bills such as SB 1000, relating to Communication Services, passed with amendments addressing many of the ROW concerns raised by the electric utility industry, including the requirement that wireless carriers abide by the National Electric Safety Code and the FDOT Utility Accommodation Manual when placing poles in public ROWs.

HB 107, relating to texting while driving, passed and is awaiting the Governor's signature. Under the bill, texting while driving would become a primary offense which would allow law enforcement to stop motorists ONLY for texting and not in tandem with another driving offense. It also requires "Hands-free" driving in all school zones and work zones, when workers are present.

The proponents of the citizen's initiative on re-regulation asked for and received from the Florida Supreme Court an extension to file its answer brief, but the date for oral arguments is unchanged. The revised schedule for proponent answer briefs and opponent reply briefs is below.

The report will prioritize in the following manner: bills ready for the Governor's Action and Bills that Died. 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.

AWAITNG GOV.'S ACTION

Constitutional Amendment Processes

(SB 336 /HB 5)

Sponsors: Sen. Brandes/Rep. DiCeglie

Summary:

The amendment within the legislation contains certain provisions from SB 7096/HB 7011, which creates additional requirements and processes relating to the constitutional amendment initiative process and petition signature gatherers.

Including:

- Paid petition circulators must register with the Secretary of State and consent to jurisdiction in this state.
- Prohibits a person from compensating a petition circulator on a per-signature basis. Violations are a first-degree misdemeanor.
- Petition sponsors are responsible for ensuring that petitions are submitted within 30 days after they are signed. The sponsor is liable for fines for petitions submitted late or not submitted at all.
- Financial Impact Estimating Conference (FIEC) prepares an estimate of economic impact of an initiative amendment on the state and local economies to appear on the ballot. This will be included on the ballot in BOLD print.
- FIEC will have 75 days in which to complete the economic impact. However, the time clock will pause during the 60-day Legislative Session.

- The ban on the per-signature compensation takes effect upon becoming law but does NOT apply to Pre-existing contracts. Other provisions take place 30-days after the bill becomes law.

Committee Assignments:

SB 336: Refer to HB 5

HB 693: Ready for the Governor

**ACTION ITEM: HOUSE PASSED as AMENDED; SENATE – CONCURRED/PASSED;
Ready for Governor Action**

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. 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

Committee Assignments:

SB 1000: Ready for Governor

HB 693: See SB 1000

ACTION RECOMMENDED: NEUTRAL

**ACTION ITEM: HOUSE- PASSED as AMENDED; SENATE – CONCURRED / PASSED;
Ready for Governor Action**

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. It also requires "hands-free" driving in all school and work zones. 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: See HB 107

HB 107: PASSED; Ready for the Governor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE – PASSED; Ready for Governor Action

Public Safety

(SB 642/HB 7125)

Sponsors: Sen. Brandes /Rep. Renner

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: See HB 7125

HB 7125: PASSED; Ready for the Governor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE – PASSED as AMENDED; Ready for Governor Action

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

ACTION ITEM: SENATE – PASSED; Ready for Governor Action

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: See HB 591

HB 591: PASSED; Ready for Governor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE – PASSED; Ready for Governor Action

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: PASSED; Ready for the Governor

HB 797: See SB 796

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE – PASSED as AMENDED; SENATE – CONCURRED / PASSED; Ready for Governor Action

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: See HB 1009

HB 1009: PASSED; Ready for Governor Approval

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE – PASSED; Ready for Governor Action

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: See HB 1159

HB 1159: PASSED; Ready for the Governor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE – PASSED; Ready for Governor Action

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.

SUPREME COURT CASE CALENDAR:

April 18, 2019 - Opponents Briefs

May 23, 2019 - Answer Briefs

June 12, 2019 - Replies by Opponents

August 28, 2019 - Oral Arguments

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.

BILLS THAT DIED

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

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.

Committee Assignments:

SB 596: Ready for the Floor

HB 671: Transportation & Tourism Appropriations Subcommittee; Commerce Committee

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

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.

ACTION RECOMMENDED: NEUTRAL

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. 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.

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.

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). 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.

ACTION RECOMMENDED: NEUTRAL

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.

ACTION RECOMMENDED: NEUTRAL