

Energy, Communications & Cybersecurity Subcommittee

Thursday, January 5, 2023
10:00 AM - 11:00 AM
Reed Hall (102 HOB)

Meeting Packet

Paul Renner
Speaker

Mike Giallombardo
Chair

The Florida House of Representatives

Commerce Committee

Energy, Communications & Cybersecurity Subcommittee

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Meeting Agenda

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I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Introduction of Members

V. Subcommittee Overview

VI. Closing Remarks

VII. Adjournment

ENERGY, COMMUNICATIONS & CYBERSECURITY SUBCOMMITTEE

COMMERCE COMMITTEE

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SUBCOMMITTEE JURISDICTION

The Energy, Communications & Cybersecurity Subcommittee considers matters related to utilities, including the state's regulation of electric, gas, water, and sewer utilities; telecommunications services; energy policy; and cybersecurity policy.

The subcommittee's oversight responsibilities include the following state entities: the Florida Public Service Commission; the Office of Public Counsel; the Florida Digital Service and the Cybersecurity Advisory Council within the Department of Management Services; the Governor and Cabinet sitting as the Utility Siting Board; and the Florida Energy Systems Consortium comprised of the state universities. The subcommittee also oversees energy and telecommunications-related programs and activities within the Department of Agriculture and Consumer Services, including the Office of Energy; the Department of Economic Opportunity, including the Office of Broadband; the Department of Environmental Protection, including the Siting Coordination Office; and the Department of Management Services, including the Division of Telecommunications.

KEY AGENCIES/ENTITIES

Florida Public Service Commission (PSC)

The PSC is a 5-member appointed body whose primary responsibility is to ensure that Florida consumers receive their most essential services – electricity, natural gas, telephone, water, and wastewater – in a safe, affordable, and reliable manner. The PSC exercises regulatory authority over utilities in one or more of three key areas: rate base/economic regulation; competitive market oversight; and monitoring of safety, reliability, and service. The PSC is an arm of the Legislature.

The PSC has regulatory authority over all aspects of the operations of four investor-owned electric utilities and limited regulatory authority over 34 municipally-owned electric utilities and 18 rural electric cooperatives. In addition, the PSC has regulatory authority over eight investor-owned natural gas utilities and limited regulatory authority over 27 municipally-owned natural gas utilities and four special gas districts. As of 2021, the PSC had regulatory authority over 10 incumbent local exchange companies, 249 competitive local exchange companies, and 27 pay telephone service companies. Finally, as of 2021, the PSC had regulatory authority over 124 investor-owned water and/or wastewater utilities in 38 of Florida's 67 counties.

Office of Public Counsel

As an office housed within the Legislature, the Public Counsel has the statutory duty to provide legal representation for the people of the State of Florida in proceedings before the Florida Public Service Commission involving electric utilities, gas utilities, water utilities, and wastewater utilities, and in proceedings before counties that elect jurisdiction over water and wastewater utilities. The Public Counsel performs independent analyses, presents testimony of expert witnesses, cross-examines witnesses, and files recommendations and briefs in those cases. The Public Counsel does not pursue cases regarding utilities owned by local governments or cooperatives, nor does the Public Counsel pursue criminal or other individual matters. The Public Counsel is independent from any regulatory authority.

Department of Management Services (DMS)

- **Florida Digital Service**
- **Cybersecurity Advisory Council**
- **Division of Telecommunications**

The Florida Digital Service (FDS) was created in 2021 within DMS. Acting through FDS, DMS is the lead entity responsible for establishing standards and processes for assessing state agency cybersecurity risks and determining appropriate security measures consistent with generally accepted best practices for cybersecurity, including the National Institute of Standards and Technology Cybersecurity Framework. Florida's Cybersecurity Advisory Council was established by the Legislature in 2021. The Council was created within DMS to assist state agencies with protecting their information technology resources from cyber threats and incidents.

Through its Division of Telecommunications, DMS has the following responsibilities for statewide coordination of 911 and enhanced 911 (E911) services:

- Statewide Emergency Communications Number E911 State Plan
- Coordinating effective delivery of 911 services statewide
- Assisting counties with technical standards and operational capabilities
- Assisting counties with designing and implementing new systems
- Inspecting and issuing certificates to all Public Service Answering Points (PSAP) in compliance with the 911 Plan
- Assisting with county 911 coordinator training
- Monitoring the Florida Public Service Commission (FPSC), Federal Communications Commission (FCC), and other regulatory entities on 911/E911 issues.

Department of Agriculture and Consumer Services (DACS)

- **Office of Energy**

The Office of Energy within DACS is the primary organization for state energy programs and policies. The Office holds a variety of responsibilities, including administering financial incentive programs; administering the provisions of the Florida Energy and Climate Protection Act; representing Florida in the Southern States Energy Compact; performing or coordinating the functions of federal energy programs delegated to the state; and providing recommendations to the Governor and the Legislature. The Office also works cooperatively with other state entities to develop state energy and climate change policies and programs.

Department of Environmental Protection (DEP)

- **Division of Water Resource Management, Siting Coordination Office**

The Siting Coordination Office within DEP's Division of Water Resource Management coordinates the interagency review and certification for siting, building, and operating electrical power plants (including nuclear power), natural gas pipelines, and electrical transmission lines. It administers Florida's environmental regulatory programs with respect to energy production and transportation. DEP's Siting Coordination Office and General Counsel's Office provide administrative and legal support for the certification process. Certification is a comprehensive state license which includes any regulatory activity applicable under state, regional, and local regulations for the facility. Though DEP is responsible for coordinating the certification process, the Governor and Cabinet, sitting as the Utility Siting Board, issue siting certifications.

Electric and magnetic fields generated by electrical transmission lines are also regulated by DEP. The Siting Coordination Office reviews required compliance reports submitted by companies that construct or operate transmission lines and assists county tax appraisers in determining eligibility for ad valorem tax reductions for air or water pollution control equipment.

Department of Economic Opportunity (DEO)

- **Office of Broadband**

The Office of Broadband within DEO works with local and state government agencies, community organizations, and private businesses to increase the availability and effectiveness of broadband Internet service throughout the state, specifically in small and rural communities. Through these partnerships, the Office of Broadband encourages investment in grant funding opportunities that focus on the expansion of broadband Internet service.

Cyber Florida

The Florida Center for Cybersecurity, also known as Cyber Florida, was created by the Legislature in 2014. Cyber Florida is funded by the state and hosted by the University of South Florida. The goals of Cyber Florida are to:

- Help Florida become a national leader in cybersecurity education;
- Create cybersecurity jobs in the state and enhance the existing cybersecurity workforce;
- Seek out partnerships with military installations to assist in homeland cybersecurity defense initiatives; and

- Attract cybersecurity companies to Florida.

Florida Energy Systems Consortium (FESC)

FESC was created by the Legislature in 2008 to "promote collaboration among experts in the State University System for the purposes of sharing energy-related expertise and assisting in the development and implementation of a comprehensive, long-term, environmentally compatible, sustainable, and efficient energy strategic plan for the state." FESC is administered at the University of Florida by a director appointed by the President of the University of Florida, and includes the following state universities:

- University of Florida
- Florida State University
- Florida Agricultural and Mechanical University
- University of South Florida
- Florida Atlantic University
- University of West Florida
- University of Central Florida
- University of North Florida
- Florida International University
- Florida Gulf Coast University
- New College of Florida
- Florida Polytechnic University.

HIGHLIGHTS OF RECENTLY PASSED LEGISLATION

2022 Legislature

CS/CS/HB 741 - Net Metering

Net energy metering, commonly referred to as net metering, is a billing arrangement designed to compensate customers who own or lease on-site renewable energy generation systems and export electricity generated on-site to an electric utility's system. In 2008, the Legislature required all electric utilities to develop standardized interconnection agreements and a net metering program for customer-owned renewable generation systems. Under Florida's current net metering framework for investor-owned electric utilities (IOUs), the credit customers receive on their monthly bill equates the value of the excess energy to the utility's retail rate.

The bill established a revised net metering program that would credit excess energy delivered to an IOU's system by customer-owned renewable generation in accordance with a graduated schedule as described in the bill. Under the bill, the value of credit a customer who owns or leases renewable generation receives would be determined by the date a net metering application is approved for the customer-owned or leased renewable generation, and credits would be netted on a monthly basis.

The bill provided that if the PSC finds that the penetration rate of customer-owned or leased renewable generation in an IOU's service territory exceeds a certain threshold, the PSC must initiate rulemaking

to adopt a new program design. The bill established minimum requirements for IOU customer-owned or leased renewable generation programs, and an IOU may petition the PSC for approval to offer a program that is not less favorable to customers who own or lease renewable generation. The bill permitted an IOU to petition the PSC for approval to recover, through its fuel and purchased power cost recovery charge, lost revenue resulting from the unanticipated, incremental addition of residential customer-owned or leased solar photovoltaic generation within the IOU's service territory between July 1, 2022 and December 31, 2023.

This bill was vetoed by the Governor on April 27, 2022.

CS/CS/HB 1411 - Floating Solar Facilities

Floating solar refers to any type of solar array that floats atop a body of water. Floating solar panels are affixed to a buoyant structure that keeps them above the water's surface.

The bill promotes the use of floating solar facilities by requiring each local government to allow these facilities as a permitted use under certain conditions and amend its land development regulations to promote the use of floating solar. Under the bill, counties and municipalities may adopt ordinances specifying buffer and landscaping requirements for floating solar facilities. The bill provides that a floating solar facility may not be constructed in an Everglades Agricultural Area reservoir project if the local governments involved with the project determine that the facility will have a negative impact on that project.

Under the bill, the Office of Energy within the Department of Agriculture and Consumer Services is tasked with submitting recommendations to the Legislature to provide a regulatory framework to private and public sector entities that implement floating solar facilities.

The bill became effective on July 1, 2022.

CS/SB 1764 - Municipal Solid Waste-to-Energy Program

Energy recovery from waste is the conversion of non-recyclable waste materials into useable heat, electricity, or fuel. Municipal solid waste, otherwise known as trash or garbage, can be used to produce energy at waste-to-energy plants and landfills.

The bill establishes the Municipal Solid Waste-to-Energy Program, within the Department of Agriculture and Consumer Services, comprised of a financial assistance grant program and an incentive grant program. The stated purpose of the program is to provide grants, subject to appropriation, to municipal solid waste-to-energy facilities in order to incentivize the production and sale of energy and reduce waste disposed of in landfills.

The bill became effective on July 1, 2022.

SB 7036 - Lifeline Telecommunications Service

The Lifeline program provides telecommunications service discounts for qualifying low-income consumers, pursuant to regulations adopted by the Federal Communications Commission (FCC). In Florida, the Public Service Commission (PSC) oversees the Lifeline program. Certain telecommunications service providers designated by the FCC as eligible telecommunications carriers must provide Lifeline to qualified residential subscribers.

- The bill updates Florida's Lifeline laws to be consistent with federal Lifeline regulations. The bill: Clarifies that an eligible telecommunications carrier must notify a Lifeline subscriber of impending termination of Lifeline service if it has reason to believe that the subscriber no longer qualifies for Lifeline;
- Provides that a Lifeline subscriber, upon request, must provide proof of continued eligibility for Lifeline service to the eligible telecommunications carrier, the FCC, or the FCC's designee:
- Removes obsolete references to state agencies no longer involved in the Lifeline program;
- Removes state standards for the provision of Lifeline that are inconsistent with the FCC's eligibility requirements; and
- Authorizes certain information exempt from public records laws to be released to the FCC or its designee as required to administer Lifeline.

The bill became effective on July 1, 2022.

CS/HB 7055 – Cybersecurity

The bill prohibits state agencies and local governments from paying or otherwise complying with a ransomware incident and establishes penalties and fines for certain ransomware offenses against a government entity.

The bill defines the severity level of a cybersecurity incident in accordance with the National Cyber Incident Response Plan. State agencies and local governments must report all ransomware incidents and high severity level cybersecurity incidents to the Cybersecurity Operations Center (CSOC) and the Cybercrime Office within the Florida Department of Law Enforcement as soon as possible but no later than a time certain. Local governments must also report to the sheriff. The bill requires state agencies to report low level cybersecurity incidents and provides that local governments may report such incidents. The bill also requires state agencies and local governments to submit after-action reports to the Florida Digital Service following a cybersecurity or ransomware incident.

The bill requires the CSOC to notify the Legislature of high severity level cybersecurity incidents. The notice must contain a high-level overview of the incident and its likely effects. In addition, the CSOC must provide the Legislature and the Cybersecurity Advisory Council (CAC) with a consolidated incident report on a quarterly basis.

The bill requires state agency and local government employees to undergo certain cybersecurity training within 30 days of employment and annually thereafter.

The bill requires local governments to adopt cybersecurity standards that safeguard the local government's data, information technology (IT), and IT resources.

The bill expands the purpose of the CAC to include advising local governments on cybersecurity and requires the CAC to examine reported cybersecurity and ransomware incidents to develop best practice recommendations. The CAC must submit an annual comprehensive report regarding ransomware to the Governor and Legislature.

The bill became effective on July 1, 2022.

2021 Legislature

CS/CS/HB 839 - Express Preemption of Fuel Retailers and Related Transportation Infrastructure

The bill expressly preempts a municipality, county, special district, or political subdivision from prohibiting or taking any action that results in a de facto prohibition against the siting, development, or redevelopment of a fuel retailer or the necessary related transportation infrastructure within that specific local government's entire jurisdiction. The bill preempts the same entities from mandating any required infrastructure on a fuel retailer, including electric vehicle charging stations.

The bill does not preempt a municipality, county, special district, or political subdivision from adopting and implementing ordinances, regulations, policies, or resolutions on the siting, development, or redevelopment of fuel retailers or necessary related transportation infrastructure that are consistent with other allowable uses and general law.

The bill defines the term "fuel retailer" as a fuel station or retail site selling fuel to power vehicles. "Related transportation energy infrastructure" is defined as "storage tanks, pipelines, or any related equipment that is necessary to deliver fuel to a fuel retailer or dispense fuel at a fuel retailer."

The bill became effective on June 16, 2021.

CS/CS/SB 896 - Renewable Energy

The bill authorizes the Florida Public Service Commission (PSC) to approve cost recovery by a gas public utility for contracts for the purchase of renewable natural gas in which the pricing provisions exceed the current market price of natural gas but are otherwise deemed reasonable and prudent by the PSC.

The bill defines "renewable natural gas" as anaerobically-generated biogas, landfill gas, or waste-water treatment gas refined to a methane content of 90 percent or greater which is capable of being used as transportation fuel, for electric power generation, or is of a quality capable of being injected into a natural gas pipeline. The bill defines "biogas" as a mixture of carbon dioxide and hydrocarbons, primarily methane gas, which is released from the biological decomposition of organic materials.

The bill also defines "solar facility" and specifies that such facilities must be a permitted use in all agricultural land use categories in a local government comprehensive plan and all agricultural zoning districts within an unincorporated area. Solar facilities must comply with setback and landscape buffer area criteria to the same extent as other similar permitted uses in an agricultural district.

The bill became effective on July 1, 2021.

CS/CS/HB 919 - Preemption Over Restriction of Utility Services

The bill prohibits a municipality, county, special district, or other political subdivision of the state from enacting or enforcing a resolution, ordinance, rule, code, or policy, or take any other action that restricts or prohibits, or has the effect of restricting or prohibiting, the types or fuel sources of energy production which may be used, delivered, converted, or supplied by specified utilities and energy service providers to serve customers that they are authorized to serve. Any charter, resolution, ordinance, rule, code, policy, or action preempted by the bill that existed before or on July 1, 2021, is void.

The bill provides that it does not prohibit the board of a municipality or governmental entity from adopting rules, regulations, and policies governing an electric or natural gas utility that it owns or operates and directly controls. The bill also provides that it does not expand or alter the jurisdiction of the Public Service Commission.

The bill became effective on July 1, 2021.

CS/CS/HB 1239 - Broadband Internet Infrastructure

The bill creates two new programs to support the expansion of broadband Internet service to consumers without access to service.

First, the bill creates a program within the Florida Office of Broadband (Office), within the Department of Economic Opportunity (DEO) to award grants, subject to appropriation, to applicants who seek to install or deploy infrastructure that expands broadband service to unserved areas. The bill specifies the types of entities eligible for such grants, provides application requirements and evaluation criteria, and requires the Office to enter into an agreement with each grant recipient that specifies performance conditions, including potential sanctions. The bill establishes a process by which an existing broadband provider may challenge a grant application on the grounds that the provider already offers or plans to offer service in the area at issue. The bill provides limitations on grant awards and requires the Office to prepare an annual report summarizing the activity under this program.

Second, the bill requires municipal electric utilities, through July 1, 2024, to offer broadband service providers a discounted rate of $1 per attachment per year for any new pole attachment necessary to make broadband service available to an unserved or underserved consumer within the utility’s service territory. The bill provides terms for these discounted attachments. The bill also provides safety and reliability standards for pole attachments and specifies each party’s responsibility for costs associated with replacement poles necessary to make attachments. The bill prohibits municipal electric utilities from raising their current pole attachment rates for broadband providers before July 31, 2022.

The bill requires local technology planning teams established by the Office to work with rural communities to help identify unserved and underserved consumers and to work with broadband providers to identify opportunities and reduce barriers to the deployment of service. The bill provides a nonrecurring appropriation of $1.5 million for Fiscal Year 2021-2022 to DEO to develop, by June 30, 2022, geographic information system maps of broadband Internet service availability throughout this state.

The bill became effective on July 1, 2021.

CS/CS/HB 1297 – Cybersecurity

The bill specifies that the Department of Management Services (DMS), acting through the Florida Digital Service, is the lead entity responsible for assessing state agency cybersecurity risks and determining appropriate security measures. The bill creates new, and amends current, cybersecurity duties and responsibilities of DMS, and directs each agency inspector general to include a specific cybersecurity audit plan when developing its long-term and annual audit plans. The bill also creates the Florida Cybersecurity Advisory Council within DMS for the purpose of assisting state agencies in protecting information technology resources from cyber-attacks.

The bill became effective on July 1, 2021.

CS/SB 1944 - Utility and Communications Poles

The bill requires the Florida Public Service Commission (PSC) to regulate utility pole attachments in Florida, taking over the role currently performed by the Federal Communications Commission (FCC). The bill requires the PSC to hear and resolve complaints concerning rates, charges, terms, conditions, voluntary agreements, or any denial of access relative to pole attachments. The bill provides that FCC precedent is not binding upon the PSC if a party demonstrates that an alternative cost-based rate is just and reasonable and in the public interest.

The bill defines "redundant pole" and requires that attaching entities remove their pole attachments from a redundant pole within 180 days of a written request by the pole owner. Under certain circumstances, the pole owner may transfer or relocate the pole attachment to a new pole at the noncompliant attaching entity's expense, unless the pole attachments are owned by an electric utility. Upon petition by a pole owner, the bill authorizes the PSC to resolve disputes or order the removal or transfer of pole attachments by noncompliant attaching entities.

The bill also requires the PSC to regulate the safety, maintenance, and storm restoration of certain telecommunications infrastructure. The bill provides authority to the PSC to examine the books and records of communications services providers in order to perform this function. The bill also authorizes the PSC to impose monetary penalties and adopt rules to implement these provisions.

The bill became effective on June 29, 2021.

2020 Legislature

CS/HB 969 - Broadband Internet Service

The bill designates the Department of Economic Opportunity (DEO) as the lead state agency to facilitate the expansion of broadband Internet service in the state and creates the Florida Office of Broadband (Office) within DEO's Division of Community Development. The Office must:

- Create a strategic plan for increasing the use of broadband Internet service in the state;
- Build local technology planning teams;
- Encourage the use of broadband Internet service, especially in rural, unserved, and underserved areas of the state through grant programs; and
- Monitor, participate in, and provide input in federal agency proceedings related to the geographic availability and deployment of broadband Internet service in Florida.

To achieve these purposes, the bill authorizes DEO to apply for and accept federal grant funds, enter into necessary or useful contracts, and establish any administrative committee or workgroup.

The bill provides that up to $5 million of the funds transferred to Florida's Turnpike Enterprise for the Multi-use Corridors of Regional Economic Significance program may be used for projects that assist in the development of broadband infrastructure within or adjacent to a multiuse corridor.

The bill became effective on July 1, 2020.

CS/CS/HB 1095 - Infrastructure Regulation

Chapter 556, F.S., is the "Underground Facility Damage Prevention and Safety Act" (Act). The stated purpose of the Act is to identify and locate underground facilities prior to an excavation or demolition to prevent injury to persons or property or interruption of services resulting from damage to those facilities. To accomplish this, the Act creates a not-for-profit corporation (Sunshine 811) to administer a free-access notification system. The bill amends ch. 556, F.S., to:

- Expand the list of entities that may issue citations for violations of ch. 556, F.S., to include the State Fire Marshal, or its designated agent, and local fire chiefs;
- Increase the maximum civil penalty (up to $2,500 plus court costs) for certain violations of ch. 556, F.S., that involve an underground pipe or facility transporting hazardous materials regulated by the federal Pipeline and Hazardous Material Safety Administration, with 80 percent of the civil penalty distributed to the entity that issued the citation and the remainder distributed to the clerk of court;
- Require each clerk of court to submit an annual report to the State Fire Marshal listing each citation issued for a violation of ch. 556, F.S., which was filed in that county during the preceding calendar year;
- Define the term "permanent marker" and establish a criminal penalty for knowingly and willfully removing or damaging a permanent marker placed to identify the location of an underground facility;
- Require excavators and underground facility operators to report incidents that involve "high-priority subsurface installations" for investigation by the State Fire Marshal, or its designated agent, who may issue a citation and impose a civil penalty for a violation of ch. 556, F.S., that is a proximate cause of the incident, with five percent of the civil penalty retained by the clerk of court and the remainder distributed equally between Sunshine 811 (to fund damage-

prevention education) and the State Fire Marshal (to fund certain programs that provide financial assistance to fire departments to mitigate firefighter exposure to hazardous, cancer-causing chemicals); and

- Require Sunshine 811 to review all reports made to the State Fire Marshal and all other complaints of alleged violations of ch. 556, F.S., to identify issues related to damage prevention and enforcement, and annually provide an analysis and recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives.

The bill requires the Committee on Public Counsel Oversight, by a majority vote of the committee appointees of each house, to appoint a Public Counsel to a 4-year term beginning March 1, 2021, and every 4 years thereafter. A person appointed as the Public Counsel may not serve more than 12 years after July 1, 2020.

The bill became effective on July 1, 2020.

CS/CS/CS/HB 1391 – Technology Innovation

The bill abolishes the Division of State Technology within the Department of Management Services (DMS) and establishes the Florida Digital Service (FDS) in its place. It also creates the Division of Telecommunications within DMS. The bill establishes the duties and responsibilities of FDS, including the development and implementation of information technology (IT) standards for state agencies with a focus on interoperability and enforcement of the state's cloud-first policy. FDS must create and maintain a comprehensive data catalog that lists the data elements housed within each state agency, and FDS must create a data dictionary. FDS must conduct a market analysis at least every three years to determine whether IT resources within each state agency are used in the most cost-effective manner, whether agencies are complying with the state's cloud first policy, and whether agencies are using best practices with respect to IT. The bill allows cabinet agencies to adopt alternative IT standards than those developed by FDS.

The bill also creates the Financial Technology Sandbox (sandbox) within the Office of Financial Regulation (OFR) to allow a sandbox licensee to make an innovative financial product or service available to consumers as a money transmitter, payment instrument seller, or lender of consumer finance loans during a sandbox period that is initially 24 months but can be extended one time for an additional 12 months. Upon approval of an application, a sandbox licensee is exempt from specified provisions of general law and the corresponding rule requirements during the sandbox period. OFR may initially authorize a sandbox licensee to provide the financial product or service to a maximum of 15,000 consumers but may authorize up to 25,000 consumers if the sandbox licensee demonstrates adequate financial capitalization, risk management processes, and management oversight.

The bill became effective on July 1, 2020, except as otherwise expressly provided in the bill.