

**DATE: May 16, 2024**

**TO: FECA Members**

**FROM: Forrest Boone**

**RE: 2024 Legislative Session Compliance Memorandum**

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The purpose of this memorandum is to provide information for Florida's electric cooperatives to comply with changes to Florida law from the 2024 legislative session. **Please consult with your attorney if you need legal advice related to any of the issues herein.**

Bills that are awaiting presentation to and action by the Governor are listed at the end of this memorandum. It appears unlikely that these bills would be vetoed by the Governor, which is why they are included here. This document will be updated to reflect the Governor's action on these bills, but the compliance information is included here.

**Energy Resources** ([CS CS HB 1645](#))

Sponsors: Sen. Collins/Rep. Payne

Status: **Signed by Governor on May 15, 2024; will go into effect on July 1, 2024.**

The Energy Resources bill was a significant focus for FECA advocacy and several sections of the bill relate to electric cooperatives.

*Mutual Aid Agreement Attestation*

The bill states that an electric cooperative or municipal electric utility must maintain at least one mutual aid agreement and annually provide an attestation to the Public Service Commission (PSC) confirming this. Cooperatives that do so are eligible for state funds for storm response to the extent available. The existing cooperative Mutual Aid Agreement which all FECA members have executed satisfies the requirement that an electric cooperative must maintain a mutual aid agreement. FECA will work with the PSC to develop a simple attestation that cooperatives will be able to submit. This will be included in the Reporting Requirements Memorandum staff provides in December of this year.

Action Item: Cooperatives must submit an attestation to the PSC by May 15, 2025, and annually thereafter.

### *Physical and Cyber Security Assessment Plan*

The bill requires all gas and electric utilities, including co-ops, to cooperate with the PSC to develop a plan for the PSC to conduct a cyber and physical security assessment. FECA will work with the PSC and coordinate input from member cooperatives. The plan is required to contemplate what information is actually necessary and how the data could be handled confidentially. The PSC must submit this plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2025.

### *Solar Installation Capacity*

The bill defines the term “Gross capacity” as used in the Florida Electrical Power Plant Siting Act, Section 403.503 F.S. For solar generation the capacity will be measured as the alternating current which is independently metered prior to the point of interconnection to the transmission grid. This may enable for different configurations of solar generation to be developed, while continuing to avoid the costly review process of the Power Plant Siting Act.

Action Item: Cooperatives planning to develop utility scale solar generation should work with developer and counsel to determine if this change provides flexibility in design or development.

### *Nuclear Study*

The bill requires the PSC to study the technical and economic feasibility of using advanced nuclear power technologies and provide a report to the Governor and legislature by April 1, 2025. FECA will monitor and work with generation and transmission cooperatives to provide input as the PSC produces their report.

### **Tax Assessment** ([HB 7073](#))

Sponsors: Sen. Ingoglia/Rep. McClain

Status: **Signed by Governor on May 7, 2024; will go into effect on July 1, 2024.**

The bill amends Section 192.001(11)(d), F.S., to clarify that for the purpose of taxing tangible personal property constructed or installed by an electric utility, construction

work in progress is deemed substantially completed upon the earlier of when all permits or approvals have been received or approved, or 1 year after connection to the grid. This provision applies retroactively, beginning with the 2024 property tax roll, and may provide benefits where assessments were done differently in some counties, specifically for new utility scale solar generation.

Action Item: For construction projects subject to tangible personal property taxes, cooperatives should work with their developer, accountant, and counsel to ensure that tax liability is assessed correctly, especially for new utility scale solar generation.

### **Cybersecurity Incident Liability Protections** ([CS HB 473](#))

Sponsors: Sen. DiCeglie/Rep. Giallombardo

Status: **Pending action by the Governor.**

The bill provides that a county, municipality, corporation, cooperative, commercial entity, or third party is not liable in connection with a cybersecurity incident if the entity is in compliance with Florida Statutes section 501.171 (existing Florida law about confidential personal information) and has adopted a security program that aligns with the current version of the standards, guidelines, or regulations of any of the following: 1) The National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity; 2) NIST special publication 800-171; 3) NIST special publications 800-53 and 800-53A; 4) The Federal Risk and Authorization Management Program security assessment framework; 5) The Center for Internet Security (CIS) Critical Security Controls; and 6) The International Organization for Standardization/International Electrotechnical Commission 27000-series family of standards.

Action Item: Cooperatives should review policies and procedures to ensure compliance with Florida Statutes section 501.171. They should also review cybersecurity programs to be sure to take advantage of the liability protections and consult with their cybersecurity insurer about potential benefits of reduced liability.

### **Penalties for Damages to Critical Infrastructure** ([CS CS CS HB 275](#))

Sponsors: Sen. Yarborough/Rep. Canady

Status: **Pending action by the Governor.**

The bill provides increased penalties for intentional damage to “linear facilities” defined as any electric distribution or transmission asset, oil or gas distribution or transmission pipeline, communication wirelines, or railway, and any attachments thereto.

It also protects an electric power generation, transmission, or distribution facility, a substation, a switching station, or an electrical control center, wireless or wired communications facility, including the tower, antennae, support structures, and all associated ground-based equipment. To be protected, facilities that do not fall into the linear facility category must have a measure designed to exclude unauthorized persons, including, but not limited to, fences, barriers, guard posts, or signs prohibiting trespass.

Action Item: Consult counsel to ensure critical facilities have measures to exclude unauthorized persons. Take steps to educate employees about potential liability for intentional damage to critical infrastructure of other energy and communication providers.
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