

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

### **January 6, 2018**

The General Provisions Committee will meet on Friday, January 12 and P51 is on the agenda. Infinite Energy has provided new language to the proposal, which attempts to allow co-ops to “opt- in” to the wholesale and retail competitive markets if they choose. To date, the sponsor of P51, Commissioner Newsome, has not filed the amendment to the proposal and has not endorsed the language provided by Infinite Energy. After review of Infinite’s new language, our position remains the same- the electric industry is not broken and deregulation should not be hardwired in Florida’s Constitution. If and when an amendment is filed, we will make sure that it is distributed.

The 2018 Legislative Session begins Tuesday, January 9. The Select Committee on Hurricane Response and Preparedness is scheduled to meet on Monday, January 8. They have published a revised Member Recommendation Report that will be discussed and considered to develop their final report. There have been no significant changes under the Energy, Electric Utilities and Petroleum category that impact the coops. The Select Committee’s final report will be distributed to the appropriate committees for further consideration as proposed committee bills. On Wednesday, SB 1038 Energy 2040 Task Force, will be up in the Senate Communications, Energy and Public Utilities Committee. This will be the bill’s first hearing and we will be on hand to monitor the debate.

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**

## **Medically Essential Electric Utility Service**

(SB /HB 1081)

**Sponsors:** Sen. /Rep. Perez

### **Summary:**

Under current law only IOUs are required to follow notification and certification requirements relating to medically essential electric utility service & service disconnection. Under this bill, the requirements for medically essential electric service would apply to co-ops and munis as well.

### **Impact / Importance to Co-ops:**

This legislation would expand the jurisdictional authority of the PSC over co-ops and munis to include requirements and certifications for medically essential electric services.

### **Committee Assignments:**

HB 1081: Not available yet

**ACTION RECOMMENDED: OPPOSE**

**Report Location: Priority**

## **Regional Rural Development Grants**

(SB /HB 1103)

**Sponsors:** Sen. /Rep. Albritton

### **Summary:**

Regional Rural Development Grants may be used to hire regional economic development organization staff; outlines the maximum amount of grant funding for the year; revises required matching funds must be nonstate and equal to 25 percent of the state contribution; expands project eligibility for improving availability for broadband internet service.

### **Committee Assignments:**

HB 1103: Not available yet

**ACTION RECOMMENDED: NEUTRAL**

**Report Location: Tracking**

## **Energy Security and Disaster Resilience Pilot Project**

(SB /HB 1133)

**Sponsors:** Sen. /Rep. Raschein

### **Summary:**

Creates a pilot program within DACS to encourage and demonstrate the effectiveness of distributed energy generation and energy storage technologies to provide for the energy needs in areas of critical state concern during a natural disaster or state of emergency. Further, the bill would study and assess the benefits of grants for such measures that could improve the security of the state's energy resources and enhance preparedness and resilience for natural disasters in our state.

### **Committee Assignments:**

HB 1133: Not available yet

**ACTION RECOMMENDED: NEUTRAL**

## **Report Location: Tracking**

### **Energy Grid**

(SB 1586 /HB)

**Sponsors:** Sen. Simmons /Rep.

#### **Summary:**

Requires the PSC to hold hearings to determine disaster hardening standards for all electric utilities with the goal to have most electricity restored within 24-hours after the storm. The PSC would determine an energy grid improvement plan at a reasonable cost and the maximum period of time for implementation. Beginning in February 1, 2019 and every 5 years thereafter, the PSC would submit a report as to the standards, grid improvements, implementation period and projected costs to the President of the Senate and Speaker of the House.

#### **Impact / Importance to Co-ops:**

This legislation would expand the jurisdiction of the PSC to include the co-ops and munis in regards to certain storm hardening requirements such as costs associated with hardening, cost recovery and customer complaints. The current PSC docket investigating hurricane issues related to the recent storms will discuss many of the issues in this bill. **Committee Assignments:**

HB 1586: Not available yet

**ACTION RECOMMENDED: OPPOSE**

**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: Commerce Committee

**ACTION RECOMMENDED: SUPPORT**

### **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:**

SB 292: Communications, Energy & Public Utilities; Community Affairs; Rules

**ACTION RECOMMENDED: OPPOSE**

### **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 1038: Communication, Energy and Public Utilities; Governmental Oversight and Accountability; Rules

**ACTION RECOMMENDED: NEUTRAL**

## **Report Location: Priority**

### **MONITOR**

#### **Campaign Financing**

(SB 122/HB 43)

**RELATED BILLS: 1276**

**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: OPPOSE**

## **ACTION ITEM: ON AGENDA (1/9) – Senate Criminal Justice**

### **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, 1260, 1408, 1444

**Sponsors:** Sen. Book /\_\_\_\_

**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.*

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 981)

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

**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 and hybrid 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: Appropriations Subcommittee on Transportation, Tourism and Economic Development;  
Appropriations

HB 981: Transportation & Infrastructure Subcommittee; Transportation & Tourism  
Appropriations Subcommittee; Government Accountability Committee

**ACTION RECOMMENDED: NEUTRAL**

## **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 combined 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 (1/12) – General Provisions**

- Anticipated Amendment to be filed

**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 (1/12) – Judicial**