

## **FECA's Florida Legislative Report**

### **March 5, 2021**

Next week, SB 1592, Broadband Internet Infrastructure, will be heard in Senate Regulated Industries. This bill would require municipal electric utilities to follow FCC pole attachment regulations, for broadband providers attaching to their utility poles including rates, terms and conditions. Further, the legislation would significantly change how “make-ready” and pole replacement costs are calculated. Although this bill is only applicable to municipal electric utilities, not electric cooperatives, it would put into law a policy that interferes with negotiated pole attachment contracts. We will continue to work with the sponsor to understand the negative impact of this language and the possible future impact on electric co-ops.

This week, HB 753, Broadband Internet Deployment passed the House Tourism, Infrastructure & Energy Committee unanimously as amended. Representative Clemon's bill would create the Broadband Opportunity Program within the Office of Broadband. The Program would award grants (maximum of \$5 million) to applicants seeking to expand access to broadband internet service in specified areas. The committee adopted an amendment to the bill defining the terms “unserved” and “deployed” areas. “Unserved” would be defined as a geographic area where broadband internet service is not deployed. “Deployed” would be an area that the provider is currently providing at least 25/3 service to or an area that the provider is able to provide broadband internet service to within 30 days. The amendment further limits government entities, educational institution or affiliate, and electric cooperatives and its affiliate from receiving grant dollars if another broadband company is already in the geographic area or is deploying services within a certain time frame. We are working with the sponsor and staff to consider removing direct references to “electric cooperatives within chapter 425 or its affiliates” from the bill. We believe electric co-ops would be permitted to apply for grants under the broad definition of “nonprofit corporations” mentioned in the bill.

HB 839, State Preemption of Energy Infrastructure Regulation was heard and amended in the House Tourism, Infrastructure & Energy Committee. The amendment language narrowed the bill language to apply only to transportation energy infrastructure and the fuels used for transportation purposes. The amendment removed references to consumer choice within the energy infrastructure markets. The bill will be temporarily postponed due to House Rules. We will continue to monitor the legislation for any further amendments but the concerns within the legislation have been resolved.

HB 7, Civil Liability for Damages Relating to COVID-19 has passed the House and will be sent to the Senate. The companion, SB 72 passed the Commerce and Tourism Committee. The Senate Bill has one more committee stop before it is ready to be heard on the Floor.

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 FILED**

### **Renewable Energy**

(SB 1960/HB \_\_\_\_)

**Sponsors:** Sen. Bean / Rep. \_\_\_\_

**Summary:**

The legislation states a solar facility shall be a permitted use in all agricultural land use categories in a local government comprehensive plan and all agricultural zoning districts within an unincorporated area. The county may adopt ordinances on buffer zones and landscaping requirements that do not exceed requirements for similar construction of other facilities. The bill would state Florida Electrical Power Plant Siting Act does not apply to a stand-alone or collocated alternative or renewable energy facility 75MW or less. The legislation defines alternative or renewable energy facility as an electrical generative facility that produces energy for wholesale or retail sale using any of the following generative methods: solar, biodiesel, hydrokinetic, wind, or green hydrogen.

**Committee Assignments:**

SB 1960: Regulated Industries; Community Affairs; Rules

HB \_\_\_\_: Filed

**ACTION RECOMMENDED: NEUTRAL**

### **Utility and Communication Service Poles**

(SB 1944/HB 1567)

**Sponsors:** Sen. Albritton / Rep. DiCeglie

**Summary:**

This legislation would move pole attachment disputes in Florida from the FCC to the PSC. The legislation acknowledges the public interest need to harden infrastructure to withstand extreme weather conditions and replacing older poles is required. The legislation would provide a 90-day timeline in which attaching entities must move their pole attachments to reduce the number of redundant poles in the rights-of-way. If the pole attachment is not moved within the 90-day period, the pole owner may move the attachment at the attaching entity's expense. Currently, the legislation inadvertently defines "attaching entity" and "pole owner" as both a public utility and electric utility. We expect an amendment to remove electric utility from the bill.

**Committee Assignments:**

SB 1944: Regulated Industries; Community Affairs; Appropriations

HB 1567: Tourism, Infrastructure & Energy; Infrastructure & Tourism Appropriations

Subcommittee; Commerce Committee

**ACTION RECOMMENDED: NEUTRAL**

## **Utility Customer Assistance Funds**

(SB 1860/HB 1435)

**Sponsors:** Sen. Jones / Rep. C. Smith

### **Summary:**

This legislation would create a COVID-19 utility customer assistance fund in Office of Energy within the Department of Agriculture and Consumer Services. The Office of Energy would be required to establish an application process for the utility provider to complete before receiving any utility customer assistance funds assisting to offset nonpayment of utility bills by residential customers. For a utility service provider to qualify for assistance, the legislation outlines requirements that must be met by utility service provider for any residential customers with past due balances. The legislation would require a \$100 million appropriation to administer the program.

### **Committee Assignments:**

SB 1860: Regulated Industries; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 1435: Tourism, Infrastructure & Energy; Agriculture & Natural Resources Appropriation Subcommittee; Commerce

**ACTION RECOMMENDED: NEUTRAL**

## **Ancillary Property Rights**

(SB 1520/HB 1139)

**Sponsors:** Sen. Boyd / Rep. D. Smith

### **Summary:**

This bill would permit the assignment of an undivided interest in a utility easement to facilitate the hardening of the electrical grids and to permit a more cost-effective way for colocation of infrastructure providing utility services. The legislation also clarifies any recordings in public records intended to extent an easement beyond 30 years must include an affirmative statement of the parties' intention to make the extension.

### **Committee Assignments:**

SB 1520: Judiciary; Community Affairs; Rules

HB 1139: Civil Justice & Property Rights; Tourism, Infrastructure & Energy; Judiciary

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: ON AGENDA (3/9)- SENATE Judiciary Committee**

## **Violations Against Vulnerable Road Users**

(SB 278/HB 1643)

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

HB 1643: Filed

**ACTION RECOMMENDED: SUPPORT**

**PRIORITY**

**Civil Liability for Damages Relating to COVID-19**

(SB 72/HB 7)

**Sponsors:** Sen. Brandes / Rep. McClure

**Summary:**

This legislation provides COVID-19-related liability protections for businesses, educational institutions, government entities, religious organizations, and other entities. Under the bill, a covered entity that makes a good faith effort to substantially comply with applicable COVID-19 guidance is immune from civil liability from a COVID-19-related civil action. The plaintiff in a COVID-related civil action would have the burden to prove that: the defendant was grossly negligent, by clear and convincing evidence.

**Committee Assignments:**

SB 72: Rules

HB 7: Senate Messages

**ACTION RECOMMENDED: SUPPORT**

**ACTION ITEM:**

**SENATE Commerce and Tourism Committee- PASSED**

**HOUSE Floor – PASSED**

**Solar 3rd Party Retail Sales**

(SB 208 /HB 775)

**Sponsors:** Sen. Brandes/Rep. Omphroy

**Summary:**

This legislation will 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 determines that the level of reduction in electricity purchases by customers using renewable energy devices is significant enough to adversely impact the rates of other customers, the Commission may approve an IOU'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. IOUs would be able to recover the full costs for any back-up generation or transmission services.

**Committee Assignments:**

SB 208: Regulated Industries; Commerce and Tourism; Rules

HB 775: Tourism, Infrastructure & Energy Committee; State Administration & Technology  
Appropriations Subcommittee; Commerce Committee

**ACTION RECOMMENDED: OPPOSE**

## **Broadband Internet Infrastructure**

(SB 1592 /HB 1239)

**Sponsors:** Sen. Burgess / Rep. Tomkow

### **Summary:**

This legislation acknowledges deploying services to rural areas is much more costly due to population sparsity. It also states the lack of access to broadband internet services in these areas deprives the communities of opportunities. Thus, the legislation deems it in the public interest of the state to remove regulatory and economic barriers to entice for-profit communications companies to provide and deploy broadband access. This bill would require reasonable rates, terms, and conditions to access to municipal utility poles. The bill would mandate pole attachments rates on municipal utility poles be just, reasonable, nondiscriminatory and fully compensatory; consistent with the FCC set rates for the IOUs. The legislation also outlines acceptable “make-ready” costs and pole replacement costs required by the broadband provider while requiring all pole replacements to accommodate the broadband provider’s attachment within 90 days.

### **Committee Assignments:**

SB 1592: Regulated Industries; Finance and Tax; Appropriations

HB 1239: Tourism, Infrastructure & Energy; Ways & Means; Commerce

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEMS: ON AGENDA (3/9) – SENATE Regulated Industries**

## **MONITORING**

## **Preemption on Restriction of Utility Services**

(SB 1128/HB 919)

**Sponsors:** Sen. Hutson / Rep. Tomkow

### **Summary:**

This legislation would create a new definition under 366 of a “Utility Service Provider” as any private, municipal, county, special district, or cooperative engaging in the sale or supply of electricity or gas to or for the public within the state. The bill would prevent local governments from enacting or enforcing any resolutions, ordinances, rules, code or policy restricting or prohibiting a property owner from CHOOSING a utility service from a utility service provider that serves the property. As we have continued to learn about this legislation, we understand the desire to address the issues. We are working with the stakeholders to address our concerns with some of the current language.

### **Committee Assignments:**

SB 1128: Regulated Industries, Community Affairs, Rules

HB 919: Tourism, Infrastructure & Energy Subcommittee; Local Administration & Veterans Affairs Subcommittee; Ways & Means Committee; Commerce Committee

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: ON AGENDA (3/9) – SENATE Regulated Industries**

## **Electric Vehicles**

(SB 138/HB 817)

**Sponsors:** Sen. Brandes / Rep. Toledo

### **Summary:**

To improve interstate mobility, this legislation would direct the FDOT to evaluate new infrastructure technologies such as EV charging stations. The Electric Vehicle Infrastructure Grant Program would be established by FDOT to provide financial assistance to encourage the installation of EV charging infrastructure. The program would be funded by revenues collected in the licensure of electric and hybrid vehicles. State agencies, public universities, public transit agencies, ports, airports, and local governments may apply to receive monies to install publicly available EV charging infrastructure on public or private property

### **Committee Assignments:**

SB 138: Transportation; Appropriations Subcommittee on Transportation, Tourism and Economic Development; Appropriations

HB 817: Tourism, Infrastructure & Energy; Infrastructure & Tourism Appropriations Subcommittee; Commerce

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: ON AGENDA (3/10) – Transportation Committee**

## **Electric Vehicles - Fees**

(SB 140/HB 819)

**Sponsors:** Sen. Brandes / Rep. Learned

### **Summary:**

Beginning January 1, 2025, this legislation would increase the license tax hybrid and electric vehicles by \$15 to fund the Electric Vehicle Infrastructure Grant Program. The increase of the licensure fee would expire after five years.

### **Committee Assignments:**

SB 140: Transportation; Appropriations Subcommittee on Transportation, Tourism and Economic Development; Appropriations

HB 819: Tourism, Infrastructure & Energy; Ways & Means; Commerce

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: ON AGENDA (3/10) – Transportation Committee**

## **Solar Energy Systems Located on the Property of Educational Facilities**

(SB 188/HB 551)

**Sponsors:** Sen. Berman / Rep. Hardy

**Summary:**

This legislation provides that any costs associated with a solar energy system that is located on the property of an educational institution may not be included when calculating the “cost per student station” for any new construction projects. The per student station allocation, limits the state administered funds a school district can use for new construction projects on an educational plant space.

**Committee Assignments:**

SB 188: Education; Appropriations Subcommittee on Education, Appropriations

HB 551: PreK-12 Appropriations Subcommittee, Education & Employment Committee;  
Appropriations Committee

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: SENATE Education Committee - PASSED**

## **State Renewable Energy Goals**

(SB 720 /HB 283)

**Sponsors:** Sen. Berman/Rep. Eskamani

**Summary:**

This legislation modifies the definition of “renewable energy” to exclude energy produced using high quality synthetic gas produced from waste petroleum coke with CO2 capture and sequestration. In addition, the legislation would prohibit the drilling or exploration of, or production or transportation of, oil, gas, or other petroleum products on the land and waters of the state. The Office of Energy would be directed to develop a plan to have 100% of the state’s energy generated from renewable resources by 2050. The legislation would create the Renewable Energy Workforce Development Advisory Committee consisting of 13 members appointed by the Commissioner of Agriculture. The committee would make recommendations to promote employment growth and access to jobs in the energy efficiency and renewable energy industry. A report of the committee’s findings would be presented to the President of the Senate and the Speaker of the House by January 1, 2022 and each January 1 thereafter.

**Committee Assignments:**

SB 720: Environment and Natural Resources; Regulated Industries; Rules

HB 283: Tourism, Infrastructure & Energy Subcommittee; Agriculture & Natural Resources  
Appropriations Subcommittee; Commerce Committee

**ACTION RECOMMENDED: OPPOSE**

## **State Preemption of Energy Infrastructure Regulations**

(SB 856 / HB 839)

**Sponsors:** Sen. Hutson / Rep. Fabricio

**Summary:**

The legislation states the construction of energy infrastructure is preempted to the state. Local governmental entities may not implement any law, ordinance, regulation, policy or resolution

that prohibits restricts, or requires the construction of new or the expansion, upgrading or repair of existing energy infrastructure or impose any requirements more stringent than state law.

**Committee Assignments:**

SB 856: Regulated Industries, Community Affairs, Rules

HB 839: Tourism, Infrastructure & Energy; Local Administration & Veteran Affairs; Commerce

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: HOUSE Tourism, Infrastructure & Energy – TP'd after Amended**

- **Amendment narrowed the scope of the bill to energy infrastructure for transportation fuels only.**
- **Due to House Rule, the bill was Temporarily Postponed (TP'd) after the passage of an amendment changing the title of the bill.**

**Public K-12 Educational Institution Resiliency**

(SB 1538 /HB 1487)

**Sponsors:** Sen. A. Rodriguez / Rep. **McCurdy**

**\*\*Sen. Berman and Rep. Hardy have also filed SB 1718/ HB 1611 which are fundamentally the same concept\*\***

**Summary:**

This legislation would allow for net metering, including aggregation of net metering credits by a school district to offset energy charges for school facilities not collocated on the site; not to exceed 400 MW. It allows for the K-12 institution to contract with a third party to install, maintain and operate a renewable energy source on the school property. The third party would be permitted to sell the electricity to the school or other governmental authority through a PPA. This would not be considered the retail sale of electricity and not subject to regulation under 366.

**Committee Assignments:**

SB 1538: **Education; Regulated Industries; Appropriations**

HB 1487: Filed

**ACTION RECOMMENDED: OPPOSE**

**TRACKING**

**Energy 2040 Task Force**

(SB 136/HB \_\_\_\_)

**Sponsors:** Sen. Brandes / Rep. \_\_\_\_\_

**Summary:**

Creates 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, 2021 and a report would be submitted by January 1, 2023.

**Committee Assignments:**

SB 136: Regulated Industries; Appropriations Subcommittee on Agriculture, Environment and General Government, Appropriations

HB \_\_:

**ACTION RECOMMENDED: OPPOSE**

## **Broadband Internet Deployment**

(SB \_\_/ HB 753)

**Sponsors:** Sen. \_\_\_\_ / Rep. Clemons

**Summary:**

The legislation would create the Broadband Opportunity Program within the Office of Broadband in the Department of Economic Opportunity. The Program would award grants to applicants seeking to expand access to broadband internet service in unserved or underserved areas. Rural electric cooperatives are listed as one of the entities that could apply for grant dollars. Any recipient selected to receive the grant dollars would sign an agreement that includes a performance conditions with sanctions for failure to meet those conditions.

**Committee Assignments:**

SB \_\_:

HB 753: Infrastructure & Tourism Appropriations Subcommittee; Commerce Committee

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: HOUSE Tourism, Infrastructure & Energy – PASSED as Amended**

- **The amendment added electric cooperatives or their broadband affiliates cannot be granted an award if a communications service company plans to serve the unserved areas within 30 days.**
- **The amendment removed the term underserved; using the terms unserved or service deployed areas.**

## **Greenhouse Gas Emissions**

(SB 1236/ HB 617)

**Sponsors:** Sen. A. Rodriguez / Rep. Melo

**Summary:**

The legislation would not allow enforcement of federal legislation which creates state plans to regulate greenhouse gas emissions unless the Florida legislature authorizes it.

**Committee Assignments:**

SB 1236: Environment and Natural Resources; Governmental Oversight and Accountability; Rules

HB 617: Environment, Agriculture & Flooding Subcommittee; Tourism, Infrastructure & Energy Subcommittee; State Affairs Committee

**ACTION RECOMMENDED: NEUTRAL**

## **Solar Electrical Generating Facilities**

(SB 1008 / HB 761)

**Sponsors:** Sen. Hutson / Rep. Overdorf

### **Summary:**

The legislation states a solar facility shall be permitted use in all agricultural land use categories in a local government comprehensive plan and all agricultural zoning districts within an unincorporated area. The county may adopt ordinances on buffer zones and landscaping requirements that do not exceed requirements for similar construction of other facilities. The bill would increase the megawatts permitted for a solar electrical generating facility from 75 to less than 150MW before having to seek approval for siting under the Florida Electrical Power Plant Siting Act.

### **Committee Assignments:**

SB 1008: Regulated Industries, Community Affairs, Rules

HB 761: Tourism, Infrastructure, & Energy Subcommittee; Local Administration & Veterans Affairs Committee; Commerce Committee

**ACTION RECOMMENDED: NEUTRAL**

## **Sales Tax Holiday for Disaster Preparedness Supplies**

(SB 734/HB \_\_\_\_)

**Sponsors:** Sen. Gruters / Rep. \_\_\_\_\_

### **Summary:**

This bill would create a sales tax exemption holiday from May 29-June 13, 2021 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, food storage coolers, portable generators, storm shutter devices, and reusable ice. Also, impact-resistant windows, impact resistant doors, and impact resistant garage doors are included within certain perimeters.

### **Committee Assignments:**

SB 734: Finance and Tax, Appropriations

HB \_\_\_\_:

**ACTION RECOMMENDED: SUPPORT**

## **Energy**

(SB 1362 /HB 993)

**Sponsors:** Sen. Polsky / Rep. Skidmore

### **Summary:**

This legislation would require the Statewide Emergency Shelter Plan to identify and document the back-up power generation systems and fuel types available at each shelter. The bill would institute greenhouse gas reduction goals to eliminate greenhouse gas within the state by 2050. The Department of Agriculture and Consumer Services (DACs) would develop and maintain a greenhouse gas registry and inventory phasing in government buildings, utilities and certain businesses meeting size criteria within the next four years. The bill would create the Resilient Farms Pilot Program and the Farm Renewable & Efficiency Demonstrations Program within DACs

**Committee Assignments:**

SB 1362: Regulated Industries; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 993: Environment, Agriculture & Flooding; Tourism, Infrastructure & Energy; Appropriations; State Affairs

**ACTION RECOMMENDED: NEUTRAL**

## **Broadband Internet Service**

(SB 1560 /HB 1339)

**Sponsors:** Sen. Ausley / Rep. Goff-Marcil

**Summary:**

This legislation would require the Office of Broadband within the Department of Economic Opportunity to develop and annually update a mapping system identifying where broadband-capable networks exist and where broadband Internet services are available to the end-user. The mapping would be required to identify upload/download speeds available to businesses in the state and identify underserved and unserved areas throughout the rural areas of the state. The legislation would define “unserved” as geographical areas with no provider or broadband Internet service offering a connection with the capacity of 25/3 speed per second. It defines “underserved” as a geographical area with no provider of broadband Internet service offering a connection with the capacity of 100/10 speed per second. The legislation would create a 16-member Broadband Deployment Task Force to support and provide recommendations to the office for the deployment of broadband Internet service throughout the state.

**Committee Assignments:**

SB 1560: Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism and Economic Development; Appropriations

HB 1339: Filed

**ACTION RECOMMENDED: NEUTRAL**