

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 651 Medically Essential Electric Utility Service

SPONSOR(S): Commerce Committee; Smith, D.

TIED BILLS: **IDEN./SIM. BILLS:** SB 1370

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	11 Y, 0 N	Keating	Keating
2) Health & Human Services Committee	15 Y, 0 N	Grabowski	Calamas
3) Commerce Committee	23 Y, 0 N, As CS	Keating	Hamon

SUMMARY ANALYSIS

Florida law, through s. 366.15, F.S., establishes procedures that each investor-owned electric utility (IOU) must follow when providing service to residential customers who depend on electric powered equipment for physician-certified medical reasons. This service is referred to as “medically essential” electric service.

The bill expands s. 366.15, F.S., to require that municipal electric utilities and rural electric cooperatives offer medically essential electric service programs on terms similar to IOUs. The bill also requires that all electric utilities provide additional consumer education about medically essential electric service programs. In particular, the bill:

- Requires each electric utility to post on its website a written explanation of the certification process, including a standard certification form.
- Requires each electric utility to provide a written explanation of the certification process to each residential customer at the time the customer opens an account and semiannually thereafter.
- Requires licensed physicians, physician assistants, and advanced registered nurse practitioners to inform eligible patients of the right to participate in medically essential electric service programs and to provide such patients a copy of s. 366.15, F.S., and, if requested, a completed medical certification.

The bill also modifies the certification and notice requirements associated with medically essential electric service programs. In particular, the bill:

- Allows for medical certification by licensed physician assistants and advanced registered nurse practitioners, in addition to licensed physicians.
- Requires each medical certification to specify the time period for which service is expected to remain medically essential, up to 60 months.
- Requires the electric utility to provide recertification materials to certified customers at least 60 days prior to expiration of the customer’s certification, and allows the utility to send recertification materials to the customer by e-mail if the customer has provided an email address.
- Requires an electric utility to provide additional notice to a certified customer before any disconnection of service for nonpayment, including notice by electronic means.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of January 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida law, through s. 366.15, F.S., establishes procedures that each investor-owned electric utility¹ (IOU) must follow when providing service to residential customers who depend on electric powered equipment for physician-certified medical reasons. This service is referred to as “medically essential”² electric service.

Under the law, each IOU must:

- Designate employees who are authorized to direct the continuation or restoration of medically essential electric service.
- Provide annually to all customers a written explanation of the certification process for medically essential electric service, which includes:
 - Submittal of completed forms supplied by the utility, including a certification form completed by a physician licensed under ch. 458 or ch. 459, F.S., which states in medical and nonmedical terms why the electric service is medically essential; and
 - Recertification by a physician every 12 months.
- Provide recertification materials to a certified customer by mail at least 30 days prior to expiration of the customer’s certification, and allow the customer to submit completed recertification forms within 30 days after the expiration of certification.
- Provide notice to a certified customer before any disconnection of service for nonpayment:
 - By telephone at least 24 hours before the scheduled disconnection;
 - In person at the customer’s residence no later than 4 p.m. of the day before the scheduled disconnection, if the customer cannot be reached in a timely manner by telephone; and
 - By leaving written notification at the residence, if the customer cannot be reached by telephone or in person.
- Provide notice of any scheduled service interruptions to certified customers.

If a certified customer notifies its IOU of a need for financial assistance, the law requires the IOU to provide the customer with information on sources of state or local agency funding that may provide financial assistance to such customers. In addition, if an IOU operates a program to receive voluntary contributions from its customers to provide financial assistance to persons unable to pay for service, the IOU must train its customer service representatives to assist certified customers in identifying the program and any agencies to which the IOU has distributed the contributed funds.

The law provides that each certified customer maintains the responsibility to make satisfactory arrangements with the IOU to ensure payment for service consistent with the requirements of the IOU’s tariff. Further, the law provides that each certified customer is solely responsible for any backup equipment or power supply and a planned course of action in the event of a power outage or interruption of service. The law specifies that an IOU may disconnect service to a residence whenever an emergency may threaten the health or safety of a person, the surrounding area, or the public utility’s distribution system, provided that the IOU must promptly restore service as soon as feasible. The law states that it does not form the basis for any cause of action against an IOU.

¹ Florida’s investor-owned electric utilities are Florida Power & Light Company, Duke Energy Florida, Tampa Electric Company, Gulf Power Company, and Florida Public Utilities Company. These utilities are referred to in statute as “public utilities” for purposes of regulation by the Public Service Commission. S. 366.02, F.S.

² The term “medically essential” is defined as “the medical dependence on electric-powered equipment that must be operated continuously or as circumstances require as specified by a physician to avoid the loss of life or immediate hospitalization of the customer or another permanent resident at the residential service address.” S. 366.15(1), F.S.

The law does not apply to municipal electric utilities or rural electric cooperatives, but the majority of those utilities maintain programs for medically essential electric service, many under terms similar to the terms specified in law for IOUs.³ The rates and service of municipal electric utilities and rural electric cooperatives are not regulated by the Public Service Commission (PSC).

Chapter 456, F.S., addresses the regulation of specified health care professions by the Department of Health. It does not address certification of patients for medically essential electric service.

Effect of Proposed Changes

In summary, the bill requires additional consumer education about medically essential electric service programs and establishes additional protections for utility customers that are certified under such programs. In addition, the bill expands the law to include municipal electric utilities and rural electric cooperatives.

The bill amends s. 366.15, F.S., to replace most references to “public utility” – the term used in ch. 366, F.S., to describe investor-owned electric utilities – with the term “electric utility.” The term “electric utility” is used in ch. 366, F.S., to refer to all types of electric utilities, including investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives. Thus, the bill expands the statutory requirements for medically essential electric service to all retail electric utilities in the state.⁴

The bill requires additional consumer education about medically essential electric service. In particular, the bill:

- Requires that each electric utility post on its website a written explanation of the certification process, including a standard certification form adopted by the utility.
- Requires that each electric utility provide a written explanation of the certification process to each residential customer at the time the customer opens an account with the utility and semiannually thereafter, either through a bill insert or by electronic means.
- Creates s. 456.45, F.S., to require certain health care practitioners – licensed physicians, physician assistants, and advanced registered nurse practitioners – to inform a patient of the right to participate in medically essential electric service programs and to provide the patient with a written copy of s. 366.15, F.S., if the patient may be at risk of loss of life or immediate hospitalization due to the loss of electric service at the patient’s residence. At the request of such a patient, the practitioner must provide the patient a completed medical certification using the form adopted by the utility and document the certification in the patient’s record.

The bill also modifies the statutory requirements for medically essential electric service. With respect to the certification process, the bill:

- Allows medical certification by licensed physician assistants and advanced registered nurse practitioners, in addition to licensed physicians.
- Requires each utility to adopt a standard certification form and specifies the information to be included in the form, including: the customer’s name, account number, service address, and contact information; the name of the permanent resident at the service address who is medically dependent on electric-powered equipment; and the name of that person’s certifying health practitioner. The bill requires that the standard certification form include a separate section to be completed by the certifying health care practitioner, which must include: the

³As of December 31, 2017, IOUs served 75.5% of residential customers in the state (7,103,662), while municipal electric utilities served 13.5% (1,268,267) and rural electric cooperatives served 11% (1,025,881). See FLORIDA PUBLIC SERVICE COMMISSION, Statistics of the Florida Electric Utility Industry, October 2018, at 45, available at <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Electricgas/Statistics/2017.pdf>.

⁴The bill does not extend certain accounting and training requirements in s. 366.15(10)(b)2., F.S., to municipal electric utilities and rural electric cooperatives. Further, the bill specifies that it does not authorize the Public Service Commission to regulate or oversee the provision of medically essential electric service by municipal electric utilities and rural electric cooperatives.

name, business address, and medical license number of the certifying health care practitioner; a statement in medical and nonmedical terms that specifies why electric service is medically essential; and the time period for which the service is expected to remain medically essential.

- Allows extension of the medical certification up to 60 months.
- Requires recertification upon expiration of the current certification period but no sooner than 12 months after issuance of the current certification.
- Allows the electric utility to send recertification materials to the customer by e-mail if the customer has provided an email address to the utility.
- Requires the electric utility to provide recertification materials to certified customers at least 60 days prior to expiration of the customer's certification.
- Allows the electric utility, no more often than once every 12 months, to request verification from the customer that the person for whom service is certified continues to reside at the service address.

With respect to disconnection of service for nonpayment, the bill:

- Requires that each electric utility provide certified customers no less time than other residential customers to make payment or payment arrangements (in any event, no less than 20 days from the date a bill is mailed or delivered by the electric utility) prior to the utility scheduling disconnection of service.
- Requires the electric utility to provide, in addition to any notice provided in its normal course of business, notice to certified customers:
 - By telephone and in writing – including by electronic means if the customer has provided contact information to receive electronic communications – no later than 15 days before, and again no later than 7 days before, the scheduled disconnection;
 - In person at the customer's residence no later than 2 business days before the scheduled disconnection, if the customer cannot be reached in a timely manner by telephone; and
 - In writing by electronic means, in addition to leaving written notification at the residence, if in-person contact is not made.

The bill provides an effective date of January 1, 2020.

B. SECTION DIRECTORY:

Section 1. Amends s. 366.11, F.S., related to certain exemptions from regulation under ch. 366, F.S.

Section 2. Amends s. 366.15, F.S., related to medically essential electric public utility service.

Section 3. Creates s. 456.45, F.S., related to certification of medically essential electric utility service.

Section 4. Provides an effective date of January 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Electric utilities that currently provide medically essential electric service programs may incur costs to modify those programs to comply with the bill. The small minority of electric utilities that do not currently provide such programs will incur costs to establish those programs in compliance with the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 21, 2019, the Commerce Committee adopted one amendment to the bill and passed the bill as a committee substitute. The amendment clarified that the bill does not authorize the Public Service Commission to regulate or oversee the provision of medically essential electric service by municipal electric utilities and rural electric cooperatives.

The analysis has been updated to reflect the committee substitute.