

FECA's Florida Legislative Report

February 14, 2020

This week, HB 203, Growth Management, and SB 7018, Electric Vehicle Charging Station Infrastructure, both added amendments that would level the playing field by requiring FDOT and local government authorities to process and act upon applications for electric utility permits in ROWs in the same timeframe as applications filed by wireless companies. The amendments would require an authority to notify the applicant by e-mail if the application for a permit is complete, or incomplete and identify the missing information within 14 days after receiving the application. In addition, an application must be processed on a non-discriminatory basis. A complete application is deemed approved if an authority fails to approve or deny the application within 60 days. If denied, the authority must specify in writing the basis for denial and then the applicant has 30 days to cure the deficiencies.

SB 1464, Underground Facility Damage Prevention and Safety, passed the Senate Banking and Insurance Committee with an amendment. The amendment deleted the establishment of an underground facility damage prevention review panel and charges the Sunshine State One-Call of Florida, Inc. with reviewing reports of violations, and identifying issues regarding damage prevention and enforcement. The State Fire Marshal would have sole investigative authority over alleged incidents involving high-priority subsurface installations, and to issue citations and impose civil penalties for violations. Further, the amendment still contains the transfer of reporting requirements from the "system" to the "member-operator".

Below are bills of interest 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 of any legislation or why it is located in a specific area, please do not hesitate to reach out to Allison or Mike.

NEW LEGISLATION

Growth Management

(SB 410 /HB 203)

Sponsors: Sen. Perry /Rep. McClain

Summary:

An amendment to HB 203 (SB 7018 now has the same language) would provide a utilities' right-of-way permit application a "shot clock" when submitting permit application to local governments. Last year, the telecom providers passed legislation to institute the "shot clock" for small wireless facilities, this would give electric utilities the same timeline.

(1) Within 14 days after receiving an application, an authority must determine and notify the applicant by e-mail if the application is complete, incomplete and identify the missing

information. The applicant is deemed complete if the authority fails to provide notification within 14 days.

(2) A complete application is deemed approved if an authority fails to approve or deny the application within 60 days after receipt. If an authority does not use the 30-day negotiation period provided, the parties may mutually agree to extend the 60-day application review period. A permit issued to an approved applicant shall remain effective for 1 year unless extended by the authority.

(3) An authority must notify the applicant of approval or denial by e-mail. If the application is denied, the authority must specify in writing the basis of the denial and send documentation by e-mail. The applicant may cure the deficiencies identified and resubmit the application within 30 days after notice of the denial. The review of a revised application is limited to the deficiencies cited in the denial. The review must be completed and a written decision issued within 45 days. If the administrative review is not completed within 45 days, the authority waives any claim regarding failure to exhaust administrative remedies in any judicial review of the denial of an application. The Senate Bill does not currently contain the amendment language.

Committee Assignments:

SB 410: Rules

HB 203: State Affairs

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE Commerce Committee – PASSED as AMENDED

PRIORITY

Medically Essential Electric Utility Service

(SB ____ /HB 773)

Sponsors: Sen. ____/Rep. Maggard

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 ____:

HB 773: Ready for the Floor

ACTION RECOMMENDED: OPPOSE

**ACTION ITEM: HOUSE Commerce Committee – PASSED;
ON AGENDA (2/19) – HOUSE Floor**

MONITOR

Constitutional Amendments Proposed by Initiative

(SB 1794/HB 7037)

Sponsors: Sen. Hutson/Rep. J. Grant

Summary:

The bill would require the Secretary of State (SOS) to submit the initiative to the Attorney General (AG), Speaker of the Florida House, and President of the Florida Senate (currently the SOS submits the initiative only to the AG). The House and Senate can then direct their staff to provide an analysis of the initiative. The Florida Supreme Court would be able to consider whether the proposed amendment is valid under provisions of the U.S. Constitution, not just the Florida Constitution. The language sets a specific timeframe in which signatures remain valid. The ballot summary would state the percentage of total contributions from in-state persons and if out-of-state petition gathers were used. It creates a new ballot summary requirement to clearly state the fiscal impact of the proposed amendment to the state budget. As the Financial Estimating Impact Conference determines the fiscal impact the following options are available for the ballot:

- Net Negative/Positive - state the known impact and it may result in higher taxes or loss of government services if passed
- Indeterminate – state it cannot determine an impact due to ambiguities or uncertainties in the ballot language
- Unable to agree – state the inability to agree on the impact AND the amendment may result in higher taxes or loss of government services if passed

Committee Assignments:

SB 1794: Rules

HB 7037: Judiciary

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Judiciary Committee – PASSED as AMENDED

Broadband

(SB 1166 /HB 969)

Sponsors: Sen. Albritton/Rep. Drake

Summary:

The legislation would establish the Florida Office of Broadband within the Department of Economic Opportunity for the purpose of developing and promoting broadband internet services in the state. Further, establishing this office would allow the state to pursue and receive federal grants available to support broadband.

Committee Assignments:

SB 1166: Appropriations

HB 969: Ready for the Floor

ACTION RECOMMENDED: NEUTRAL

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

Department of Environmental Protection

(SB ____ /HB 5401)

Sponsors: Sen. ____/Rep. Raschein

Summary:

This legislation would transfer the Office of Energy within DACS to DEP effective July 1, 2020. This legislation also absorbed language found in HB 921, Department of Agriculture and Consumer Services that would incorporate the elimination of an annual reporting requirement for the renewable energy technology investment tax credit. The transfer of the Office of Energy to DEP can be handled through the budget process. Thus, not necessarily requiring a companion bill.

Committee Assignments:

SB ____:

HB 5401: Senate Message

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE PASSED – Part of the Budget Conference

Underground Facility Damage Prevention and Safety

(SB 1464 /HB 1095)

Sponsors: Sen. Flores/Rep. Fitzenhagen

Summary:

This legislation would provide for enhanced civil penalties for certain violations relating to underground facilities regulated by the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Dept. of Transportation. Incidents involving damage to high-priority subsurface installations would be reported to either the State Fire Marshall, county fire chief, local or state law enforcement officer, government code inspector or code enforcement officer for investigation. An underground facility damage prevention review panel would be established under the Division of State Fire Marshal to review complaints of violations and to identify issues regarding damage prevention and enforcement. The panel would also identify areas in the state where additional education on damage prevention and enforcement is needed and review current practices for locating underground pipes regulated by the PHMSA. The review panel will be made up of 9 members appointed by the Sunshine State One-Call (One-Call) board of directors and must include one member representing the electric utility industry.

Committee Assignments:

SB 1464: Rules

HB 1095: Commerce Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Banking and Insurance Committee – PASSED as AMENDED

- The amendment removed the underground facility damage prevention review and, in its place, charges the Sunshine State One-Call of Florida, Inc. with reviewing reports of violations and identifying issues regarding damage prevention and enforcement. The State Fire Marshal would have sole investigative authority over alleged incidents involving

high-priority subsurface installations, and to issue citations and impose civil penalties for violations

Statewide Office of Resiliency

(SB 7016/HB 1073)

Sponsors: Sen. Lee/Rep. Stevenson

Summary:

This legislation would create the Statewide Office of Resiliency and the Statewide Sea-Level Rise Task Force. The Task Force would make projection recommendations of the sea-level rise and its impact along the coastline. The projection recommendations would be submitted to the Environmental Regulation Commission (ERC) by January 1, 2021. If the ERC passes those recommendations, it would serve as the state's official estimate of impact on the state. The estimates would serve as the baseline for any future projects, plans and appropriations to address sea-level rise impacts in the state.

Committee Assignments:

SB 7016: Ready for the Floor

HB 1073: State Affairs

ACTION RECOMMENDED: NEUTRAL

License Plates – “Thank a Lineman”

(SB 412 /HB 1135)

Sponsors: Sen. Bean /Rep. J. Grant

Summary:

The Legislation would create several new specialty license plates, including a “Thank a Lineman” plate. The bill would also outline criteria for the designs, create uniformity for annual fees associated with the plates, would cap the number of specialty license plates, and discontinue low performing plates. Currently, the “Thank a Lineman” specialty plate is not in the House Bill.

Committee Assignments:

SB 412: Appropriations, Rules

HB 1135: Ready for the Floor

ACTION RECOMMENDED: SUPPORT

ACTION ITEM: HOUSE State Affairs Committee - PASSED

Solar 3rd Party Retail Sales

(SB 446 /HB ____)

Sponsors: Sen. Brandes/Rep. _____

Summary:

This legislation would allow commercial or industrial businesses to install, maintain and operate a renewable energy source on their structure and sell the electricity generated from the device to a commercial or industrial business that is located immediately adjacent to the structure or parcel. These sales would not be considered retail sales of electricity and therefore not subject to regulation by the FPSC. If the commission determined that the level of reduction in electricity

purchases by customers using renewable energy devices was significant enough to adversely impact the rates of other customers, the Commission would approve a utility's request to recover its costs of providing capacity, generation, and distribution caused by customers using renewable energy devices. These costs would only be assessed to the renewable energy users. Utilities would be able to recover the full costs for any back-up generation or transmission services.

Committee Assignments:

SB 446: Innovation, Industry, and Technology; Commerce and Tourism; Rules

HB ____:

ACTION RECOMMENDED: OPPOSE

Office of Public Counsel

(SB 7052 /HB ____)

Sponsors: Sen. Committee Bill /Rep. _____

Summary:

The proposed Committee Bill would provide the Public Counsel to receive 4-year terms with a term-limit of 12 consecutive years. The legislation states the Committee on Public Counsel Oversight would receive applications and conduct interviews every 4 years beginning on March 1, 2021.

Committee Assignments:

SB 7052: Rules

HB ____:

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Innovation, Industry and Technology Committee – PASSED

Energy 2040 Task Force

(SB 144/HB ____)

Sponsors: Sen. Brandes / Rep. _____

Summary:

This legislation would create an Energy 2040 Taskforce within the FPSC to project Florida's electric energy needs over the next 20 years and determine how best to meet those needs in an efficient, affordable and reliable manner while **increasing competition and consumer choice and ensuring adequate electric reserves**. The taskforce would recommend appropriate electric policies for the state, including any necessary statutory changes. The task force would have eight appointed members: Public Counsel, FPSC Executive Director, Florida Energy Systems Consortium Chair, FRCC Executive Director, two Florida Senators, and two Florida House of Representatives. The meetings would begin by August 1, 2020 and a report would be submitted by January 1, 2022.

Committee Assignments:

SB 144: Innovation, Industry and Technology; Appropriations Subcommittee on Agriculture, Environment and General Government, Appropriations

HB ____:

ACTION RECOMMENDED: OPPOSE

TRACKING

Emergency Mitigation and Response

(SB 502/HB ____)

Sponsors: Sen. Montford/Rep. ____

Summary:

This legislation would create 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 502: Appropriations on Transportation, Tourism and Economic Development; Appropriations
HB ____:

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Infrastructure and Security Committee- PASSED as AMENDED

- The amendment removed the \$500k appropriation to the Division of Emergency Management. That portion of the bill would have required DEM to competitively procure a consultant to make recommendations for the update of the statewide and regional hurricane evacuation studies.

Emergency Staging Areas

(SB 7020/HB ____)

Sponsors: Sen. Lee/Rep. ____

Summary:

This legislation would allow FDOT to plan, design and construct staging areas to be activated during a declared state of emergency on the turnpike system. The staging sites would be used for emergency supplies (water, fuel, generators, vehicles, equipment, etc.). When selecting a site for a staging area, FDOT must consider: 1) best area for wide dissemination of supplies; 2) ease of access; 3) size of the area; and 4) use of area during non-emergencies. Priority sites will be placed in counties with populations of 200,000 or more and the staging areas may be authorized for other uses including commercial motor vehicle parking to comply with hours-of-service requirements.

Committee Assignments:

SB 7020: Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

Electric Vehicle Charging Station Infrastructure

(SB 7018/HB 943)

Sponsors: Sen. Lee/Rep. Daley

Summary:

The bill would create a plan to develop electric vehicle charging station infrastructure in the state. The legislative purpose for this infrastructure is to combat climate change, reduce carbon dioxide emissions, and assist with evacuations during disasters. The FPSC, in coordination with FDOT and the Office of Energy must recommend a plan to the Governor and the Legislature by July 1, 2021 (status report must be filed by December 1, 2020.) The goals of the plan would include: 1) projecting the increase in use of EVs in Florida over the next 20 years and determining how to ensure an adequate supply of charging stations to support the increase; 2) evaluating the types of EV charging stations available now and in the future; 3) developing strategies to supply the charging stations such as partnerships with local governments, state and federal entities and electric utilities; 4) identifying locations for charging stations and any barriers to construction; 5) **identifying the regulatory structure necessary for the delivery of electricity to the charging stations**; and 6) reviewing emerging technologies in the EV market.

Committee Assignments:

SB 7018: Appropriations

HB 943: State Affairs

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Appropriations Subcommittee on Agriculture, Environment and General Government Appropriations – PASSED as Amended

- The amendment added the “shot clock” language mentioned above on HB 203. It also would clarify that owners of conservation easements may allow private linear facilities the right of access.

Broadband Internet Service

(SB 1776 /HB 1309)

Sponsors: Sen. Montford/Rep. Ausley

Summary:

The Legislation would require the Dept. of Management Services (DMS) to develop geographic information system maps of communications service providers consistent with the maps established by the FCC. DMS must provide input to the FCC related to the geographic availability of broadband internet service in Florida to ensure that rural and underserved areas of the state are best positioned to benefit from broadband deployment programs.

Committee Assignments:

SB 1776: Governmental Oversight and Accountability; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 1309: Energy & Utilities Subcommittee; Government Operations & Technology Appropriations Subcommittee; Commerce Committee

ACTION RECOMMENDED: NEUTRAL

Clean Energy Programs

(SB 824/HB 225)

Sponsors: Sen. Hooper / Rep. Zika

Summary:

The legislation would create the Property Assessed Clean Energy (PACE) Act, which allows local governments the option to contract with a PACE Administrator to administer loans for qualified energy efficiency, renewable and other property improvements. The local government or PACE Administrator would verify that the property owner has the ability to repay the loan using a number of criteria. The PACE loan period would not be able to extend beyond the useful life of the qualifying improvement.

Committee Assignments:

SB 824: Community Affairs; Innovation, Industry and Technology; Rules

HB 225: Energy & Utilities Subcommittee; Ways & Means Committee; State Affairs Committee

ACTION RECOMMENDED: NEUTRAL

Traffic Offenses

(SB 308/HB 455)

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 would define 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 308: Infrastructure and Security; Appropriations Subcommittee on Transportation, Tourism and Economic Development; Appropriations

HB 455: Transportation & Infrastructure Subcommittee; Criminal Justice Subcommittee; State Affairs Committee

ACTION RECOMMENDED: NEUTRAL

Sales Tax Holiday for Disaster Preparedness Supplies

(SB 524/HB ____)

Sponsors: Sen. Gruters /Rep. _____

Summary:

This bill would create a sales tax exemption holiday for specified items relating to disaster preparedness and protection. During the exemption period, the following items, would be exempt from state sales and use tax and county discretionary sales surtaxes: certain light sources, radios, tarps, "tie-down" kits, fuel tanks, batteries, first aid kits, cellular telephone chargers, food storage coolers, portable generators, storm shutter devices, carbon monoxide detectors, reusable ice, personal locator beacons, and emergency position-indicating radio beacons.

Committee Assignments:

SB 524: Finance and Tax; Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Finance and Tax Committee – PASSED

Identification of Underground Facilities

(SB 592/HB 6039)

Sponsors: Sen. Pizzo/Rep. Duran

Summary:

The bill would allow local governments to specify the types of paint or other marking devices that are used to identify underground facilities. This would potentially cause confusion for utilities that have facilities in multiple local jurisdictions since each local government could have different types of underground identifiers.

Committee Assignments:

SB 592: Innovation, Industry, and Technology; Community Affairs; Rules

HB 6039: Energy and Utilities Subcommittee; Local, Federal and Veterans Affairs Subcommittee; Commerce Committee

ACTION RECOMMENDED: OPPOSED

Department of Agriculture and Consumer Services

(SB 1514/HB 921)

Sponsors: Sen. Albritton/Rep. Brannan

Summary:

This legislation is an agency package that would incorporate the elimination of an annual reporting requirement for the renewable energy technology investment tax credit. The package would add renewable energy, alternative fuels and alternative vehicle technologies to the education and training programs on energy efficiency and conservation

Committee Assignments:

SB 1514: Appropriations

HB 921: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: ON AGENDA (2/17) – SENATE Innovation, Industry and Technology Committee

Clean Energy

(SB ____ /HB 1419)

Sponsors: Sen. ____/Rep. Good

Summary:

The legislation would create a new provision for renewable energy for local governments, colleges and universities would allow these public entities to own or lease renewable energy generation systems located on their property or within the same county and within their utility provider's territory. If a public customer contracts with a third-party to install and operate the renewable energy system, the sale of electricity from the third-party generator to the public

customer would not be considered a retail sale of electricity and therefore, would not be regulated as a utility by the PSC. The energy from these systems would “primarily” be used to offset the customer’s electricity requirements, which could imply that any excess power could be sold to other customers at retail. A public customer with multiple meters may aggregate its electricity consumption by totaling the consumption of all the meters located on the customer’s eligible property and offset such aggregated consumption under the electric utility’s net metering program. By January 1, 2021, all electric utilities, including co-ops, must offer all public customers aggregation within its net metering program. By January 1, 2023, each IOU would be required to file with the PSC a renewable energy tariff for all nonresidential customers (commercial, industrial, public) to purchase renewable energy from the utility to meet up to 100% of the customer’s electricity requirements. **By July 1, 2023, each municipal electric and electric cooperative would be required to adopt a program offering a renewable energy tariff identical to the IOU tariffs.** If the utility does not have sufficient renewable capacity to meet the customer’s requirements, the customer may contract with a third-party renewable energy owner – these third-party transactions would not be considered retail sales of electricity.

Committee Assignments:

SB ____:

HB 1419: Energy & Utilities Subcommittee; Government Operations & Technology Appropriations Subcommittee; Commerce Committee

ACTION RECOMMENDED: OPPOSE

State Renewable Energy Goals

(SB 256 /HB 97)

Sponsors: Sen. Rodriguez/Rep. Eskamani

Summary:

This legislation would direct the Office of Energy, within DACS, to develop a plan to have 100% of the state’s energy generated from renewable resources by 2050.

Committee Assignments:

SB 256: Innovation, Industry and Technology; Government Oversight and Accountability; Rules

HB 97: Energy & Utilities Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Commerce

ACTION RECOMMENDED: OPPOSE

Exempting Renewable Energy Sources from Definition of Public Utility

(SB 288/HB ____)

Sponsors: Sen Rodriguez /Rep. ____

Summary: The legislation is very similar to SB 222 from last session. Last year, it did not have a companion and was never heard in committee.

This legislation would exempt certain renewable energy sources from the definition of “public utility” which would make them unregulated by the FPSC. An eligible renewable source would need to meet the following criteria: 1) property owner must own and operate on their property; 2) max capacity of 2.5MWs; and 3) produces and sells energy to users located on the property.

Committee Assignments:

SB 288: Innovation, Industry and Technology; Community Affairs; Rules

HB ____:

ACTION RECOMMENDED: OPPOSE

Cooling Towers

(SB 1190 /HB ____)

Sponsors: Sen. Gruters/Rep. ____

Summary:

This legislation is intended to protect the public from Legionella bacteria which can be found in improperly sanitized cooling towers. A “cooling tower” means an evaporative condenser, a fluid cooler, or another wet cooling device that is capable of aerosolizing water that is part of a recirculated water system and that is incorporated into an energy production system (i.e. power plant). The language requires new registration, reporting and recordkeeping for owners of cooling towers.

Committee Assignments:

SB 1190: Health Policy; Appropriations Subcommittee on Health and Human Services; Appropriations

HB ____:

ACTION RECOMMENDED: NEUTRAL

Fossil Fuel Combustion Products

(SB 1432 /HB ____)

Sponsors: Sen. Torres/Rep. ____

Summary:

This legislation would negate the current statutory exemption which allows landfills to accept coal combustion residuals from a fossil fuel-fired electric or steam generation facility.

Committee Assignments:

SB 1432: Environment and Natural Resources; Community Affairs; Rules

HB ____:

ACTION RECOMMENDED: OPPOSE

Heat Illness Prevention

(SB 882/HB 513)

Sponsors: Sen. Torres/Rep. C. Smith

Summary:

This legislation would impact electric co-op employees who regularly perform work outdoors. The language would require the use of an “Outdoor Heat Exposure Safety Program”, which includes training approved by DACS or DOH if it provides greater worker protection than any related industry-specific standards. Currently, co-ops follow OSHA’s heat exposure regulations, therefore, if the bill were to pass, co-ops would be regulated and trained for heat illness issues by both the state and the feds. The program outlines how to protect from and identify heat illness

symptoms while providing medical aid steps to address any worker suffering from it. Each program must implement policies for any worker required to be outdoors for 2 hours or longer with a heat index meeting or exceeding 90 degrees; some of the policy requirements are pre-shift meetings to review the procedures, cool water at each job site, 10 minute break for every 2 hours of work, access to shade, and clothing suggestions to assist with cooler body temperatures.

Committee Assignments:

SB 882: Agriculture; Health Policy; Rules

HB 513: Workforce Development & Tourism Subcommittee; Appropriations Committee;
Commerce Committee

ACTION RECOMMENDED: OPPOSE