

FECA's Florida Legislative Report
December 8, 2017

Proposal 51 remains our primary focus and target. It has been placed on the General Provisions Committee agenda for Thursday, December 14, at 8 a.m. This week, we delivered a legal analysis (attached) to the committee staff that outlined the current situation and the impact the proposal will have on the electric utility regulatory compact in our state. The report also includes an analysis on the adverse economic impacts the proposal could have on state and local governments as well as incumbent utilities and Florida ratepayers. A call to action is imperative at this time and Statewide has initiated Action.coop which allows you and your members to contact Commissioners directly via email with our message of opposition to the proposal. Now is also the time to speak to any Commissioners you may have a relationship with (the General Provisions Committee Members' list is attached). Proponents of Proposal 51 are actively utilizing the media outlets to support their position. Today, Rich Blaser, CEO of Infinite Energy, published an Op-Ed in the Gainesville Sun to explain the benefits of Electric Choice. Although riddled with questionable and subjective facts, the message uses key words that resonate well with consumers. Next week, Mike will testify at the committee meeting and provide the Commissioners with an overview of the history of electric cooperatives and how the proposal will impact us and our local communities. Statewide has retained attorney Bruce May who will present our legal concerns and constitutional issues.

The Select Committee on Hurricane Response and Preparedness met to briefly hear and discuss the 141 recommendations provided by various members. There are concerns with several of the recommendations that require customer priority lists for specific areas and undergrounding requirements. However, the select committee will meet again in January to edit, delete or amend recommendations before voting on a final report. The final report recommendations will be provided to the substantive policy and appropriation subcommittees for their consideration to file any legislation on the issues. Preliminary discussions of our concerns have begun with Legislators and staff in the policy committees.

This week, all bills that dealt with priority lists and care for nursing homes and ALFs during times of emergency have been grouped together under one bill. If any action occurs on the issue the proper bill will be identified and followed.

Below are the current bills of interest that have been filed thus far. Each week, the report will prioritize in the following manner: New legislation filed, priority, monitor, and tracking. New bill information (i.e. new committee assignments, companion bills, etc.) can easily be seen in **RED** text. The new bills will be moved to their proper category in subsequent reports.

If you would like more detailed information or an explanation on any legislation or Constitutional Amendments by the Constitution Revision Commission, please do not hesitate to reach out to Allison or Mike.

NEW

Energy 2040 Task Force

(SB 1038/HB ____)

Sponsors: Sen. Brandes / Rep. _____

Summary:

Creation of an Energy 2040 Taskforce within the PSC 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 shall recommend appropriate electric policies for the state, including any necessary statutory changes. The task force will have eight appointed members: Public Counsel, PSC Executive Director, Florida Energy Systems Consortium Chair, FRCC Executive Director, two Florida Senators, and two Florida House of Representatives. The meetings will begin in July 2018 and a report must be submitted by January 1, 2020.

Impact / Importance to Co-ops:

This legislation requires a taskforce to examine the energy needs over the next 20 years and may consider the effects of various electric choice options for retail customers in the renewable energy market. This report could provide new and updated information from a previous similar report completed by the 2020 Taskforce. With the continued discussion of retail electric choice, this could provide needed unbiased research on the impacts of those options put in place by other states and the ability for those measures to be used and implemented in Florida's market.

Committee Assignments:

SB 494: Not yet available

ACTION RECOMMENDED: NEUTRAL

Report Location: Priority

PRIORITY

Linear Facilities

(SB 494/HB 405)

Sponsors: Sen. Lee / Rep. Williamson

Summary: This bill is identical to SB 1048 from last Session. The bill died in House Messages last year.

The legislation excludes work by electric utilities on rights-of-way from the definition of “development” under the Florida Local Government Development Agreement Act. This is in response to an adverse decision against FP&L in the Third District Court of Appeals which ruled that under the Power Plant Siting Act, the Siting Board must consider local developmental regulations such as undergrounding when the project includes new transmission lines. This decision adds a new regulatory step to the power plant siting process when new linear facilities are included in the project which unnecessarily adds time and money to the process.

Impact / Importance to Co-ops:

This legislation was filed in response to a ruling by an appeals court and would impact how electric utilities proceed in securing undergrounding and/or transmission lines under the Power Plant Siting Act.

Committee Assignments:

SB 494: Community Affairs

HB 405: Natural Resources & Public Lands Subcommittee; Commerce Committee

ACTION RECOMMENDED: SUPPORT

ACTION ITEM: ON AGENDA (12/5) – Senate Community Affairs – Temporarily Postponed; (12/6) – House Natural Resources & Public Lands Subcommittee - PASSED

Public Utility Power Restoration

(SB ____/HB 245)

Sponsors: ____/Rep. Harrison

Summary: *There are currently several bills that will address the nursing home power restoration situation in varying manners. It is anticipated that if any action will take place on this issue, one bill would become the vehicle. Thus, we will monitor for amendments that will merge concepts and ideas into one bill.*

The Division of Emergency Management’s (“DEM”) State Comprehensive Emergency Management Plan includes a post-disaster response and recovery component. The legislation would include guidelines for prioritizing restoration of electrical services, which potentially includes co-ops, to critical end-use facilities in post disaster response. The definition of critical end-use facilities includes, but not limited to, critical medical facilities, hospitals, and nursing homes under certain designated statutes.

Impact / Importance to Co-ops:

All electric utilities would be included in this legislation. The legislation would create guidelines within the State Comprehensive Emergency Management Plan that could interfere with the priorities set by the local governments, County EOC’s and electric utilities. This could reduce a utility’s flexibility to determine priority accounts during an emergency.

Committee Assignments:

HB 245: Energy & Utilities Subcommittee; Health & Human Services Committee; Commerce Committee

ACTION RECOMMENDED: OPPOSE

ACTION ITEM: Withdrawn from further consideration

Exempting Renewable Energy Sources from Definition of Public Utility

(SB 292/HB ____)

Sponsors: Sen. Rodriguez / ____

Summary:

Exempt certain renewable energy sources from the definition of “public utility” which would make them unregulated by the PSC. The eligibility would meet the following criteria: Property owner must own and operate on their property; max capacity of 2.5MWs; produces and sells energy to users located on the property.

Impact / Importance to Co-ops:

Entities generating renewable energy would be selling electricity at retail without oversight. The bill is silent on many aspects such as wheeling power, safety requirements, and interconnection agreements with incumbent utilities.

Committee Assignments:

SB292: Communications, Energy & Public Utilities; Community Affairs; Rules

ACTION RECOMMENDED: OPPOSE

MONITOR

Campaign Financing

(SB 122/HB 43)

Sponsors: Sen. Steube /Rep. Gruters

Summary:

Lessens reporting requirements that were added in the 2013 legislation by reducing the number of reporting periods during the election cycle from 20 to 11. The new legislation would eliminate the current daily reports required leading up to the final days of the elections. It also allows for quarterly, not monthly reports during the non-election years. Also, changes the requirements of reporting transfers of money to and from political action committees to and from electioneering communications organizations.

Committee Assignments:

SB 122: Ethics and Elections; Judiciary; Rules

HB 43: Oversight Trans and Admin Sub; Public Integrity and Ethics Committee

ACTION RECOMMENDED: NEUTRAL

Employment Discrimination

(SB ____/HB 225)

Sponsors: ____ /Rep. Davis

Summary:

The legislation would prohibit employers from taking any retaliatory personnel action on an employee that evacuated under any emergency evacuation order. The Legislation states that the residence or place of employment must be included in the evacuation order; the employee must return to work within 14-days after the state of emergency is lifted. Prohibited personnel action would include termination, suspension, demotion or any other adverse employment action. The legislation exempts any employees that are considered emergency personnel, including those that provide safety and well-being to the public. This appears to apply to electric utilities' personnel, but it is unclear which personnel would be included.

Committee Assignments:

HB 225: Careers & Competition Subcommittee; Civil Justice & Claims Subcommittee; Commerce Committee

ACTION RECOMMENDED: OPPOSE

Public Electric Utility Rates

(SB 626/HB ____)

Sponsors: Sen. J. Rodriguez / ____

Summary: This bill is identical to SB 976 from last session. Last year, it did not have a companion and was never heard in committee.

The legislation would require an IOU to lower its residential customer rate by 25% for the first 500 kwhs if they charge a flat residential schedule (RS) rate, like Gulf Power. For IOUs that have tiered RS rates (FPL, Duke, TECO) the second tier (over 1000 kwhs) must be reduced by 25%. This would be instituted following the IOUs' first rate case after July 1, 2018 or on July 1, 2022, whichever occurs first.

Committee Assignments:

SB 626: Communications, Energy, and Public Utilities; Community Affairs; Appropriations; Rules

ACTION RECOMMENDED: NEUTRAL

Public Utility Environmental Remediation Costs

(SB 656/HB ____)

Sponsors: Sen. J. Rodriguez / ____

Summary:

If the Department of Environmental Protection makes a determination that a public utility has caused environmental damage within the state; a municipality or county in which the damage occurred must file a request for a hearing before the Public Service Commission. The PSC will determine if the public utility acted prudently in the events leading up to or causing the environmental damage. If it is determined that the public utility failed to act prudently they may not recover any expenditures to remedy the environmental damages from ratepayers. They must develop a plan that specifies how they will remedy the situation and how the costs will be incurred through internal methods within the public utility. The plan must be approved by the PSC.

Committee Assignments:

SB 656: Communications, Energy, and Public Utilities; Community Affairs; Environmental Preservation and Conservation; Rules

ACTION RECOMMENDED: NEUTRAL

Theft

(SB 928/HB 713)

Sponsors: Sen. Bracy / Rep. Donalds

Summary:

The theft of utility services is punishable as provided in Section 812.014, F.S. Currently under this Section, a person could be convicted of grand theft and a felony of the third degree if the property stolen is valued at several amounts but the lowest amount is \$300 or more, but less than \$5,000. This legislation would raise the lowest amount for this conviction from \$300 to \$1500 which could reduce the number of eligible convictions for theft of utility services.

Committee Assignments:

SB 928: Criminal Justice; Judiciary; Rules

HB 713: Criminal Justice Subcommittee; Justice Appropriations Subcommittee; Judiciary Committee

ACTION RECOMMENDED: NEUTRAL

TRACKING

Operation of Vehicles

(SB 116/HB 117)

Sponsors: Sen. Baxley /Rep. Stone

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 amends current statute to clarify that this includes any worker for those mentioned service providers. It also states that you must allow four feet of distance between any vehicle and a worker that is performing duties associated with their service position.

Committee Assignments:

SB 116: Transportation, Appropriations Subcommittee on Transportation, Tourism & Econ. Dev, Appropriations

HB 117: Transportation & Infrastructure Subcommittee; Government Accountability Committee

ACTION RECOMMENDED: NEUTRAL

Exemption of Certain Manufacturing Equipment

(SJR 136 /HJR ____)

Sponsors: Sen. Steube/____

Summary:

Exempt certain manufacturing equipment from Tangible Personal Property tax or allowing such equipment to be assessed at less than just value through an accelerated depreciation method. Upon passage, the legislature would define which manufacturing equipment would qualify by statute. **A Joint Resolution is a bill, if passed, would be placed on the next general election ballot to be considered as a Constitutional Amendment. The measure would require 60% support for passage.**

Committee Assignments:

SJR 136: Finance and Tax, Appropriations, Rules

ACTION RECOMMENDED: NEUTRAL

Nursing Home and Assisted Living Facilities

(SB 284/HB __)

RELATED BILLS: 327, 372, 437, 479, 655, 896, 933

Sponsors: Sen. Book / ____

Summary:

This bill would require AHCA to determine compliance standards for electricity and emergency power sources including electrical equipment, emergency power source and supply of fuel for nursing homes during any power outage. The same requirements must be developed by DEA for all assisted living facilities. The nursing homes must be inspected every 15-months to ensure that they meet the set criteria for safety. The Assisted Living Facilities must be inspected every 24 months for compliance.

Committee Assignments:

SB 284: Health Policy; Appropriations Subcommittee on Health and Human Services; Appropriations; Rules

ACTION RECOMMENDED: NEUTRAL

Electric Vehicles

(SB 384/HB __)

Sponsors: Sen. Brandes / ____

AMENDMENT 490038: (Delete All)

Summary:

This bill would require the Florida Transportation Commission (FTC) to review all sources of revenue for transportation infrastructure and maintenance projects and when the FTC determines that electric vehicles make up over 2% of the total number of vehicles registered in the state, they would submit a report to the Governor and Legislature. The report will assess transportation infrastructure with respect to emergency evacuations to determine the availability of electric vehicle charging stations and other needs throughout the state. The report would make recommendations to the legislature for continued adequate funding for existing infrastructure and for continued growth and improvements in infrastructure and capacity projects for electric vehicle including evacuations.

Committee Assignments:

SB 384: Transportation; Appropriations Subcommittee on Transportation, Tourism and Economic Development; Appropriations

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: ON AGENDA (12/5) – Senate Transportation Committee – PASSED as Amended

Amendment Action: Added hybrid vehicles to be counted towards reaching the 2% of acceptable vehicles to generate the needed report.

Disaster Preparedness Tax Exemption

(SB 620/HB___)

Sponsors: Sen. Passidomo / _____

Summary:

This bill establishes a 10-day sales tax exemption in June 2018 on certain items relating to disaster preparedness and protection. During the exemption period, the following items, will be exempt from state sales and use tax and county discretionary sales surtaxes: certain light sources, radios, tarps, “tie-down” kits, fuel tanks, batteries, first aid kits, cellular telephone chargers, food storage coolers, portable generators, storm shutter devices, carbon monoxide detectors, reusable ice, personal locator beacons, and emergency position-indicating radio beacons

Committee Assignments:

CS/SB 620: Appropriations on Finance and Tax; Appropriations

ACTION RECOMMENDED: NEUTRAL

Nuclear Cost Recovery

(SB 716/HB _____)

Sponsors: Sen. J Rodriguez/_____

Summary:

This bill would repeal provisions relating to cost recovery mechanisms for the siting, design, licensing, and construction of nuclear and integrated gasification combines cycle power plants. This would take away the IOUs’ ability to recover costs incurred prior to commercial operation of a power plant.

Committee Assignments:

SB 716: Communications, Energy & Public Utilities; Community Affairs; Rules

ACTION RECOMMENDED: NEUTRAL

OGSR/Local Government Electric Utility

(SPB 7008/HB ___)

Sponsors: Committee Bill Communications, Energy & Public Utilities /Rep

Summary:

This bill is a proposed committee bill and an Open Government Sunset Review issue which evaluates a public records exemption to verify that the exemption is still needed and worthy of

the protection under the state. This OGSR allows for proprietary confidential business information held by electric utilities to be exempt from public record requests. Trade Secrets; internal auditing controls and reports; security measures; information concerning bids or contractual data; and information relating to competitive interests are all considered to be proprietary and confidential business information that will be exempt from public record.

NOTE: Upon passage in committee, this bill will receive a new Senate Bill number and a member sponsorship should be assigned.

Committee Assignments:

SB 7008: Governmental Oversight and Accountability; Rules

ACTION RECOMMENDED: NEUTRAL

CONSTITUTION REVISION COMMISSION PROPOSALS

Deregulation of Electric Utilities

(Proposal 51)

Sponsor: Rich Newsome

Summary: The proposed constitutional amendment would create the right for all electric customers to choose their electric provider. This would allow customers to choose from multiple providers in a competitive electricity market, produce electricity for themselves or with others, but the proposal is open to other unidentified forms of deregulation. The proposal uses very broad language and its vagueness is more dangerous for what it does not say and what it could be interpreted to mean by the legislature and the courts. The ambiguous language of the proposal creates more questions than answers on how a deregulated electric market would look like in Florida. We believe that numerous issues must be resolved before there is a serious discussion about customer choice in Florida, including but not limited to the following:

- Will the electric utility market be open for competition for, only wholesale sales, only retail sales, or both wholesale and retail?
- Will State and local governments retain their powers to protect the public health, safety and welfare with respect to power generation equipment, the electric grid including building codes, electrical codes, safety codes and pollution control regulations?
- Who will govern the safety aspects of unregulated non-utility renewable generators to ensure that linemen, first responders, and the public are not in danger?
- If unregulated non-utility generators are allowed to operate in the state, who will protect consumers from fraudulent and misleading practices?
- Which entity has the ultimate obligation to serve the end-user?
- Who should pay for the system upgrades and that may be required in order to accommodate intermittent generators, such as solar or wind?
- Will the PSC or another agency have any jurisdiction over third party retailers to resolve disputes with utilities, and disputes between the customers and their renewable energy providers?

- Will anyone regulate the siting, installation, and the safety of generating facilities?
- Who pays for stranded costs if existing generation is forced to shut down?
- If customers want choice in the type of power generation they use (i.e. they want to buy electricity that is produced by a renewable generator) are there more efficient and cost-effective methods to do this, such as community solar projects?
- Will customers who reject choice have to subsidize the costs of backup power and electric grid access to those who do?

The devil is definitely in the details but it is a dangerous proposal to set forth and codify in Florida's Constitution since it could result in higher electric rates, an unstable transmission grid, unforeseen power outages and downgraded reliability.

Committee Assignment:

General Provisions; Executive

ACTION RECOMMENDED: OPPOSE

ACTION ITEM: ON AGENDA (12/14) – General Provisions

Right to Clean and Healthful Environment

(Proposal 23)

Sponsor: Jacqui Thurlow-Lippisch

Summary: This is an amendment to Article II, Section 7 that would state that every person has the right to a clean and healthful environment. This environment includes clean air and water; pollution control; and conservation and restoration of the natural, scenic, historic and aesthetic values of the environment. Any person has the right to enforce this right against any party, public or private, with reasonable limitations.

Committee Assignment:

Judicial; General Provisions

ACTION RECOMMENDED: OPPOSE

ACTION ITEM: ON AGENDA (12/12) – Judicial