

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 15, 2021

TO: Braulio L. Baez, Executive Director

FROM: Adam Potts, Legislative Director
Kaley Slattery, Government Liaison

RE: 2021 Legislative Wrap-Up – Summary of Bills

During the 2021 Legislative Session, the Florida Public Service Commission (PSC) Governmental Affairs team tracked 89 bills of the 1,893 general and local bills initially filed. Of those bills that were filed, 272 bills passed both chambers of the Legislature and 267 of them were signed by Governor DeSantis.

This summary notes bills that have an effect on the PSC and also notes bills of interest that did not pass. The summary concludes with a brief update on the total budget for Fiscal Year 2021-2022. This document is for informational purposes only and requires no action by the Commission.

KEY BILLS THAT PASSED

HB 1311- Public Records and Meetings/ Public Service Commission by Representative Payne

The bill creates a public meeting and a public record exemption under s. 350.01, F.S., relating to the Florida Public Service Commission (PSC). Under the bill, portions of a PSC hearing discussing proprietary confidential business information that is confidential or exempt from public record requirements are made exempt from public meeting requirements.

PSC Impact: The bill provides that the entire hearing, including exempt portions must on the record, recorded, and transcribed.

The bill also creates a public record exemption for the recordings and transcripts. The recordings and transcripts are confidential and exempt from disclosure unless a court of

competent jurisdiction, after an in camera review, determines that such portions of the hearing were not restricted to discussion of proprietary confidential business information, under ss. 364.183, 366.093, 367.156, and 368.108, F.S. If such a judicial determination is made, only the portion of the recording and transcript which reveals nonexempt information may be disclosed to a third party.

As required by the State Constitution, the bill provides a statement of public necessity, subjects the exemptions to the Open Government Sunset Review Act, and will stand repealed on October 2, 2026, unless reenacted by the Legislature.

Status: HB 1311 was approved by the Governor on June 4, 2021, Chapter [2021-72](#)

Floor Vote: Senate 39-1; House 113-5

SB 1944- Utility and Communication Service Poles by Senator Albritton

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.

PSC Impact: 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.

Status: SB 1944 was approved by the Governor on June 29, 2021, Chapter [2021-191](#)

Floor Vote: Senate 37-2; House 114-3

HB 1297- Cybersecurity by Representative Byrd and Representative Giallombardo

The bill requires the Department of Management Services (DMS) and the various heads of state agencies to meet certain requirements to enhance the IT security of Florida's state agencies to establish uniformity among IT departments under the supervision and direction of the Florida Digital Service. The bill specifies that DMS, in conjunction with the Florida Digital Service, is responsible for assessing state agency cybersecurity risks and determining appropriate security measures to avoid future cyber-attacks.

PSC Impact: The bill creates the Florida Cybersecurity Advisory Council under DMS and requires one representative from the Florida Public Service Commission to participate in the council's membership and will be tasked with identifying ongoing and future cybersecurity risks in an effort to detect critical cybersecurity implementation practices. The council will be responsible for submitting yearly recommendations to the President of the Senate and Speaker of the House of Representatives beginning June 30, 2022 and each June 30th thereafter.

Status: HB 1297 was approved by the Governor on June 29, 2021, Chapter [2021-234](#)
Floor Vote: Senate 40-0; House 118-0

SB 896- Renewable Energy by Senator Brodeur

The bill requires solar facilities to be a permitted use in all agricultural land use categories in a local government's comprehensive plan and all agricultural zoning districts within an unincorporated area. Under the bill, such facilities are required to comply with certain criteria including setback and landscaped buffer areas and counties may adopt ordinances specifying buffer and landscaping requirements. However, such requirements may not exceed those of similar uses in agricultural land use categories and zoning districts. The bill provides that s. 163.3205, F.S., as created by the bill, relating to solar facility approval process, is not applicable to any site that was the subject of an application to construct a solar facility submitted to a local governmental entity before July 1, 2021.

Additionally, the bill expands the term "renewable energy," and adds the terms "biogas" and "renewable natural gas." "Renewable energy," is expanded to mean electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from energy sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. "Biogas," is defined as a mixture of gases, largely comprised of carbon dioxide, hydrocarbons, and methane gas, that is produced by the biological decomposition of organic materials.

"Renewable natural gas" is defined as anaerobically generated biogas, landfill gas, or wastewater treatment gas, which is refined to a methane content of 90 percent or more, that may be used as transportation fuel, for electric generation, or is of a quality capable of being injected into a natural gas pipeline.

PSC Impact: The bill provides that the Public Service Commission may approve cost recovery by a gas public utility for renewable natural gas purchase contracts in which the pricing provisions exceed the current market price of natural gas, but which are otherwise deemed reasonable and prudent by the commission.

The bill includes conforming changes in ss. 366.92, 373.236, and 403.973, F.S., to reflect the revised definition of "renewable energy" and reenacts s. 288.9606(7), F.S., without modification, to incorporate the changes made to s. 366.91, F.S.

Status: SB 896 was approved by the Governor on June 29, 2021, Chapter [2021-178](#)
Floor Vote: Senate 25-14; House 86-29

HB 1051- Environmental Compliance Costs by Representative Fernandez-Barquin

The bill revises the definition of “environmental compliance costs” in the Florida Energy Efficiency and Conservation Act to include costs or expenses incurred by an electric utility after July 1, 2021, for the construction and operation of a wastewater reuse system.

PSC Impact: This revision will allow utilities to petition the Florida Public Service Commission for recovery of such costs through a charge separate from the utility’s base rates.

In order to recover costs, operation of the wastewater reuse system must serve to further compliance with environmental laws or regulations that apply to the electric utility. The system must fully or partially satisfy a local government’s statutory reclaimed water reuse requirements, including those for ocean outfalls.

The bill requires at least 50 percent of reclaimed water produced to be used in conjunction with the water requirements of facilities owned by the electric utility. This is required in order to offset all or part of the electric utility’s water use, as authorized by permit.

Status: HB 1051 was approved by the Governor on June 29, 2021, Chapter [2021-222](#)
Floor Vote: Senate 40-0; House 118-0

ADDITIONAL BILLS OF INTEREST THAT PASSED

SB 64- Reclaimed Water by Senator Albritton

The bill requires domestic wastewater utilities that dispose of effluent, reclaimed water, or reuse water by surface water discharge to:

- Submit a plan to the Department of Environmental Protection (DEP) to eliminate nonbeneficial surface water discharges by November 1, 2021;
- Fully implement the plan to eliminate discharges by January 1, 2032; and
- If no plan is timely submitted or approved, eliminate discharges by January 1, 2028.

The bill requires DEP to submit a report to the Legislature by December 31, 2021, and annually thereafter, providing the average gallons per day that discharges are reduced, the average gallons per day of discharges that will continue, the level of treatment discharged water receives, and any modified or new plans submitted by a utility since the last report.

The bill does not apply to domestic wastewater treatment facilities in certain areas with limited fiscal resources and those operated by certain mobile home park operators.

The bill authorizes discharges that are being beneficially used or otherwise regulated, including:

- Discharges associated with an indirect potable reuse project;
- Permitted wet weather discharge;
- Discharges into a stormwater management system, which are subsequently withdrawn for irrigation purposes;
- Utilities that operate domestic wastewater treatment facilities with reuse systems that reuse at least 90 percent of a facility's annual average flow; or
- Discharges that provide direct ecological or public water supply benefits.

The bill also:

- Specifies that potable reuse is an alternative water supply, for purposes of making reuse projects eligible for alternative water supply funding;
- Incentivizes the development of potable reuse projects;
- Incentivizes residential developments that use graywater technologies; and
- Specifies the total dissolved solids allowable in aquifer storage and recovery in certain circumstances.

No PSC Impact

Status: SB 64 was approved by the Governor on June 29, 2021, Chapter [2021-168](#)

Floor Vote: Senate 32-0; House 118-0

HB 839- Express Preemption of Fuel Retailers and Related Transportation Infrastructure by Representative Fabricio

The bill requires solar facilities to be a permitted use in all agricultural land use categories in a local government's comprehensive plan and all agricultural zoning districts within an unincorporated area. Under the bill, such facilities are required to comply with certain criteria including setback and landscaped buffer areas and counties may adopt ordinances specifying buffer and landscaping requirements. However, such requirements may not exceed those of similar uses in agricultural land use categories and zoning districts. The bill provides that s. 163.3205, F.S., as created by the bill, relating to solar facility approval process, is not applicable to any site that was the subject of an application to construct a solar facility submitted to a local governmental entity before July 1, 2021.

Additionally, the bill expands the term "renewable energy," and adds the terms "biogas" and "renewable natural gas." "Renewable energy," is expanded to mean electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from energy sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. "Biogas," is defined as a mixture of gases, largely comprised of carbon dioxide, hydrocarbons, and methane gas, that is produced by the biological decomposition of organic materials.

“Renewable natural gas” is defined as anaerobically generated biogas, landfill gas, or wastewater treatment gas, which is refined to a methane content of 90 percent or more, that may be used as transportation fuel, for electric generation, or is of a quality capable of being injected into a natural gas pipeline.

The bill provides that the Public Service Commission may approve cost recovery by a gas public utility for renewable natural gas purchase contracts in which the pricing provisions exceed the current market price of natural gas, but which are otherwise deemed reasonable and prudent by the commission.

The bill includes conforming changes in ss. 366.92, 373.236, and 403.973, F.S., to reflect the revised definition of “renewable energy” and reenacts s. 288.9606(7), F.S., without modification, to incorporate the changes made to s. 366.91, F.S.

No PSC Impact

Status: HB 839 was approved by the Governor on June 16, 2021, Chapter [2021-111](#)

Floor Vote: Senate 26-12; House 79-38

HB 919- Preemption Over Restriction of Utility Services by Representative Tomkow

The bill prohibits municipalities, counties, special districts, or other political subdivisions from enacting or enforcing a resolution, ordinance, rule, code, or policy that restricts or prohibits, or has the effect of restricting or prohibiting the types or the fuel sources of energy production used, delivered, converted, or supplied to customers by:

- Public or electric utilities;
- Entities created pursuant to an interlocal agreement that generate, sell, or transmit electrical energy;
- Natural gas utilities or transmission companies; or
- Liquid petroleum gas dealers, dispensers, or cylinder exchange operators.

The bill expressly states that a municipality’s board or a governmental entity is not prevented from passing rules, regulations, or policies governing an electric or natural gas utility that it owns or operates and directly controls. The bill further states that it does not expand or alter the jurisdiction of the Public Service Commission over public or electric utilities. The bill voids any charter, resolution, ordinance, rule, code, policy, or action by any municipality, county, special district, or political subdivision, existing on or before the bill’s effective date, which is preempted by this bill.

No PSC Impact

Status: HB 919 was approved by the Governor on June 21, 2021, Chapter [2021-150](#)

Floor Vote: Senate 26-12; House 79-38

HB 1239- Broadband Internet Infrastructure by Representative Tomkow

The bill, which may be cited as the “Florida Broadband Deployment Act of 2021,” revises the Office of Broadband’s (office) strategic plan related to goals and strategies for increasing and improving broadband availability and access; creates the Broadband Opportunity Program to award grants; provides an appropriation to the Department of Economic Opportunity (DEO) for geographic information system mapping of broadband internet service; and establishes a promotional period for one dollar pole attachments of broadband facilities to municipal electric utility poles.

As to the office and its strategic plan, the bill revises the duties of the office to include improving the availability of, access to, and use of broadband. The bill requires the strategic plan to incorporate applicable federal broadband activities and identify available federal funding. The strategic plan must be submitted to the Governor, the Senate President, and the Speaker of the House by June 30, 2022, and updated biennially.

The terms “broadband Internet service,” “deployed,” “sustainable adoption,” “underserved,” and “unserved,” are provided for in this section of the bill.

A non-recurring sum of \$1,500,000 for Fiscal Year 2021-2022 is appropriated from the General Revenue Fund to DEO, to develop geographic information system maps of broadband Internet service availability though the state. The bill specifies the content required to be included in the maps and that they must be developed by June 30, 2022.

The bill creates the Broadband Opportunity Program, housed in the office, to award grants, subject to appropriation, to applicants who seek to install or deploy infrastructure that expands broadband service to unserved areas. 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 limits grant awards to 50 percent of the total cost of a project, but no more than five million dollars per grant, and prohibits grant awards for projects that receive other federal funding.

The bill creates s. 288.9963, F.S., relating to attachment of broadband facilities to municipal electric utility poles, which requires municipal electric utilities to provide broadband providers access for attachments to utility poles at a promotional rate of one dollar per attachment per pole, from July 1, 2021, to July 1, 2024. The bill provides terms for these discounted attachments and specifies each party’s responsibility for costs associated with replacement poles necessary to make attachments.

The bill also prohibits municipal electric utilities from raising their current pole attachment rates for broadband providers between July 1, 2021, and July 31, 2022.

The bill also provides for procedures and costs for replacement of utility poles by the municipal electric utilities where necessary to comply with applicable engineering and safety standards. If the replacement is necessary to correct an existing violation, to bring the pole

into compliance, or because the pole is at the end of its useful life, the replacement cost may not be charged to the broadband provider.

No PSC Impact

Status: HB 1239 was approved by the Governor on May 7, 2021, Chapter [2021-24](#)

Floor Vote: Senate 40-0; House 115-0

BILLS OF INTEREST THAT DID NOT PASS

SB 136 – Energy 2040 Task Force by Senator Brandes

This bill would have created the Energy 2040 Task Force within the Public Service Commission.

PSC Impact: The Task Force would have been responsible for projecting the state's electric energy needs over the next 20 years to determine how to best meet those needs in an efficient, affordable, and reliable manner while increasing competition and consumer choice and ensuring adequate electric reserves in the state.

Status: SB 136 was never heard in committee and no House companion was filed.

HB 761/SB 1008 – Solar Electrical Generating Facilities by Representative Overdorf/Senator Hutson

Both bills would have provided that solar facilities are permitted uses in local government comprehensive plan agricultural land use categories & certain agricultural zoning districts. The bill would have also required solar facilities to comply with specified criteria and authorized counties to adopt certain ordinances. Some of the provisions of this bill were included in SB 1944.

No PSC Impact

Status: HB 761/SB1008 were never heard in committee.

HB 775/SB 208 – Renewable Energy by Representative Omphroy/Senator Brandes

Both bills would have authorized owners of commercial or industrial businesses, or third parties contracted by such owners, to install, maintain, and operate a renewable energy source device on or about the structure in which the business operates or on a property the business owns or leases. The bill would have also authorized utilities to recover the full cost of providing services to an energy-producing business or its customers, under certain circumstances.

No PSC Impact

Status: HB 775 was never heard in committee. SB 208 was heard in one committee.

HB 817/SB 138 – Electric Vehicles by Representative Toledo/Senator Brandes

Both bills would have revised the principles relating to mobility which the Department of Agriculture and Consumer Services (FDACS) goals are required to address and sought to require that certain funds be used for specified purposes relating to the Electric Vehicle Infrastructure Grant Program. The bills would have also required FDACS to coordinate, develop, and recommend a supplemental master plan to address innovations in electric vehicle charging station infrastructure and the development of high-powered charging infrastructure for electric aircraft.

No PSC Impact

Status: HB 817 was never heard in committee. SB 138 died in its final committee stop.

HB 819/SB 140 – Electric Vehicles & Fees by Representative Learned/Senator Brandes

Both bills would have created additional fees for electric vehicles by creating a license tax and an additional fee for plug-in hybrid electric vehicles. Authorized persons and entities to biennially renew vehicle registrations for electric vehicles and plug-in hybrid electric vehicles.

No PSC Impact

Status: HB 819 was never heard in committee. SB 140 died in its final committee stop.

2021-2022 FISCAL YEAR BUDGET

Governor DeSantis signed the [Florida Leads budget](#) for Fiscal Year 2021-2022 on June 2, 2021. The budget totals \$101.5 billion and includes:

- \$4.5 billion to address the impacts of sea level rise, intensified storms and localized flooding.
- \$415 million for Everglades restoration projects.
- \$302 million for targeted water quality improvements to achieve meaningful and measurable nutrient reductions in key waterbodies across the state and to implement the initial recommendations of the Blue-Green Algae Task Force.

- \$326 million to continue Florida's response efforts for the COVID-19 pandemic which includes \$74 million for the Job Growth Grant Fund and \$75 million for VISIT FLORIDA's marketing programs.

Despite the COVID-19 pandemic, Florida continues to maintain strong reserves. Reserve amounts in this signed budget include:

- \$4.9 billion in unallocated General Revenue
- \$2.7 billion in the Budget Stabilization Fund
- \$1.9 billion in unallocated Trust Funds

Florida's total reserves now stand at \$9.5 billion.

In an effort to reduce Floridians' tax burden, the budget also includes tax relief efforts totaling to \$169 million. The \$169 million tax cut package includes funding for three sales tax holidays:

- 7 day Freedom Week Sales Tax Holiday to save Florida residents \$54.7 million. The holiday covers certain outdoor recreation purchases, such as the first \$100 of the sales price of sunglasses, the first \$200 of the sales price of tents, and the first \$500 of the sales price of kayaks or canoes, as well as tickets for events, museums, the arts, and more.
- 10 day Back-to-School Sales Tax Holiday to save Florida residents \$69.4 million
- 10 day Disaster Preparedness Sales Tax Holiday to save Florida residents \$10.5 million. The holiday covers items needed during disasters including generators priced at \$1,000 or less.

FLORIDA PUBLIC SERVICE COMMISSION BUDGET

The Florida PSC budget was fully funded at \$27,850,696, which allocates \$925,566 and 13 new positions to fulfill the requirements outlined in Senate Bill 1944 (Utility and Communication Service Poles).

cc: Mark Futrell
Apyrl Lynn
Keith Hetrick
Mary Anne Helton