

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

### **November 19, 2021**

The official start of the 2022 Legislative Session will be Tuesday, January 11, 2022. This week the Florida Legislature was called into special session by Governor Ron DeSantis to address COVID-19 vaccine mandates for employees.

The Special Session dealt with four pieces of legislation: 1) Limitation on COVID-19 vaccination mandates by employers, 2) Public record exemptions for employees filing legal challenges against private employers for violated COVID-19 vaccination policies and practices., 3) Florida Occupational Safety Health Plans Study, and 4) Removing the ability for State Health Officers to require vaccinations. Each bill was presented in multiple committees but no amendments were adopted and no businesses or trade associations spoke in support or opposition on any of the bills. All bills, except for the public record exemption, passed on party line votes before being presented and signed by Governor DeSantis.

The passage of HB 1B creates many questions for the business community on how, a COVID-19 vaccine mandate should be implemented. The legislation would require employers, choosing to implement a COVID-19 vaccine mandate as a requirement for employment, to provide five exemption options to their employees.

Currently, there are two federal COVID-19 vaccine mandate directives, the Occupational Safety and Health Administration (OSHA) Emergency Temporary Standard (ETS) and President Biden's Executive Order. The OSHA ETS was permanently blocked by the U.S. Court of Appeals for the Fifth Circuit on November 12. The case will now go to a panel of three judges from the U.S. Court of Appeals for the Sixth Circuit. In the end, no matter what happens at the circuit court level, the U.S. Supreme Court is likely to have the final say on the vaccinate-or-test emergency temporary standard. Yet the appeals court's decision could set the table for the justices by framing the debate and raising which legal question will determine the rule's fate.

Florida has joined many other states filing court cases challenging President Biden's Executive Order as unconstitutional. Thus far, these cases have not been heard or received a ruling.

With the passage of a state COVID-19 legislation, Florida is now in a better position to challenge the federal mandates and have the courts determine if the state law is the prevailing authority. Although HB 1B is signed by the Governor and enacted, the COVID-19 vaccination mandate fight is far from over.

Another piece of legislation passed and signed into law that could have a great impact on electric cooperatives is HB 5B. The legislation would allow for the Governor's office to study and develop a plan to create the Florida Occupational Safety Health Plans. The state plan would assert state jurisdiction over occupational safety and health issues for government and private employees. The plan would be submitted to the Legislature in January, 2022, allowing the Legislature to determine the best option for the state of Florida

This week, HB 621, an act relating to infrastructure project planning was filed. The legislation is aimed to prohibit the appropriation of state revenues for infrastructure projects, especially water and wastewater, if a "government-owned utility" uses monies collected by the utility to fund other general

governmental projects. The major concern with this bill is the inclusion of electric cooperatives in the definition of “government-owned utility.” We will work with the sponsor to better understand the issues addressed in the bill and to remove any reference to electric cooperatives from the legislation.

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 on any legislation or why it is located in a specific area, please do not hesitate to reach out to Allison or Mike.

## **SPECIAL SESSION LEGISLATION**

### **COVID Vaccine Mandates**

(SB 2B / HB 1B)

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

**Summary:**

This legislation would prohibit private employers from imposing a COVID-19 vaccination mandate for employees unless certain exemptions are made available. The exemptions include: 1) medical reasons, including pregnancy or anticipated pregnancy; 2) religious reasons; 3) COVID-19 immunity; 4) periodic testing – at no cost to the employee; and 5) use of employer-provided personal protective equipment. The Florida Department of Health would promulgate emergency rules to specify the requirements for the exemptions and create forms that employees can use to document an exemption. An employee could file a complaint with the Department of Legal Affairs alleging that an exemption has not been offered or has been improperly applied or denied. An employer who fails to comply and terminates an employee improperly is subject to fines (up to \$10,000 for employers with less than 100 employees and up to \$50,000 for employers with over 100 employees.) The employer would be given a grace period to reinstate the aggrieved employee to avoid the fine. The bill also provides prohibition on COVID-19 vaccination mandates for students and public employees.

Committee Assignments:

SB 2B: SEE HB 1B

HB 1B: Signed by the Governor

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: PASSED AS HB 1B; Signed by the Governor**

### **Protect Private Health Care and Religious Information**

(SB 4B / HB 3B)

**Sponsors:** Sen. Burgess /Rep. Massullo & Grall

**Summary:**

This legislation would make all information confidential if it relates to an investigation of a complaint alleging a private employer violated COVID-19 vaccination policies and practices. The information subject to the investigation would also be exempt from public record laws. Upon completion of the investigation, any records that would reveal medical information or employee religious beliefs would remain exempt from public record. Information may be released to another governmental entity and maintain a public record exemption. This statute would remain in effect until October 2, 2023.

**Committee Assignments:**

SB 4B: SEE HB 3B

HB 3B: Signed by the Governor

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: PASSED AS HB 3B; Signed by the Governor**

## **Florida Occupational Safety and Health State Plans**

(SB 6B / HB 5B)

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

### **Summary:**

This legislation would establish the Florida Occupational Safety and Health State Plan that would implement and maintain policies, procedures, practices, rules and standards that would reduce the incidence of employee accidents, occupational diseases, and fatalities. The Executive Office of the Governor in conjunction with the Divisions within the Department Financial Services, Department of Revenue and Department of Business and Professional Regulation would develop a proposal for a state plan to assert state jurisdiction over occupational safety and health issues for government and private employees. A report will be submitted to the President of the Senate and Speaker of the House by January, 17, 2022 to determine the timelines for completion of the proposal and state plan implementation needs.

### **Committee Assignments:**

SB 6B: SEE HB 5B

HB 5B: Signed by the Governor

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: PASSED AS HB 5B; Signed by the Governor**

## **Vaccinations During Public Health Emergencies**

(SB 8B / HB 7B)

**Sponsors:** Sen. Bean /Rep. Andrade

### **Summary:**

This legislation would remove the current authority of the State Health Officer to order vaccinations of individuals upon a declaration of a public health emergency.

### **Committee Assignments:**

SB 8B: SEE HB 7B

HB 7B: Signed by the Governor

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: PASSED AS HB 7B; Signed by the Governor**

## **NEW LEGISLATION FILED**

## **Infrastructure Project Funding**

(SB \_\_\_\_/HB 621)

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

### **Summary:**

This legislation would prohibit the appropriation of state monies for infrastructure projects if a grantee

uses any revenues collected for utility services to finance the grantee's general governmental fund or to lend money to finance the grantee's general government functions. The definition for grantee and government-owned utility includes "rural electric cooperative" which we believe is an overreach and should be removed.

**Committee Assignments:**

SB \_\_\_\_:

HB 621: Filed

**ACTION RECOMMENDED: NEUTRAL**

## **Electric Vehicles - Fees**

(SB 908/HB \_\_\_\_)

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

**Summary:**

Beginning January 1, 2025, this legislation would create an additional flat fee on the license tax for low-speed, electric and plug-in hybrid electric vehicles depending on their weight level. Monies collected would be deposited to the State Transportation Trust Fund and to the county where the vehicle is registered. The additional flat fee will expire in five years.

**Committee Assignments:**

SB 908: Filed

HB \_\_\_\_:

**ACTION RECOMMENDED: NEUTRAL**

## **Electric Vehicles Charging Infrastructure**

(SB 918/HB \_\_\_\_)

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

**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. The legislation also directs FDOT to work with the Federal Highway Administration to seek programmatic approval for the issuance of FDOT permits and any necessary related approval to accommodate the installation of electric vehicle charging stations in the interstate and non-interstate highway rights-of-way in the state.

**Committee Assignments:**

SB 918: Filed

HB \_\_\_\_:

**ACTION RECOMMENDED: NEUTRAL**

## **Electric Vehicle Transportation Electrification Plan**

(SB 920 / HB \_\_\_\_)

**Sponsors:** Sen. Perry /Rep.

**Summary:**

This legislation would require the Florida Public Service Commission to adopt rules for an electric vehicle transportation electrification plan used to facilitate the deployment of EV charging infrastructure in a competitively neutral manner, applicable only to IOUs.

**Committee Assignments:**

SB 920: Filed

HB \_\_\_\_:

**ACTION RECOMMENDED: NEUTRAL**

## **Energy**

(SB 548 / HB 491)

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

**Summary:**

This is a comprehensive climate change and energy package. Agriculture Commissioner Nikki Fried discussed this energy initiative at a recent press conference by. The legislation would create tax credits for farms producing renewable energy and provide financial assistance to farms who seek energy and water conservation evaluations and choose to implement the recommended conservation measures. The legislation would create incremental greenhouse gas emission reductions leading to 100% by 2055 and greenhouse gas emissions reporting deadlines for entities receiving state funding by 2025. The legislation would provide new standards for solar panel installation to better protect consumers. Finally, the legislation would provide provisions to allow for floating solar on retention ponds.

**Committee Assignments:**

SB 548: Regulated Industries; Finance and Tax; Appropriations

HB 491: Filed

**ACTION RECOMMENDED: NEUTRAL**

## **PRIORITY**

## **Energy**

(SB 548/ HB 491)

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

**Summary:**

The bill would create a Florida farm renewable energy production credit to encourage agricultural producers to keep their farms operational while encouraging the development and expansion of renewable energy. The credit would be 1 cent for every kwh of electricity produced via a renewable energy source. The bill would also allow the Board of Trustees of the Internal Improvement Trust Fund to lease for compensation the use of manmade stormwater management systems for floating solar energy systems. Also, DACS would be required to establish a program to benchmark the energy efficiency of state-owned buildings. The bill would establish a renewable and energy efficiency portfolio standard requiring IOUs to reduce demand for nonrenewable energy and supply renewable to its customers (the PSC would implement rules for the RPS.) The bill would also create greenhouse gas reduction goals as follows:

1. By 2030, a 50% reduction
2. By 2050, a 90% reduction
3. By 2055, a 100% reduction

The bill would create several energy programs including: 1) the Residential Energy Efficiency Upgrades Program to provide financial assistance to qualified recipients to make energy efficiency improvements in low-income households; 2) the Wastewater Treatment Plant Energy Program to reduce the total energy consumption and cost of wastewater treatment; and 3) the Farm Renewable and Efficiency Demonstrations Program to promote and encourage the use of energy efficiency and renewable energy. In addition to these programs the bill would create a greenhouse gas registry and inventory to provide accurate greenhouse gas emissions data.

**Committee Assignments:**

SB 548: Regulated Industries; Finance and Tax; Appropriations

HB 491: Filed

**ACTION RECOMMENDED: OPPOSE**

### **Solar 3rd Party Retail Sales**

(SB 182 / HB \_\_\_\_\_)

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

**Summary:**

This legislation would allow commercial or industrial businesses to install, maintain and operate a renewable energy source on their structure and sell the electricity generated from the device to a commercial or industrial business that is located immediately adjacent to the structure or parcel. These sales would not be considered retail sales of electricity and therefore not subject to regulation by the FPSC. If the Commission 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 182: Regulated Industries; Commerce and Tourism; Rules

HB\_:

**ACTION RECOMMENDED: OPPOSE**

### **State Renewable Energy Goals**

(SB 366 / HB 81)

**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 366: Environment and Natural Resources, Regulated Industries, Rules

HB 81: Tourism, Infrastructure & Energy Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Commerce Committee

**ACTION RECOMMENDED: OPPOSE**

**MONITOR**

**Critical Infrastructure**

(SB 828 / HB \_\_)

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

**Summary:**

This legislation would create the “Critical Infrastructure Standards and Procedures Act.” Beginning in July, 2024, all asset owners (which MAY include electric cooperatives) must ensure that the operation and maintenance of their critical infrastructure meets the ISA / IEC 62443 series of standards that are referenced in the NIST Cybersecurity Framework. In addition, starting July, 2026, asset owners must ensure that any components purchased for upgrades to or construction of critical infrastructure meet the standards in the NIST Cybersecurity Framework. Any civil action lawsuits would be based on good faith efforts to comply with the Act. \* Under the current language of the bill, it is unclear whether or not electric cooperatives would be considered asset owners subject to the requirements of the Act.

**Committee Assignments:**

SB 828: Filed

HB \_\_\_\_:

**ACTION RECOMMENDED: NEUTRAL**

**Procedures for Petitions for Utility Rate Relief**

(SB 350/ HB 269)

**Sponsors:** Sen. Bean/Rep. Byrd

**Summary:**

This legislation would increase the maximum annual sales, from 500 to 1000 gigawatt hours, for natural gas utilities or IOUs to be eligible to request certain procedures for rate relief from the PSC.

**Committee Assignments:**

SB 350: Regulated Industries; Appropriations Subcommittee on Agriculture, Environment and General Government; Appropriations

HB 269: Tourism, Infrastructure & Energy Subcommittee; State Administration & Technology Subcommittee; Commerce Committee

**ACTION RECOMMENDED: NEUTRAL**

**Insurance Coverage for At-home COVID-19 Test Kits**

(SB 328 / HB 129)

**Sponsors:** Sen. Rodriguez/Rep. Zika

**Summary:**

**Committee Assignments:**

This legislation would require a health insurer or health maintenance organization to cover at-home

COVID-19 tests, purchased with or without a prescription, to be used at home or elsewhere.

SB 328: Banking and Insurance; Appropriations Subcommittee on Agriculture, Environment and General Government; Appropriations

HB 129: Finance and Facilities Subcommittee; Insurance & Banking Subcommittee; Appropriations; Health and Human Services

**ACTION RECOMMENDED: NEUTRAL**

### **TRACKING**

## **Vaccinations During Public Health Emergencies**

(SB 734 / HB 6069)

**Sponsors:** Sen. Gruters /Rep. Shoaf

### **Summary:**

This legislation would remove the current authority of the State Health Officer to order vaccination of individuals upon a declaration of a public health emergency.

### **Committee Assignments:**

SB 734: Filed

HB 6069: Filed

**ACTION RECOMMENDED: NEUTRAL**

**ACTION ITEM: PASSED AS PART OF THE SPECIAL SESSION; SEE HB 7B**

## **Supermajority Vote for Legislative Preemption**

(SJR 152 / HB \_\_\_\_\_)

**Sponsors:** Sen. Farmer/Rep.

### **Summary:**

This joint resolution would propose a constitutional amendment requiring a supermajority vote of each house of the legislature for a general law to preempt an issue to the state.

### **Committee Assignments:**

SB 152: Community Affairs, Judiciary, RulesHB

\_\_\_\_\_:

**ACTION RECOMMENDED: OPPOSE**

## **Requiring Broader Public Support for Constitutional Amendments or**

### **Revisions**

(SJR / HJR 177)

**Sponsors:** Sen. /Rep. Roth

### **Summary:**

This joint resolution would propose a constitutional amendment to increase the percentage of elector votes required to approve an amendment to the State Constitution from 60 percent to 66.67 percent. The repeal of an amendment or revision need only be approved by the same percentage of elector votes as required at the time of passage of amendment or revision. **Committee**

### **Assignments:**

SJR:

HJR 177: Public Integrity & Elections; Judiciary



## **ACTION RECOMMENDED: NEUTRAL**

### **Preemption of Tree Pruning, Trimming, and Removal**

(SB 316 / HB 6025)

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

**Summary:**

This legislation would REPEAL legislation passed in 2019 stating a local government ordinance may not require permits, fees and other notices for pruning, trimming, or removing trees on residential property under certain conditions. The 2019 bill also removed requirement for local government approval to perform certain right-of-way tree maintenance by electric utilities.

**Committee Assignments:**

SB 316: Community Affairs; Judiciary; Rules

HB 6025: Local Administration & Veterans Affairs Subcommittee; Commerce; State Affairs

## **ACTION RECOMMENDED: NEUTRAL**

### **Legislation by Initiative**

(SJR 586 / HJR 377)

**Sponsors:** Sen. Torres/Rep. Geller

**Summary:**

This joint resolution would propose a constitutional amendment to allow the proposal and approval of laws by initiative without legislative or gubernatorial approval. If any initiative proposed on the ballot were to pass, the language could not be modified until after one year of enactment and would take a four-fifths vote of the membership of each house of the legislature.

**Committee Assignments:**

SJR 586: Ethics & Elections; Judiciary; Rules

HJR 377: Filed

## **ACTION RECOMMENDED: OPPOSE**