

FECA's Florida Legislative Report

April 16, 2021

This week, committees were packed with full agendas as the final committee meetings of the 2021 Session are in sight. While monitoring important legislation in those committees, a majority of the week focused on providing information and tracking rumors as to possible amendments to SB 1592 / HB 1239, Broadband Internet Infrastructure, which could negatively impact electric co-ops' existing, negotiated pole-attachment rates. Senate Appropriations will hear SB 1592 on Monday, April 19. There is currently one proposed amendment, by the sponsor, which continues to narrowly draw the legislation to address only munis. The companion, HB 1239, is expected to be on the Commerce Committee when the agenda is released. Fruitful conversations with the sponsors and staff continue as FECA explains how the current legislation does not impact co-ops but any changes to the bill could potentially hurt current bi-laterally negotiated contracts with broadband Internet service providers.

SB 1126, Department of Transportation, was amended in Senate Appropriations absorbing SB 100, Highway Projects. The amendment would repeal the Multi-use Corridors of Regional Economic Significance (M-CORES) program while redirecting the revenues to funding the authorized controlled access facility projects and widening projects on arterial rural highways. The House Appropriations passed SB 100, Highway Projects.

House Ways & Means Committee released their 2021 Tax Package which includes language found in SB 674, Sales Tax Holiday for Disaster Preparedness Supplies, providing a seven-day "disaster preparedness" tax holiday for specified items relating to disaster preparedness and protection. It also includes a 7-day "Back to school" tax holiday for certain clothing, school supplies and personal computers and a seven-day "recreational" tax holiday for specified admissions and supplies used to enjoy the entertainment options and natural beauty in Florida.

Below are bills of interest filed. Each week, the report will prioritize in the following manner: priority, monitor, tracking, most likely dead and signed by the Governor. 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

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: Appropriations

HB 1239: Commerce

ACTION RECOMMENDED: NEUTRAL

ACTION ITEMS:

ON AGENDA (4/19) – SENATE Appropriations Committee

***Anticipate* ON AGENDA (4/19)– HOUSE Commerce Committee**

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: Appropriations

HB 1567: Commerce Committee

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM:

ON AGENDA (4/19) – SENATE Appropriations Committee

***Anticipate* ON AGENDA (4/19)– HOUSE Commerce Committee**

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

ACTION ITEMS:

HOUSE Commerce Committee – PASSED as Amended

- **Amendment: The amendment provided the bill does not prohibit the board of a municipality or governmental entity from adopting rules, regulations and policies governing an electric or natural gas utility that it owns or operates. The amendment clarified the bill applies to actions impacting the types of fuel sources of energy production which may be used to “serve” their customers.**

ON AGENDA (4/20) – SENATE Rules

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

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

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: Commerce

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM:

ON AGENDA (4/20) – SENATE Rules

ON SPECIAL ORDER (4/20) – HOUSE Floor

TRACKING

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 28-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

ACTION ITEM:

HOUSE Ways & Means – SB 734 was amended into the HOUSE Tax Package (WMC 21-01).

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 of 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

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

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM:

ON AGENDA (4/19) – SENATE Appropriations

MOST LIKELY DEAD

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

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

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: Commerce and Tourism; Rules

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

ACTION RECOMMENDED: OPPOSE

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

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 (4/20) – SENATE Rules

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: Criminal Justice & Public Safety; Tourism, Infrastructure & Energy; Judiciary

ACTION RECOMMENDED: SUPPORT

SIGNED BY THE GOVERNOR

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: Signed by Governor

HB 7: Senate Messages

ACTION RECOMMENDED: SUPPORT

ACTION ITEM:
SIGNED BY GOVERNOR