

FECA's Florida Legislative Report May 3, 2021

The 2021 Legislative Session adjourned Sine Die last Friday. The House and Senate ended the Session by passing the \$101.5 Billion state budget and sending it to the Governor. However, the legislature's hiatus will be brief. Late in Session, Governor DeSantis reached an agreement on a new thirty-year gaming compact with the Seminole Tribe of Florida that could generate approximately \$6 billion in new revenues by 2030. The Florida Legislature will return to Tallahassee on May 17 for a Special Session to debate the new proposal.

Overall, the electric co-ops had a good session. Yet, this was one of the toughest sessions the co-ops have been through in many years. The cable broadband providers aggressively pursuing pole attachment and make-ready policies, in conjunction with the various energy bills, made for a highly active session. The difficult issues, coupled with the restrictions due to COVID-19, made this Session particularly challenging. Despite the trials and tribulations, Allison, and the lobby team, in concert with Michelle, reviewed countless pieces of legislation and found innovative ways to advocate on behalf of co-ops.

HB 1239, Broadband Internet Infrastructure, passed with a final amendment adding money to fund the Department of Economic Opportunity's Office of Broadband (OB) to develop maps to identify underserved and unserved areas. The legislation requires the OB to create a grant program to deploy broadband internet infrastructure in unserved areas and work with rural communities to locate unserved and underserved communities. Further, the bill includes a section on the attachment of broadband facilities to municipal electric utility poles. The bill creates a promotional \$1/pole attachment rate for 3 years, beginning July 1, 2021, and requires the internet provider to submit an application to the muni and the OB. Even though this bill does not directly include electric co-ops, we expect that the OB will reach out to the co-ops in their efforts to identify underserved/unserved areas.

SB 1944, Utility and Communication Service Poles, is heading to the Governor. SB 1944, applicable only to IOUs, would move new pole attachment disputes from the FCC to the PSC. The PSC would regulate and enforce rates, terms and conditions of pole attachments and hear and resolve complaints concerning these issues. The Commission must adopt procedural rules on these issues by January 1, 2022. In addition, the PSC must determine, by rule, a process to deal with redundant poles and transfer of pole ownership. The PSC must adopt these rules by April 1, 2022.

HB 839, State Pre-emption of Energy Infrastructure Regulation, and HB 919, Preemption on Restriction of Utility Services, are heading to the Governor. HB 839 preempts to the state any actions restricting or prohibiting the construction of energy infrastructure relating to transportation fuel, and HB 919 will not allow entities such as local governments to restrict or prohibit the types of fuel sources used by utilities. There are instances in other states where local

governments have prohibited utilities from using certain fossil fuels. Similar discussions have come up in Florida, which was the genesis of these bills.

SB 7068, Tax Package, includes a Disaster Preparedness sales tax exemption holiday from May 28-June 6, 2021 for specified items relating to disaster preparedness and protection. Even though the bills are not in the report, there were significant changes made to M-CORES and the Constitutional Amendatory processes. In the final days of Session, the M-CORES program was repealed (SB 1126). If the Governor approves SB 1126, the funds will be re-directed to expanding existing corridors, emphasizing rural highway projects. In addition, constitutional ballot initiatives will have contribution caps of \$3,000 until the initiative is certified as a ballot question (SB 1890), also subject to Governor's approval. Finally, Floridians will have a chance to abolish the Constitutional Revision Commission, which will come up for a vote on the 2022 general election ballot.

Below are bills of interest filed. Each week, the report will prioritize in the following manner: Signed by Governor, Ready for Governor's Action, and Dead Bills. 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.

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

READY FOR GOVERNOR'S ACTION

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: Refer to HB 839

HB 839: Ready for the Governor's Action

ACTION RECOMMENDED: NEUTRAL

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: Refer to HB 919

HB 919: Ready for the Governor's Action

ACTION RECOMMENDED: NEUTRAL

Broadband Internet Infrastructure

(SB 1592 /HB 1239)

Sponsors: Sen. Burgess / Rep. Tomkow

Summary:

The legislation is applicable only to municipal electric utilities and creates a \$1/pole promotional attachment rate for 3 years and requires an internet provider to submit an application to the municipal utility and the Office of Broadband. If the broadband provider is unable to provide broadband service to identified unserved or underserved customers within 12 months, the broadband provider may be required to pay the prevailing rate on the attachments identified to provide those customers with broadband. The attachments subject to the promotional rate must follow all other terms and conditions of the agreement between the utility and the broadband provider and if no agreement exists, the parties have 90 days to create one. The bill requires all attachments to comply with standards in the National Electrical Safety Code or nondiscriminatory standards set by the municipal utility which are in excess of the National Electrical Safety Code. The bill also requires the Office of Broadband to work with rural communities to locate unserved and underserved communities. It creates a grant program in the Florida Office of Broadband to

help fund the installation and deployment of broadband Internet infrastructure in unserved areas.

Committee Assignments:

SB 1592: Refer to HB 1239

HB 1239: Ready for the Governor's Action

ACTION RECOMMENDED: NEUTRAL

Utility and Communication Service Poles

(SB 1944/HB 1567)

Sponsors: Sen. Albritton / Rep. DiCeglie

Summary:

This legislation would move new IOU pole attachment disputes in Florida from the FCC to the PSC. The PSC would regulate and enforce rates, terms and conditions of pole attachments, and would hear and resolve complaints concerning these issues. 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 time period, the pole owner may move the attachment at the attaching entity's expense. Establishes a process for notification of attaching entities in advance of major hardening projects. The Commission shall adopt procedural rules by January 1, 2022 to administer and implement the subsection in regards to pole attachment rates. The Commission shall adopt rules by April 1, 2022 to implement mandatory pole inspections and the timely and coordinated removal of all pole attachments on redundant poles.

Committee Assignments:

SB 1944: Ready for Governor's Action

HB 1567: See SB 1944

ACTION RECOMMENDED: NEUTRAL

Renewable Energy

(SB 896/HB 539)

Sponsors: Sen. Brodeur / Rep. Byrd

Summary:

The legislation amends s. 366.91, F.S., by adding the terms "biogas" and "renewable natural gas," and expanding the term "renewable energy." The term "renewable energy," is expanded to mean electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from energy sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The bill provides that the Public Service Commission (PSC) may approve cost recovery by a gas public utility for RNG purchase contracts. Also, the legislation defines a "solar facility," as a production facility for electric power, which uses photovoltaic modules to convert solar energy to electricity that may be stored on site, delivered to a transmission system, and consumed primarily offsite. Solar facilities must be permitted as an agricultural land use in a local government's comprehensive plan. Counties may adopt ordinances specifying buffer and landscaping requirements for solar facilities.

Committee Assignments:

SB 896: Ready for Governor's Action

HB 539: See SB 896

ACTION RECOMMENDED: NEUTRAL

DEAD BILLS

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: Portions of the bill are reflected in SB 896; Refer to SB 896

HB 761: Portions of the bill are reflected in SB 896; Refer to SB 896

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: Portions of this bill are reflected in HB 1239; Refer to HB 1239

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 28-June 6, 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: This language was absorbed in the 2021 Tax Package; Refer to 7068

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: portions of this bill are reflected in HB 1239; Refer to 1239

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.

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.

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

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.

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.

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.

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.

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.

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.

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 collocation 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.

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.

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

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.