

FECA's Florida Legislative Report

March 26, 2021

This week, HB 1239, Broadband Internet Infrastructure, was heard and passed in the House Tourism, Infrastructure and Energy Committee. The legislation only applies to municipal electric utilities; requiring reasonable rates, terms, and conditions to access to municipal utility poles. It would mandate pole attachment rates be just, reasonable, nondiscriminatory and fully compensatory; consistent with the FCC set rates for the IOUS. Beyond pole attachment costs, the legislation outlines acceptable "make ready" costs and pole replacement timelines to accommodate broadband provider's attachment within 90-days. The presentation and discussion of HB 1239 may be viewed through this [link](#) beginning at the 34:40 mark. During the discussion, Representative Tomkow mentioned the munis and interested communications companies would be having a meeting to discuss concerns with the legislation and possible remedies for both parties. At this time, we know the meeting occurred but do not know any details of their discussions or any projected outcomes as it relates to the bill. Former House Speaker Dean Cannon testified on behalf of FMEA and strongly defended the current process of bi-laterally negotiated contracts to cover the cost of attaching to their utility poles.

SB 72, Civil Liability for Damages Relating to COVID-19, is expected to pass the Florida House later today and be ready for the Governor's final action. 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. Also, the legislation would establish protections and procedures for COVID-19 related claims against health care providers.

SB 208, Renewable Energy passed the Senate Regulated Industries Committee. This legislation would allow 3rd party retail sales for commercial or industrial businesses without requiring any regulation by the PSC. The House companion is not moving.

SB 138 and SB 140, Electric Vehicles, passed the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development Committee. SB 140 sets enhanced fees for electric vehicles to help off-set loss of revenues collected through the gas tax. An amendment adopted more clearly defines the percentage of collected fees distributed between the STTF and counties in which the vehicle is registered. The amendment states revenues collected at the local level must be used for electric vehicle charging infrastructure until June 30, 2024.

Next week, SB 1944, Utility and Communication Service Poles, is scheduled to be heard in Senate Community Affairs Committee. The legislation would move the authority to decide pole attachment disputes between IOUS and telecommunication companies from the FCC to the PSC. The legislation adds a 180-day timeline in which attaching entities must move their pole attachments to new infrastructure to reduce redundant poles in the rights-of-way.

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.

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. The legislation establishes protections and procedures for COVID-19 related claims against health care providers.

Committee Assignments:

SB 72: Ready for the Governor's Action

HB 7: Senate Messages

ACTION RECOMMENDED: SUPPORT

ACTION ITEM:

HOUSE PASSED SB 72

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: Finance and Tax; Appropriations

HB 1239: Ways & Means; Commerce

ACTION RECOMMENDED: NEUTRAL

ACTION ITEMS:

HOUSE Tourism, Infrastructure & Energy - PASSED

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 180-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 Senate bill soon.

Committee Assignments:

SB 1944: Community Affairs; Appropriations

HB 1567: State Administration & Technology Appropriations; Commerce Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM:

ON AGENDA (3/30)- SENATE Community Affairs

MONITORING**Preemption on Restriction of Utility Services**

(SB 1128/HB 919)

Sponsors: Sen. Hutson / Rep. Tomkow

Summary:

This legislation would prevent local governments from enacting or enforcing any resolutions, ordinances, rules, code or policy restricting or prohibiting the types of fuel sources of energy production which may be used, delivered, converted, or supplied by energy providers to customers the providers are authorized to serve. The bill does include electric utilities and public utilities but states the PSC jurisdiction is not altered or expanded.

Committee Assignments:

SB 1128: Rules

HB 919: Commerce

ACTION RECOMMENDED: NEUTRAL

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: Appropriations

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

Subcommittee; Commerce

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM:

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

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: Appropriations

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

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM:

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

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 underserved areas. Rural electric cooperatives or their broadband affiliates are listed as one of the entities that could apply for grant dollars under certain circumstances. 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: Commerce

ACTION RECOMMENDED: NEUTRAL

State Preemption of Energy Infrastructure Regulations

(SB 856 / HB 839)

Sponsors: Sen. Hutson / Rep. Fabricio

Summary:

The legislation states the restricting or prohibiting of construction of energy infrastructure relating to transportation fuels are 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 transportation fuel infrastructure or impose any requirements more stringent than state law.

Committee Assignments:

SB 856: Rules

HB 839: Local Administration & Veteran Affairs; 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: Community Affairs; Rules

HB 1139: Tourism, Infrastructure & Energy; Judiciary

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM:

ON AGENDA (3/30) – SENATE Community Affairs

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

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

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

ACTION ITEM:

SENATE Regulated Industries - PASSED

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: Appropriations Subcommittee on Education, Appropriations

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

ACTION RECOMMENDED: NEUTRAL

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

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

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: Pandemic & Public Emergencies; Tourism, Infrastructure & Energy; PreK-12
Appropriations Subcommittee; Education & Employment

ACTION RECOMMENDED: OPPOSE

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: 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. The legislation creates the Broadband Opportunity Program to award grants to support broadband Internet infrastructure in underserved and unserved areas of Florida.

Committee Assignments:

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

HB 1339: Tourism, Infrastructure, & Energy; Infrastructure & Tourism Appropriations; Commerce

ACTION RECOMMENDED: NEUTRAL

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 ____:

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