

FECA's Florida Legislative Report

March 2, 2018

This week was very busy in Tallahassee, which is normal with only seven days left in session. Again, the tragedy in Parkland, FL dominated the Legislature as the topic of primary concern. Amongst the ongoing debate about school safety, the budget process began in earnest. The budget talks brought the proviso language (see HB 5001 below) directing the PSC to study hardening of electric utility facilities back to the forefront. After several meetings this week, the proviso language stalled this morning. However, it is still in play and we will continue to monitor it throughout the weekend. Additionally, the language that would make the theft of electricity a 3rd degree felony, regardless of the dollar amount stolen, was amended into SB 1218 today. SB 1218 is ready for the Senate floor and if this bill or the House companion passes, it will strengthen the electricity theft statute.

There is some reportable action from the PSC this week as well. The petition for a declaratory statement filed by Sunrun asking the PSC to clarify that Sunrun's residential solar leasing arrangement does not constitute the sale of electricity was addressed by the Commission. The case was deferred for 90 days and the Commissioners directed Sunrun to provide the actual lease agreement before making their decision. Gulf Power and Florida Public Utilities filed an amicus curiae memorandum in this case asking that Sunrun provide a lease agreement to substantiate their claims and Statewide filed a letter in support of their amicus. Therefore, this is a small win that should provide some insight on the terms and conditions included in solar lease arrangements.

In addition, **the PSC moved the Hurricane Workshop from April to May 2 and 3.** The workshop will no longer conflict with the Statewide Board meeting, but now conflicts with Statewide's Hurricane Conference in Ocala. Staff is looking at the possibility of changing the date for Statewide's conference and will send out more information as the situation unfolds.

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

the report due to inactivity These bills include: Nuclear Cost Recovery, Exempting Renewable Energy Sources from Definition of Public Utility, Energy 2040 Task Force, Energy Grid, and Energy Security and Disaster Resilience Pilot Project. If you would like more detailed information or an explanation on any legislation or proposals by the Constitution Revision Commission, please do not hesitate to reach out to Allison or Mike.

GOVERNOR ACTION

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: laid on the table, see HB 405

HB 405: Ready for Governor’s Signature

ACTION RECOMMENDED: SUPPORT

PRIORITY

Medically Essential Electric Utility Service

(SB 1630 /HB 1081)

Sponsors: Sen. Hutson/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. It would require emergency management plans to develop an interjurisdictional arrangement in consultation with each utility to identify facilities are deemed to be critical to public health,

safety, welfare or security. Emphasizing expeditious restoration of services to the facilities deemed critical during times of disaster.

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:

SB 1630: Health Policy Committee, Appropriations Committee, Rules Committee

HB 1081: Senate Messages

ACTION RECOMMENDED: OPPOSE

General Appropriations Act

(SB 2500 /HB 5001)

Sponsors: Sen. Bradley/ Rep. Trujillo

Summary:

The House bill appropriates \$250,000 to the PSC to study the efficacy and costs of all technically feasible storm hardening measures for the electric power grid. The report would be submitted to the Legislature and Governor by June 1, 2018. The same study language was not included in the Senate Appropriations Bill. However, the language could be added to the Senate bill at any time during the budget negotiations.

Impact / Importance to Co-ops:

The language is vague, but appears to include the co-ops and munis in the study.

Committee Assignments:

HB 5001: Budget Conference

SB 2500: Budget Conference

ACTION RECOMMENDED: OPPOSE

ACTION ITEM: Budget Conference at Subcommittee level

- **Senate Proposal to remove proviso offered; House didn't accept; BUMPED to Appropriation Chairmen**

MONITOR

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. The

House Bill as amended specifically added theft of electricity as a grand theft and a felony of the third degree.

Committee Assignments:

SB 928: Rules

HB 713: Ready for the Floor

ACTION RECOMMENDED: OPPOSE SB unless amended language is adopted

ACTION ITEM: SENATE Appropriations (3/2) – PASSED SB 1218 as AMENDED

- **Amendment contained the language of HB 713**

State Assumption of Federal Section 404 Dredge and Fill Permitting Authority

(SB 1402 /HB 7043)

Sponsors: Sen. Simmons/Rep. Raschein

Summary:

The legislation defines “state assumed waters” and provides that DEP will adopt rules to assume and implement the section 404 dredge and fill permitting program pursuant to the federal Clean Water Act.

Committee Assignments:

SB 1402: Ready for the Floor

HB 7043: Senate Messages

ACTION RECOMMENDED: SUPPORT

TRACKING

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: Senate Messages

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE Floor – PASSED

Disaster Preparedness Tax Exemption

(SB 620/HB 7087)

Sponsors: Sen. Passidomo / Rep. Renner

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: Ready for the Floor

HB 7087: 3rd Reading

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: HOUSE Floor – Ready for Final Passage

- **SENATE Appropriations Committee (3/2) – PASSED**
- **HOUSE Floor – Ready for Final Passage**

Regional Rural Development Grants

(SB 1646/HB 1103)

Sponsors: Sen. Montford /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:

SB 1646: Ready for the Floor

HB 1103: Ready for the Floor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Appropriations Committee (3/2) – PASSED

Nursing Home and Assisted Living Facilities

(SB 1874/HB __)

RELATED BILLS: 284, 327, 372, 437, 479, 558, 655, 896, 933, 1260, 1321, 1408, 1444

Sponsors: Sen. Passidomo / ____

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 onA*

this issue, one bill would become the vehicle. Thus, we will monitor for amendments that will merge concepts and ideas into one bill.

Requires each Nursing Homes and ALF facility have an operational emergency power source and fuel to sustain an air temperature set in rule for at least 96 hours. Each facility must have an appropriate transport plan if those safe temperatures cannot be sustained.

Committee Assignments:

SB 1874: Appropriations; Rules

ACTION RECOMMENDED: NEUTRAL

Date for Convening 2020 Regular Session

(SB ____ /HB 7045)

Sponsors: Sen. ____/Rep. Nunez

Summary:

The bill requires the 2020 regular session of the Legislature to convene on Tuesday, January 14, 2020.

Committee Assignments:

HB 7045: Ready for Senate Floor

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: SENATE Rules Committee - PASSED

OGSR/Local Government Electric Utility

(SPB 7008/HB 7095)

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.

Committee Assignments:

SB 7008: On Special Order

HB 7095: On Special Order

ACTION RECOMMENDED: NEUTRAL

ACTION ITEM: ON AGENDA (3/2)– SENATE Floor

- **ON AGENDA (3/2) – HOUSE Floor**

NOT MOVING

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

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

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

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

Nuclear Cost Recovery

(SB 716/HB 6071)

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

HB 6071: Energy & Utilities Subcommittee; Government Operations & Technology

Appropriations Subcommittee; Commerce Committee

ACTION RECOMMENDED: NEUTRAL

Energy 2040 Task Force

(SB 1038/HB 1411)

Sponsors: Sen. Brandes / Rep. Diamond

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.

Committee Assignments:

SB 1038: Governmental Oversight and Accountability; Rules

HB 1411: Energy & Utilities Subcommittee, Appropriations Committee, Commerce Committee

ACTION RECOMMENDED: NEUTRAL

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.

Committee Assignments:

SB 1586: Communications, Energy, and Public Utilities, Regulated Industries, Government Oversight and Accountability, Rules

ACTION RECOMMENDED: NEUTRAL

Energy Security and Disaster Resilience Pilot Project

(SB 1888 /HB 1133)

Sponsors: Sen. Garcia /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:

SB 1888: Appropriations Subcommittee on the Environment and Natural Resources; Appropriations

HB 1133: Energy & Utilities Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Commerce Committee

ACTION RECOMMENDED: NEUTRAL

CONSTITUTION REVISION COMMISSION

Constitution Revision Commission Proposal – 60% Passage on Constitutional Amendments

(Proposal 97)

Sponsor: Keiser

Summary:

This would require the passage of all Constitutional Amendments to meet a 60% favorable threshold of all voters. If a voter abstains from voting on an amendment, it would qualify as a negative vote.

Committee Assignments:

Proposal 97 – Full CRC Committee

ACTION RECOMMENDED: SUPPORT