

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES
Senator Flores, Chair
Senator Garcia, Vice Chair

MEETING DATE: Wednesday, March 6, 2013
TIME: 2:00 —4:00 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Flores, Chair; Senator Garcia, Vice Chair; Senators Abruzzo, Bean, Evers, Gibson, Hukill, Simpson, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 52 Transportation / Detert (Similar H 13, S 74, Compare H 849, S 152, S 396, S 708)	Use of Wireless Communications Devices While Driving; Creating the "Florida Ban on Texting While Driving Law"; prohibiting the operation of a motor vehicle while using a wireless communications device for certain purposes; defining the term "wireless communications device"; specifying information that is admissible as evidence of a violation; providing for enforcement as a secondary action; providing for points to be assessed against a driver license for the unlawful use of a wireless communications device within a school safety zone or resulting in a crash, etc. TR 02/06/2013 Fav/CS CU 03/06/2013 Fav/CS JU	Fav/CS Yeas 9 Nays 0
2	SB 326 Hays (Identical CS/H 4007)	Powers and Duties of the Department of Environmental Protection; Removing an obsolete reference for purposes of calculating the reimbursement for transportation and utility crossings of greenways lands in Marion County; repealing a specified provision relating to additional powers and duties of the Department of Environmental Protection to dispose of surplus lands that were for the construction, operation, or promotion of a canal across the peninsula of the state and refund payments to counties, etc. EP 02/06/2013 Favorable CU 03/06/2013 Favorable AGG AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Communications, Energy, and Public Utilities
Wednesday, March 6, 2013, 2:00 —4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 714 Simmons (Identical H 649)	Public Records/Proprietary Confidential Business Information; Providing an exemption from public records requirements for specified proprietary confidential business information provided by a private or out-of-state entity to an electric utility that is subject to ch. 119, F.S., in conjunction with a due diligence review of an electric project or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources; providing for the return of such information to the provider; providing for future review and repeal of the exemption, etc.	Fav/CS Yeas 9 Nays 0
		CU 03/06/2013 Fav/CS GO RC	
4	Other related meeting documents		

SUMMARY OF AMENDMENTS
TO
SB 52

<p>Amendment # 1 By Senator Garcia Barcode 190062 Delete lines 146–148</p>	<p>Clarifies that a driver who commits a moving violation while unlawfully using a wireless communications device in a school safety zone will have 2 points assigned to his or her license in addition to the points assigned for the moving violation.</p>
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In addition to the fines, a violation of the unlawful use of a cellphone which results in a crash will result in 6 points added to the offender’s driver license record and the unlawful use of a cellphone while committing a moving violation within a school safety zone will result in an 2 points added to the offender’s driver license record in addition to the points for the moving violation.

This bill creates s. 316.305, F.S., and substantially amends s. 322.27, F.S.

I. Present Situation:

Laws in other states

Public concern over distracted driving has resulted in a number of jurisdictions making illegal the use of a hand-held cellular telephone for talking or texting while driving. In November 2001, New York became the first state to prohibit drivers from using a hand-held cellular telephone while driving. The District of Columbia passed a ban in 2004. Connecticut's ban took effect in 2005. Thirty-five states and the District of Columbia have passed a ban on texting-while-driving for all drivers. The National Conference of State Legislators has the following chart detailing each state’s laws for cellular telephone use.¹

States	Hand-held ban	All cell phone ban	Texting ban	Enforcement
Alabama	No	Drivers age 16 and 17 who have held an intermediate license for less than 6 months.	All drivers	Primary
Alaska	No	No	All drivers	Primary
Arizona	No	School bus drivers	No	Primary
Arkansas	No	School bus drivers, drivers younger than 18	All drivers	Primary for texting by all drivers and cell phone use by school bus drivers; secondary for cell phone use by young drivers
California	All drivers	School and transit bus drivers and drivers younger than 18	All drivers	Primary
Colorado	No	Drivers younger than 18	All drivers	Primary
Connecticut	All drivers	Learner's permit holders, drivers younger than 18, and school bus drivers	All drivers	Primary
Delaware	All drivers (effective 01/02/11)	Learner's permit and intermediate license holders and school bus drivers	All drivers (effective 01/02/11)	Primary
District of Columbia	All drivers	School bus drivers and learner's permit holders	All drivers	Primary
Florida	No	No	No	Not applicable
Georgia	Drivers younger than 18 (effective 07/01/10)	School bus drivers. Drivers younger than 18.	All drivers (effective 07/01/10)	Primary
Hawaii	No	No	No	Not applicable
Idaho	No	No	All drivers (effective	Not applicable

¹ “Cell Phone Use and Texting While Driving Laws,” updated November, 2012. Available online at, <http://www.ncsl.org/?tabid=17057>, Document No. 17057.

			7/1/2012)	
Illinois	Drivers in construction and school speed zones	Learner's permit holders younger than 19, drivers younger than 19, and school bus drivers	All drivers	Primary
Indiana	No	Drivers under the age of 18.	All drivers (effective 07/01/11).	Primary
Iowa	No	Learner's permit and intermediate license holders	All drivers	Secondary for texting
Kansas	No	Learner's permit and intermediate license holders	All drivers (effective 07/01/10).	Primary
Kentucky	No	Drivers younger than 18 (effective 07/13/10), school bus drivers	All drivers (effective 07/13/10)	Primary (effective 07/13/10)
Louisiana	No	School bus drivers, learner's permit and intermediate license holders, drivers under age 18	All drivers	Primary
Maine**	No	Learner's permit and intermediate license holders	All drivers (effective 09/13/11)	Primary
Maryland	All drivers (effective 10/01/10), School Bus Drivers.	Learner's permit and intermediate license holders under 18. School bus drivers	All drivers	Primary for texting
Massachusetts	Local option	School bus drivers, passenger bus drivers, drivers younger than 18	All drivers (effective 09/30/10)	Primary
Michigan	Local option	No	All drivers (effective 07/01/10)	Primary (effective 07/01/10)
Minnesota	No	School bus drivers, learner's permit holders, and provisional license holders during the first 12 months after licensing	All drivers	Primary
Mississippi	No	School bus drivers.	Learner's permit holders and intermediate license holders	Primary
Missouri	No	No	Drivers 21 years of age or younger	Primary
Montana	No	No	No	Not applicable
Nebraska	No	Learner's permit and intermediate license holders younger than 18	Learner's permit and intermediate license holders younger than 18 All drivers	Secondary
Nevada	All drivers (effective 01/01/12)	No	All drivers (effective 01/01/12)	Not applicable
New Hampshire	No	No	All drivers	Primary
New Jersey	All drivers	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary
New Mexico	Local option	Learners permit and intermediate license holders	No	Not applicable

New York	All drivers	No	All drivers	Primary
North Carolina	No	Drivers younger than 18 and school bus drivers	All drivers	Primary
North Dakota	Drivers younger than 18 (effective 01/01/12)	Drivers younger than 18 (effective 01/01/12)	All drivers (effective 08/01/11)	Primary (effective 08/01/11)
Ohio	Local option	Drivers younger than 18.	All drivers	Secondary
Oklahoma	Learner's permit and intermediate license holders, school bus drivers and public transit drivers (effective 11/01/10)	School Bus Drivers and Public Transit Drivers (effective 11/01/10)	Learner's permit and intermediate license holders, school bus drivers and public transit drivers (effective 11/01/10)	Primary
Oregon	All drivers	Drivers younger than 18	All drivers	Primary
Pennsylvania	Local option	No	All drivers	Primary
Rhode Island	No	School bus drivers and drivers younger than 18	All drivers	Primary
South Carolina	No	No	No	Not applicable
South Dakota	No	No	No	Not applicable
Tennessee	No	School bus drivers, and learner's permit and intermediate license holders	All drivers	Primary
Texas	Drivers in school crossing zones	Bus drivers. Drivers younger than 18. (09/01/11)	Bus drivers when a passenger 17 and younger is present; intermediate license holders for first 12 months, drivers in school crossing zones	Primary
Utah	See footnote*	No	All drivers	Primary for texting; secondary for talking on hand-held phone
Vermont	No	Drivers younger than 18 shall not use any portable electronic device while driving	All drivers	Primary
Virginia	No	Drivers younger than 18 and school bus drivers	All drivers	Secondary; primary for school bus drivers
Washington	All drivers	Learners permit and intermediate license holders	All drivers	Primary
West Virginia	All drivers (effective 7/1/2012)	Drivers younger than 18 who hold either a learner's permit or an intermediate license	All drivers (Effective 7/1/2012)	Primary
Wisconsin	No	Learner or Intermediate License holder (Eff. 11/1/12)	All drivers (effective 12/01/10)	Primary (effective 12/01/10)
Wyoming	No	No	All drivers	Primary

* Utah considers speaking on a cell phone, without a hands-free device, to be an offense only if a driver is also committing some other moving violation (other than speeding).

** Maine has a law that makes driving while distracted a traffic infraction. 29-A M.R.S.A. Sec. 2117.

*** Listed as a part of contributing factors

Federal Sample Law

In February 2010, the USDOT unveiled a “Sample Law” for states to use as a starting point for crafting new laws to prohibit texting while driving.² Recognizing states have had some difficulty drafting language that prohibits dangerous behaviors, but allows certain minimal uses of the technology, the United States Department of Transportation (USDOT) requested the participation of several national groups to draft language that was satisfactory to all. The sample law, prepared by the National Highway Traffic Safety Administration, and a cross-section of safety and industry organizations,³ authorized law enforcement officers to stop a vehicle and issue a citation to drivers who are texting while driving.⁴ The sample law is patterned on the Executive Order issued by President Obama on October 1, 2009, directing federal employees not to engage in text messaging while driving government-owned vehicles or other government-owned equipment. Federal employees were required to comply with the ban beginning on December 30, 2009.

Florida Law

The state has expressly preempted all regulation of the use of electronic communications devices in a motor vehicle.⁵ There are currently no prohibitions related to texting or talking on a communications device while driving. However, existing laws may apply more generally to distracted operators of motor vehicles. Operators of motor vehicles are in violation of existing statutes when driving carelessly or recklessly.

The term “careless driving” is defined as the failure to drive the same as other operators of motor vehicles, in a careful and prudent manner, having regard to all attendant circumstances, so as not to endanger the life, limb, or property of any person.⁶ A person who drives carelessly shall be cited for a moving violation.⁷

The term “reckless driving” is defined as the willful or wanton disregard for the safety of persons or property. Upon a first conviction, reckless driving is punishable by imprisonment,⁸ a fine of at least \$25,⁹ or both. A second or subsequent conviction requires a fine of at least \$50,¹⁰ but may also result in imprisonment for not more than 6 months or both. Additionally, reckless driving

² “New Sample Bill Will Aid States in Banning Texting While Driving,” United States Department of Transportation, DOT 31-10. USDOT Secretary Ray LaHood, February 22, 2010. <http://www.dot.gov/affairs/2010/dot3110.htm>

³ Contributors to the sample law include: Advocates for Highway and Auto Safety, Alliance of Automobile Manufacturers, American Association of Motor Vehicle Administrators, American Association of State Highway and Transportation Officials, AAA, Centers for Disease Control and Prevention, CTIA – The Wireless Association, Governors Highway Safety Association, ITS America, International Association of Chiefs of Police, National Conference of State Legislatures, National Safety Council, The National Traffic Law Center of the National District Attorneys Association, and Safe Kids USA. http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Texting_Law_021910.pdf

⁴ *Id.*

⁵ s. 316.0075, F.S.

⁶ s. 316.1925, F.S.

⁷ Punishable as provided in ch. 318, F.S.

⁸ For period of not more than 90 days. Section 316.192(2)(a), F.S.

⁹ Not less than \$25 nor more than \$500. Section 316.192(2)(a), F.S.

¹⁰ But no more than \$1,000. Section 316.192(2)(b), F.S.

that causes damage to the property or person of another is a misdemeanor of the first degree.¹¹ Reckless driving that causes serious bodily injury¹² to another is a felony of the third degree.¹³

While a prohibition exists against vehicle operators wearing headsets, headphones, or other listening devices, there are exceptions.¹⁴ A driver is permitted to use a headset in conjunction with a cellular telephone that provides sound through only one ear and allows surrounding sounds to be heard with the other ear.¹⁵ The Department of Highway Safety and Motor Vehicles (DHSMV) is granted rulemaking authority to detail the standards and specifications of radio equipment permitted by statute.¹⁶ The DHSMV inspects and reviews all such devices submitted to it and publishes a list by name and type of approved equipment.

Section 322.27(3), F.S., provides a point system used to evaluate the qualifications of a person to operate a motor vehicle after accumulating multiple violations of motor vehicle laws. Moving violations typically result in assessment of three points, unless the infraction or offense is among those considered more serious. For example, pursuant to s. 322.27(3)(d), F.S., reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted limit require an assessment of four points. Leaving the scene of a crash and speeding resulting in a crash require an assessment of six points.

The DHSMV may suspend a driver for 30 days if the driver accumulates 12 or more points within a 12-month period,¹⁷ up to three months if the driver accumulates 18 points in 18 months,¹⁸ and up to one year if the driver accumulates 24 points within 36 months.¹⁹

II. Effect of Proposed Changes:

Legislative Intent

The legislative intent is to:

- Improve roadway safety for motor vehicle operators, passengers, bicyclists, pedestrians, and all other road users;
- Prevent crashes related to the act of text messaging;
- Reduce injuries, deaths, property damage, health care costs, health insurance, and automobile insurance rates related to motor vehicle crashes; and
- Authorize law enforcement officers to issue citations for text messaging while driving as a secondary offense.

¹¹ Punishable as provided in ss. 775.082 and 775.083, F.S.

¹² The term “serious bodily injury” means an injury to another person, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Section 316.192(3)(c)(2), F.S.

¹³ Punishable as provided in ss. 775.082 - 775.084, F.S.

¹⁴ s. 316.304, F.S.

¹⁵ s. 316.304(2)(d), F.S.

¹⁶ s. 316.304(3), F.S.

¹⁷ s. 322.27(3)(a), F.S.

¹⁸ s. 322.27(3)(b), F.S.

¹⁹ s. 322.27(3)(c), F.S.

Prohibition on Texting While Driving

To achieve these goals, the bill prohibits a person who is operating a motor vehicle “while manually typing or entering multiple letters, numbers, symbols, or other characters in a wireless communication device, or sending or reading data in the device, for the purpose of non-voice interpersonal communication.” The bill defines the term “wireless communication device” as any handheld device that is used in a handheld manner designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any other communications service²⁰ and which allows text communications.

The bill also specifies that for purposes of the prohibition on texting, a person is not considered to be operating a vehicle when the vehicle is stationary.²¹ Violations are enforceable as secondary violations, meaning that a violator has to be first cited for some other traffic offense before he or she can be cited for the texting while driving offense.

Exceptions

The bill makes exceptions for:

- Law enforcement, fire service, or emergency medical services personnel, or any operator of an authorized emergency vehicle as defined in s. 322.01, F.S.,²² performing official duties;
- Reporting an emergency or criminal or suspicious activity to law enforcement;
- Receiving messages related to:
 - The operation or navigation of a motor vehicle;
 - Safety-related information including emergency, traffic, or weather alerts;
 - Data used primarily by the motor vehicle; or
 - Radio broadcasts;
- Using a device or system for navigation purposes;
- Conducting wireless interpersonal communication that does *not* require manual entry of multiple letters, numbers, or symbols, or reading text messages (except to activate or deactivate or initiate a feature or function); or

²⁰ “Communications service” itself is defined by reference to s. 812.15, F.S. In that statute, the term “communications service” means:

any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

²¹ Sections 316.194 and 316.1945, F.S., prohibit stopping, standing or parking in certain areas. Therefore, the driver of a vehicle stopped, standing, or parked in one of the prohibited locations may be subject to penalty.

²² Section 322.01(4), F.S., defines an “authorized emergency vehicle” as:

a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized by s. 316.2397 to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles. The term does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

- Vehicles that are being operated autonomously.

A user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence in any proceeding to determine whether a violation of the prohibition has been committed.

Penalties

A penalty for a first violation of the prohibition is a non-moving violation, punishable as provided in ch. 318, F.S. Non-moving violations result in a \$30 fine, plus court costs that vary by jurisdiction.

If a person commits a second violation of the prohibition within 5 years of the first violation, the penalty is increased to a moving violation resulting in 3 points being assigned to the person's driver license. Chapter 318, F.S., provides for a \$60 fine plus court costs.

The bill provides that the DHSMV will assign 6 points to the driver license of any driver whose use of a wireless communications device results in a crash, whether the offense is a first or subsequent offense. This point assessment is identical to the number of points that would apply to a driver license if the operator caused a crash as a result of unlawful speed. Finally, if a driver who commits a moving violation covered in s. 322.27(3)(d), F. S., while unlawfully using a wireless communications device in a school safety zone, DHSMV will assign 2 points to his or her license in addition to the points assigned for the moving violation.

The bill has an effective date of October 1, 2013.

Other Potential Implications:

Based upon the definition of "wireless communications device" that limits use to "in a handheld manner," a person may be able to text and drive using a mounted device or by placing the device on his or her lap.

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

An individual violating the prohibition of using wireless communications devices for texting purposes while operating a motor vehicle would be subject to civil penalties and points being assigned to his or her driver license depending on whether the violation is a first offense or a second or subsequent offense.

C. Government Sector Impact:

The bill may generate an indeterminate amount of revenue for both state and local law enforcement agencies, depending on the number of violations issued by law enforcement officials and the frequency with which violators commit subsequent violations, thereby incurring larger penalties.

According to the DHSMV, programming modifications will be required to carry out the implementation of the bill, however, the necessary hours can be incorporated into the information systems administration's normal workload.²³

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Communications, Energy, and Public Utilities Committee on March 6, 2013:

- Clarifies that a driver who commits a moving violation while unlawfully using a wireless communications device in a school safety zone will have 2 points assigned to his or her license in addition to the points assigned for the moving violation.

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CS by Transportation Committee on February 6, 2013:

- Includes in the definition of the term “wireless communications device,” a handheld device used in a handheld manner.

²³ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 416* (Oct. 19, 2011, on file with the Senate Transportation Committee).

- Provides that texting communications are allowed when a vehicle is stationary.
- Allows persons operating autonomous vehicles to use wireless communications while vehicle is in operation.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



190062

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2013	.	
	.	
	.	
	.	

The Committee on Communications, Energy, and Public Utilities
(Garcia) recommended the following:

Senate Amendment

Delete lines 146 - 148
and insert:

11. A moving violation covered in this paragraph which is
committed in conjunction with the unlawful use of a wireless
communications device within a school safety zone—2 points, in
addition to the points assigned for the moving violation.

By the Committee on Transportation; and Senators Detert,
Montford, Margolis, Richter, Latvala, and Abruzzo

596-01575-13

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1 A bill to be entitled
2 An act relating to the use of wireless communications
3 devices while driving; creating s. 316.305, F.S.;
4 creating the "Florida Ban on Texting While Driving
5 Law"; providing legislative intent; prohibiting the
6 operation of a motor vehicle while using a wireless
7 communications device for certain purposes; defining
8 the term "wireless communications device"; providing
9 exceptions; specifying information that is admissible
10 as evidence of a violation; providing penalties;
11 providing for enforcement as a secondary action;
12 amending s. 322.27, F.S.; providing for points to be
13 assessed against a driver license for the unlawful use
14 of a wireless communications device within a school
15 safety zone or resulting in a crash; providing an
16 effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Section 316.305, Florida Statutes, is created to
21 read:

22 316.305 Wireless communications devices; prohibition.-

23 (1) This section may be cited as the "Florida Ban on
24 Texting While Driving Law."

25 (2) It is the intent of the Legislature to:

26 (a) Improve roadway safety for all vehicle operators,
27 vehicle passengers, bicyclists, pedestrians, and other road
28 users.

29 (b) Prevent crashes related to the act of text messaging

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30 while driving a motor vehicle.

31 (c) Reduce injuries, deaths, property damage, health care
32 costs, health insurance rates, and automobile insurance rates
33 related to motor vehicle crashes.

34 (d) Authorize law enforcement officers to stop motor
35 vehicles and issue citations as a secondary offense to persons
36 who are texting while driving.

37 (3) (a) A person may not operate a motor vehicle while
38 manually typing or entering multiple letters, numbers, symbols,
39 or other characters into a wireless communications device or
40 while sending or reading data in such a device for the purpose
41 of nonvoice interpersonal communication, including, but not
42 limited to, communication methods known as texting, e-mailing,
43 and instant messaging. As used in this section, the term
44 "wireless communications device" means any handheld device used
45 in a handheld manner, that is designed or intended to receive or
46 transmit text or character-based messages, access or store data,
47 or connect to the Internet or any communications service as
48 defined in s. 812.15 and that allows text communications. For
49 the purposes of this paragraph, a motor vehicle that is
50 stationary is not being operated and is not subject to the
51 prohibition in this paragraph.

52 (b) Paragraph (a) does not apply to a motor vehicle
53 operator who is:

54 1. Performing official duties as an operator of an
55 authorized emergency vehicle as defined in s. 322.01, a law
56 enforcement or fire service professional, or an emergency
57 medical services professional.

58 2. Reporting an emergency or criminal or suspicious

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59 activity to law enforcement authorities.

60 3. Receiving messages that are:

61 a. Related to the operation or navigation of the motor
62 vehicle;

63 b. Safety-related information, including emergency,
64 traffic, or weather alerts;

65 c. Data used primarily by the motor vehicle; or

66 d. Radio broadcasts.

67 4. Using a device or system for navigation purposes.

68 5. Conducting wireless interpersonal communication that
69 does not require manual entry of multiple letters, numbers, or
70 symbols, except to activate, deactivate, or initiate a feature
71 or function.

72 6. Conducting wireless interpersonal communication that
73 does not require reading text messages, except to activate,
74 deactivate, or initiate a feature or function.

75 7. Operating an autonomous vehicle, as defined in s.
76 316.003, in autonomous mode.

77 (c) A user's billing records for a wireless communications
78 device or the testimony of or written statements from
79 appropriate authorities receiving such messages may be
80 admissible as evidence in any proceeding to determine whether a
81 violation of paragraph (a) has been committed.

82 (4) (a) Any person who violates paragraph (3) (a) commits a
83 noncriminal traffic infraction, punishable as a nonmoving
84 violation as provided in chapter 318.

85 (b) Any person who commits a second or subsequent violation
86 of paragraph (3) (a) within 5 years after the date of a prior
87 conviction for a violation of paragraph (3) (a) commits a

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88 noncriminal traffic infraction, punishable as a moving violation
89 as provided in chapter 318.

90 (5) Enforcement of this section by state or local law
91 enforcement agencies must be accomplished only as a secondary
92 action when an operator of a motor vehicle has been detained for
93 a suspected violation of another provision of this chapter,
94 chapter 320, or chapter 322.

95 Section 2. Paragraph (d) of subsection (3) of section
96 322.27, Florida Statutes, is amended to read:

97 322.27 Authority of department to suspend or revoke driver
98 license or identification card.—

99 (3) There is established a point system for evaluation of
100 convictions of violations of motor vehicle laws or ordinances,
101 and violations of applicable provisions of s. 403.413(6) (b) when
102 such violations involve the use of motor vehicles, for the
103 determination of the continuing qualification of any person to
104 operate a motor vehicle. The department is authorized to suspend
105 the license of any person upon showing of its records or other
106 good and sufficient evidence that the licensee has been
107 convicted of violation of motor vehicle laws or ordinances, or
108 applicable provisions of s. 403.413(6) (b), amounting to 12 or
109 more points as determined by the point system. The suspension
110 shall be for a period of not more than 1 year.

111 (d) The point system shall have as its basic element a
112 graduated scale of points assigning relative values to
113 convictions of the following violations:

- 114 1. Reckless driving, willful and wanton—4 points.
115 2. Leaving the scene of a crash resulting in property
116 damage of more than \$50—6 points.

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- 117 3. Unlawful speed, or unlawful use of a wireless
118 communications device, resulting in a crash-6 points.
- 119 4. Passing a stopped school bus-4 points.
- 120 5. Unlawful speed:
- 121 a. Not in excess of 15 miles per hour of lawful or posted
122 speed-3 points.
- 123 b. In excess of 15 miles per hour of lawful or posted
124 speed-4 points.
- 125 6. A violation of a traffic control signal device as
126 provided in s. 316.074(1) or s. 316.075(1)(c)1.-4 points.
127 However, no points shall be imposed for a violation of s.
128 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
129 stop at a traffic signal and when enforced by a traffic
130 infraction enforcement officer. In addition, a violation of s.
131 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
132 stop at a traffic signal and when enforced by a traffic
133 infraction enforcement officer may not be used for purposes of
134 setting motor vehicle insurance rates.
- 135 7. All other moving violations (including parking on a
136 highway outside the limits of a municipality)-3 points. However,
137 no points shall be imposed for a violation of s. 316.0741 or s.
138 316.2065(11); and points shall be imposed for a violation of s.
139 316.1001 only when imposed by the court after a hearing pursuant
140 to s. 318.14(5).
- 141 8. Any moving violation covered in this paragraph ~~above,~~
142 excluding unlawful speed and unlawful use of a wireless
143 communications device, resulting in a crash-4 points.
- 144 9. Any conviction under s. 403.413(6)(b)-3 points.
- 145 10. Any conviction under s. 316.0775(2)-4 points.

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146 11. Any moving violation covered in this paragraph
147 committed in conjunction with the unlawful use of a wireless
148 communications device within a school safety zone—2 points.

149 Section 3. This act shall take effect October 1, 2013.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SB 326

INTRODUCER: Senator Hays

SUBJECT: Powers and Duties of the Department of Environmental Protection

DATE: February 28, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gudeman</u>	<u>Uchino</u>	<u>EP</u>	Favorable
2.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	Favorable
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 326 removes an obsolete reference relating to right-of-way access in Marion County across portions of the Cross Florida Greenway (CFG) and repeals the surplus and exchange procedures specific to CFG lands. The repeal of the specific CFG surplus and exchange procedures appears to allow the Department of Environmental Protection’s (DEP) Office of Greenways and Trails to follow current DEP Division of State Lands procedures for the surplus and exchange of conservation lands.

The bill amends s. 253.7827 and repeals s. 253.783(2), of the Florida Statutes.

I. Present Situation:

Cross Florida Greenway

The Cross Florida Barge Canal Project was begun in 1933 with the goal of creating a deep-water shipping canal across the state. Construction began in 1935 with federal funding as part of the New Deal, but work was suspended in 1936 when both Roosevelt’s support and funding dwindled.¹ With German U-boats off the Florida coast in 1942, Congress passed a bill authorizing construction of another canal following the same route, this one a barge canal. However, no funding was provided and no work was done.² In 1964, federal money was again provided and construction was begun anew.³ However, environmentalists again opposed the

¹ Florida Trend, *Lessons from the Cross Florida Barge Canal Project*, (Feb. 1, 2010), <http://www.floridatrend.com/article/4509/lessons-from-the-cross-florida-barge-canal-project> (last visited Feb. 28, 2013).

² *Id.*

³ *Id.*

canal, led by Marjorie Carr, and in 1971 President Richard Nixon signed an executive order suspending work on the canal.⁴ During this time, thousands of acres of land were acquired. In 1990, Congress officially de-authorized the project and all federal canal lands and structures were transferred to the state to be managed as a conservation and recreation area, provided that the state:

- Holds the federal government harmless for claims arising from operation of federal lands and facilities;
- Maintains the corridor as a public greenway for compatible recreation purposes, including specified areas;
- Agrees to preserve, enhance, interpret, and manage the natural and cultural resources contained in specified areas;
- Pays Citrus, Clay, Duval, Levy, Marion, and Putnam Counties a minimum aggregate sum of \$32 million, or at the option of the counties, payment by conveyance of surplus barge canal lands selected by the state at current appraised values;
- Uses any remaining funds generated from the sale of surplus CFG lands to acquire fee title or easements to other lands along the project route. Any remaining funds generated from the sale of surplus CFG lands *must* be used for the improvement and management of the greenway corridor. It does not dictate the procedures the state must use to surplus CFG lands, only how the funds from the sale of surplus land are to be managed.⁵

The Act also provides for certain legal remedies if the state fails to comply with the above requirements.⁶

The canal land was officially named the Marjorie Harris Carr Cross Florida Greenway (CFG) and is now managed by the Office of Greenways and Trails. The CFG is a multi-use area and provides natural resource based recreation including fishing, camping, hunting, boating, bicycling, and horseback riding.⁷

Right of Way Access in Marion County

The CFG extends through portions of Marion County, requiring that Marion County receive right-of-way access across portions of the CFG. Section 253.7827(3), F.S., provides that Marion County may purchase right-of-way access at fair market value, or that the value of the right-of-way be subtracted from the amount of reimbursement due to the county, pursuant to s. 253.783, F.S. Marion County is no longer subject to reimbursement, therefore this provision is obsolete.⁸

⁴ *Id.*

⁵ See Sec. 1114(d) of the Water Resource Development Act of 1986 as amended by Sec. 402 of the Water Resource Development Act of 1990, available at <http://www.fws.gov/habitatconservation/Omnibus/WRDA1990.pdf> (last visited Feb. 5, 2013).

⁶ *Id.*

⁷ DEP, *Marjorie Harris Carr Cross Florida Greenway Management Plan*, (June 15, 2007), http://www.dep.state.fl.us/gwt/cfg/Plan_PDF/CFG_LMP_Final.pdf (last visited Feb. 4, 2013).

⁸ Email from Pierce Schuessler, Legislative Affairs Director, DEP, (Feb. 4, 2013)(on file with the Senate Committee on Environmental Preservation and Conservation).

Cross Florida Greenway Surplus Procedures

CFG lands are subject to specific surplus procedures that were created in order to generate funds needed to refund counties the ad valorem taxes that the counties paid to the Cross Florida Canal Navigation District.⁹ Section 253.783(2), F.S., provides the following CFG-specific surplus procedures:

- The county where the surplus land is located has the first right of refusal to acquire the land at current appraised value by buying it or subtracting the value from its reimbursement;
- The original owner of the land or the original owner's heirs have second right of refusal to acquire the land at current appraised value;
- Any person having a leasehold interest in the land has the third right of refusal to acquire the land at current appraised value;
- Surplus land that is not acquired as stated above is offered in a public sale to the highest bidder. The minimum acceptable bid is the current appraised value;
- Proceeds from the sale of CFG land are refunded to the counties for ad valorem taxes paid by the counties to the Cross Florida Canal Navigation District;
- Interest refunded to the counties is compounded annually at rates specified in s. 253.0783(2)(f), F.S.; and
- Any excess funds from the sale of surplus lands *may* be used for the maintenance of the greenway corridor, which is in conflict with the requirements of the Act.

All counties within the CFG corridor have been fully reimbursed; therefore, the reimbursement procedures contained in this section are obsolete.¹⁰

Conservation Land Surplus Procedures

As to surplus conservation land in general (as opposed to surplus CFG land), the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) has the authority to surplus conservation land if it is determined that the land is no longer needed for conservation purposes. Section 253.034(6), F.S., outlines the surplus procedures for conservation lands as follows:

- The Acquisition and Restoration Council must first confirm that the request to surplus conservation land is consistent with the resource values and management objectives of the land;
- The Board of Trustees approves the surplus by a vote of at least three members;
- State agencies, colleges, and universities are given priority to lease the surplus land;
- State, county, or local governments are offered second right of refusal to purchase the surplus land;
- If governmental agencies, colleges, and universities opt out of purchasing surplus land, then the land is available for sale on the private market;
- The sale price is negotiated or competitively bid (determined by market value) pursuant to s. 253.034(6)(g), F.S., and Rule 18-2.020, F.A.C.; and
- Proceeds from the sale of surplus land are deposited into the fund from which the lands were acquired. If the trust fund from which the lands were acquired no longer exists, the funds are deposited into an appropriate account to be used for land management.

⁹ *Id.*

¹⁰ *Id.*

II. Effect of Proposed Changes:

Section 1 amends s. 253.7827(3), F.S., deleting the option of Marion County to subtract the fair market value of lands or right-of-ways needed to expand 60th Avenue. As is stated above, all reimbursement funds have been repaid to Marion County; therefore this option is obsolete.

Section 2 repeals s. 253.783(2), F.S., and appears to allow the surplus procedures of CFG lands to be consistent with current Board of Trustees surplus procedures. This provides for better management of CFG lands and will close ownership gaps within the CFG boundary. The repeal provides consistency between the federal requirements for the funds acquired from the surplus of CFG lands and the manner in which the state manages the funds.¹¹

Section 3 provides an effective date of July 1, 2013.

Other Potential Implications:

The current surplus procedures outlined in s. 253.783(2), F.S., violate the Water Resource Development Act of 1990. The Act specifies any remaining funds from surplus lands after acquisition of fee title or easements must be used for maintenance of the greenway, while s. 253.783(2)(e), F.S., is permissive for such remaining funds. Repeal of this section remedies this violation. However, the bill does not specify that the funds generated from surplus former federal CFG lands must adhere to the Act's requirements when using the usual surplus procedures outlined in s. 253.034(6), F.S. As stated above, if the state fails to follow the Act's requirements, it may be subject to certain legal remedies.

The repeal of s. 253.0783(2), F.S., implies that the sale and exchange of surplus CFG lands may continue under the existing process for conservation lands titled in the Board of Trustees as outlined in s. 253.034(6), F.S.; however, the bill does not explicitly state this.

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ *Supra* note 8.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be an indeterminate cost savings to the DEP by not having a separate procedure for surplussing CFG lands. Additionally, the current procedure for surplussing CFG lands may require multiple public notices placed in newspapers and lengthy legal determinations on the rights of people claiming to be heirs or those claiming a leasehold interest in the lands.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Hays

11-00106A-13

2013326

1 A bill to be entitled
2 An act relating to the powers and duties of the
3 Department of Environmental Protection; amending s.
4 253.7827, F.S.; removing an obsolete reference for
5 purposes of calculating the reimbursement for
6 transportation and utility crossings of greenways
7 lands in Marion County; repealing s. 253.783(2), F.S.,
8 relating to additional powers and duties of the
9 department to dispose of surplus lands that were for
10 the construction, operation, or promotion of a canal
11 across the peninsula of the state and refund payments
12 to counties; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Subsection (3) of section 253.7827, Florida
17 Statutes, is amended to read:

18 253.7827 Transportation and utility crossings of greenways
19 lands.—

20 (3) Furthermore, the Legislature recognizes the needs
21 expressed by Marion County to provide for the southerly
22 extension of Sixtieth Avenue between State Road 200 and
23 Interstate 75 and for the extension to cross the greenways lands
24 to allow for the orderly growth and development of Marion
25 County. Right-of-way for this extension across greenways lands
26 shall be designed to mitigate the impacts to the extent
27 practical, and the value of such lands shall be paid based on
28 fair market value ~~or, at the option of Marion County, the value~~
29 ~~can be subtracted from the amount of reimbursement due the~~

11-00106A-13

2013326__

30 ~~county pursuant to s. 253.783.~~

31 Section 2. Subsection (2) of section 253.783, Florida
32 Statutes, is repealed.

33 Section 3. This act shall take effect July 1, 2013.

**SUMMARY OF AMENDMENTS
TO
SB 714**

<p>Amendment # 1 By Senator Hukill Barcode #345996 Delete all</p>	<p>The strike-all makes the following changes to the bill:</p> <ul style="list-style-type: none">• Adds a subsection that restates the entire definition of proprietary confidential business information, in order to clarify any ambiguities that may be inferred from the previous cross-reference on lines 22-23.• Provides that proprietary confidential business information is “held by” a utility.• Adds a new requirement for a utility to hold proprietary confidential business information for a year before returning it to the private or out-of-state entity after a due diligence review.• Includes consistency for proprietary confidential business information to be “confidential and exempt” where there was an inconsistency before.
<p>Amendment to Amendment #1 By Senator Hukill Barcode #522420 Line 85</p>	<ul style="list-style-type: none">• Replaces the term “propriety” with the correct term “proprietary”.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: CS/SB 714

INTRODUCER: Committee on Communications, Energy, and Public Utilities and Senator Simmons

SUBJECT: Public Records/Proprietary Confidential Business Information

DATE: March 7, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Geeker/Wiehle	Caldwell	CU	Fav/CS
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:	
A. COMMITTEE SUBSTITUTE.....	<input checked="" type="checkbox"/> Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/> Technical amendments were recommended
	<input type="checkbox"/> Amendments were recommended
	<input type="checkbox"/> Significant amendments were recommended

I. Summary:

CS/SB 714 creates a new subsection of the Florida Statutes that defines proprietary confidential business information as information, regardless of form or characteristics, the disclosure of which would cause harm to the providing entity or its business operations. Proprietary confidential business information includes, but is not limited to: trade secrets; internal auditing controls and reports of internal auditors; security measures, systems, or procedures; information concerning bids or other contractual data; and information relating to competitive interests. The bill creates a public records exemption for proprietary confidential business information held by a municipal electric utility in conjunction with a due diligence review and requires that this information be held by the utility for one year before being returned to the entity.

The bill also states that the public necessity for the exemption is based upon the inability of a municipal electric utility to operate efficiently in entering into a partnership with entities that can improve the delivery, cost, or diversification of fuel or renewable energy resources without the exemption.

This bill substantially amends s. 119.0713 of the Florida Statutes.

II. Present Situation:

Public Access

Florida has a long history of providing public access to the records of governmental and other public entities. The Legislature enacted its first law affording access to public records in 1892. In 1992, Florida voters approved an amendment to the State Constitution which raised the statutory right of access to public records to a constitutional level.

Section 24(a), Art. I, State Constitution

Section 24(a), Art. I of the State Constitution provides the following:

(a) Every person has the right to inspect or copy any public records made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Florida's Public Records Law

Florida's public records law is contained in chapter 119, F.S., and specifies conditions under which the public must be given access to governmental records. Section 119.07(1)(a), F.S., provides that every person who has custody of a public record¹ must permit the record to be inspected and examined by any person, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record. Unless specifically exempted, all agency² records are to be available for public inspection.

The Florida Supreme Court has interpreted the definition of public records to encompass all materials made or received by an agency in connection with official business which are "intended to perpetuate, communicate, or formalize knowledge."³ All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.⁴

¹ s. 119.011(1), F.S., defines "public record" to include "all documents, papers, letters, maps, books, tapes, photographs, film, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

² s. 119.011(2), F.S., defines "agency" as "...any state, county, district, authority, or municipal officer, department, division, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

³ *Shevin v. Byron, Harless, Shafer, Reid, and Assocs., Inc.*, 379 So. 2d 633, 640(Fla. 1980).

⁴ *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979)

Only the Legislature is authorized to create exemptions to open government requirements.⁵ Exemptions must be created by general law and such law must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.⁶ A bill enacting an exemption⁷ may not contain other substantive provisions although it may contain multiple exemptions relating to one subject.⁸

There is a difference between records that the Legislature exempts from public inspection and those that the Legislature makes confidential and exempt from public inspection. If a record is made confidential with no provision for its release so that its confidential status will be maintained, such record may not be released by an agency to anyone other than the person or entities designated in the statute.⁹ If a record is simply exempt from mandatory disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.¹⁰

Open Government Sunset Review Act

The Open Government Sunset Review Act established in s. 119.15, F.S., provides a review and repeal process for public records exemptions. In the fifth year after enactment of a new exemption or in the fifth year after substantial amendment of an existing exemption, the exemption is repealed on October 2, unless reenacted by the Legislature. Each year, by June 1, the Division of Statutory Revision of the Joint Legislative Management Committee is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.

The Act states that an exemption may be created, revised, or maintained only if it serves an identifiable public purpose and if the exemption is no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. The three statutory criteria are that the exemption:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not

⁵ Article I, s. 24(c) of the State Constitution.

⁶ *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So.2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So.2d 567 (Fla. 1999).

⁷ s. 119.15, F.S., provides that an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.

⁸ Article 1, s. 24(c) of the State Constitution

⁹ Attorney General Opinion 85-62, August 1, 1985.

¹⁰ *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d. 289 (Fla. 1991).

know or use it, the disclosure of which would injure the affected entity in the marketplace.

Information from First Amendment Foundation

With the adoption of the amendments, the First Amendment Foundation is now neutral.

Local Government Agency Exemptions from Inspection or Copying of Public Records

The three types of electric utilities defined in s. 366.02(2), F.S., are the municipal electric utility, investor-owned electric utility, and rural electric cooperative. Any records produced or held by investor-owned utilities or rural electric cooperatives are unaffected by public records law, as both are privately owned. Municipal utilities, however, are owned by a municipality and their records are subject to public records law. Section 119.0713, F.S., provides public records exemptions for local government agencies. It includes an exemption for a municipally-owned utility pertaining to any data, record, or document used directly or solely by the utility to prepare and submit a bid relative to the sale, distribution, or use of any service, commodity, or tangible personal property to any customer or prospective customer.

Florida Interlocal Cooperation Act of 1969

The Florida Interlocal Cooperation Act of 1969 is found in s. 163.01, F.S. This section permits local governmental entities to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities. Paragraph (3)(d) defines the term “electric project” to mean: any plant, together with all parts thereof and appurtenances thereto; any interest in, or right to, the use of any such plant; and any study to determine the feasibility or costs of any plant.

Public Utility Records; Confidentiality

Section 366.093, F.S., provides for confidentiality of public records. Proprietary confidential business information, as defined in paragraph (3), is information regardless of form or characteristics, which is owned or controlled by a person or company, is intended to be and is treated by a person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person’s or company’s business operations. Proprietary confidential business information includes: trade secrets; internal auditing controls and reports of internal auditors; security measures, systems, or procedures; information concerning bids or other contractual data, the disclosure of which would impair the competitive business of the provider of the information; and employee personnel information unrelated to compensations, duties, qualifications, or responsibilities.

III. Effect of Proposed Changes:

Section 1 creates a public records exemption for proprietary confidential business information that is held by a municipal electric utility and makes such information confidential. The term

proprietary confidential business information is defined as information, regardless of form or characteristics, the disclosure of which would cause harm to the providing entity or its business operations. Proprietary confidential business information includes, but is not limited to: trade secrets; internal auditing controls and reports of internal auditors; security measures, systems, or procedures; information concerning bids or other contractual data; and information relating to competitive interests. To be exempt from public records disclosure, proprietary confidential business information must:

- Meet the definition
- Be held by an electric utility that is subject to chapter 119, F.S. and;
- Be provided in conjunction with a due diligence review of either:
 - An electric project as defined in s. 163.01(3)(d), F.S., or
 - A project to improve the delivery, cost, or diversification of fuel or renewable energy resources.

Section 1 also requires that proprietary confidential business information be retained by the utility for one year before being returned to the custody of the person or entity providing the information.

The bill provides that the exemption stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature through the Open Government Sunset Review Act.

Section 2 sets forth the public necessity of ensuring exemption from public disclosure and confidentiality of proprietary confidential business information belonging to a private or out-of-state entity and held by an electric utility in the event that they enter into an electric project or partnership. Disclosure of any proprietary confidential business information under the public records law could destroy the value of the information provided by the private entity by giving its competitors detailed insights into its financial status and strategic plans, and cause economic harm not only to the entity or person providing the information, but ratepayers and electric utilities as well. The ratepayers would be at a disadvantage by being deprived of opportunities for rate reductions or improvements to their utility services. The electric utilities would also have limited opportunities to find cost-effective solutions in providing electric services and improving the delivery, cost, or diversification of fuel or renewable energy to its customers. As a result, public and private harm in the disclosure of such information would far outweigh any benefit of the public disclosure of proprietary confidential business information. This bill will allow electric utilities to expand and enhance their energy capabilities, which in turn may allow them to provide optimal services to their customers, the ratepayers.

Section 3 provides that the act take effect on July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The requirement of Article I, s. 24(c) of the State Constitution and s. 119.15, F.S. are met in that the public records exemption contained in s. 119.0713(4), F.S.:

- Serves an identifiable public purpose in that it:
 - Protects information of a confidential nature concerning entities, including, but not limited to, a pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure that affected entity in the marketplace, and
 - Allows government-owned electric utilities to effectively and efficiently administer services to their ratepayers, providing an electric project would potentially improve the delivery, cost, or diversification of fuel or renewable energy that a utility can provide, whereas administration would be significantly impaired without the exemption;
- The exemption is no broader than is necessary to meet the public purpose it serves; and
- The purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The public will not have access to proprietary confidential business information received by a government-owned electric utility. Out-of-state energy generators and other technology providers will be more inclined to enter into public-private partnerships in Florida; to the extent that such electric partnerships would potentially improve the delivery, cost, or diversification of fuel or renewable energy, government-owned electric utilities and their customers may benefit.

C. Government Sector Impact:

Electric utilities that are government owned will be able to obtain information and negotiate with private companies or other entities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/SB 714 by Committee on Communications, Energy, and Public Utilities on March 6, 2013:

- Expressly defines the term proprietary confidential business information instead of defining it by cross-reference.
- Clarifies that proprietary confidential business information is “held by” a utility instead of “provided to.”
- Consistently states that proprietary confidential business information is both confidential and exempt.
- Requires that the information be retained for one year by the utility
- Deletes “propriety” and replaces with “proprietary.”

B. Amendments:

None.



345996

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2013	.	
	.	
	.	
	.	

The Committee on Communications, Energy, and Public Utilities (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (4) is added to section 119.0713, Florida Statutes, to read:

119.0713 Local government agency exemptions from inspection or copying of public records.—

(4) (a) Proprietary confidential business information means information, regardless of form or characteristics, which is held by an electric utility that is subject to chapter 119, is intended to be and is treated by the entity that provided the



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13 information to the electric utility as private in that the
14 disclosure of the information would cause harm to the providing
15 entity or its business operations, and has not been disclosed
16 unless disclosed pursuant to a statutory provision, an order of
17 a court or administrative body, or private agreement that
18 provides that the information will not be released to the
19 public. Proprietary confidential business information includes,
20 but is not limited to:
21 1. Trade secrets.
22 2. Internal auditing controls and reports of internal
23 auditors.
24 3. Security measures, systems, or procedures.
25 4. Information concerning bids or other contractual data,
26 the disclosure of which would impair the efforts of the electric
27 utility to contract for goods or services on favorable terms.
28 5. Information relating to competitive interests, the
29 disclosure of which would impair the competitive business of the
30 provider of the information.
31 (b) Proprietary confidential business information held by
32 an electric utility that is subject to chapter 119 in
33 conjunction with a due diligence review of an electric project
34 as defined in s. 163.01(3)(d) or a project to improve the
35 delivery, cost, or diversification of fuel or renewable energy
36 resources is confidential and exempt from s. 119.07(1) and s.
37 24(a), Art. I of the State Constitution.
38 (c) All proprietary confidential business information
39 described in paragraph (b) shall be retained for one year after
40 the due diligence review has been completed and the electric
41 utility has decided whether or not to participate in the



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42 project.

43 (d) This subsection is subject to the Open Government
44 Sunset Review Act in accordance with s. 119.15, and shall stand
45 repealed on October 2, 2018, unless reviewed and saved from
46 repeal through reenactment by the Legislature.

47 Section 2. (1) The Legislature finds that it is a public
48 necessity that proprietary confidential business information
49 held by an electric utility that is subject to chapter 119,
50 Florida Statutes, in conjunction with a due diligence review of
51 an electric project as defined in s. 163.01(3)(d), Florida
52 Statutes, or a project to improve the delivery, cost, or
53 diversification of fuel or renewable energy resources be made
54 confidential and exempt from public records requirements. The
55 disclosure of such proprietary confidential business
56 information, such as trade secrets, internal auditing controls
57 and reports, security measures, systems, or procedures, or other
58 information relating to competitive interests, could injure the
59 provider in the marketplace by giving its competitors detailed
60 insights into its financial status and strategic plans, thereby
61 putting the provider at a competitive disadvantage. Without this
62 exemption, providers might be unwilling to enter into
63 discussions with the utility regarding the feasibility of future
64 contracting. This could, in turn, limit opportunities the
65 utility might otherwise have for finding cost-effective or
66 strategic solutions for providing electric service or improving
67 the delivery, cost, or diversification of fuel or renewable
68 energy. This would put public providers of electric utility
69 services at a competitive disadvantage by limiting their ability
70 to optimize services to their customers and adversely affecting



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71 the customers of those utilities by depriving them of
72 opportunities for rate reductions or other improvements in
73 services.

74 (2) Proprietary confidential business information derives
75 actual or potential independent economic value from not being
76 generally known to, and not being readily ascertainable by
77 proper means by, other persons who can derive economic value
78 from its disclosure or use. A utility, in performing the
79 appropriate due diligence review of electric projects or
80 projects to improve the delivery, cost, or diversification of
81 fuel or renewable energy sources, may need to obtain proprietary
82 confidential business information. Without an exemption from
83 public records requirements for this information, it becomes a
84 public record when received by an electric utility and must be
85 disclosed upon request. Disclosure of any propriety confidential
86 business information under the public records law would destroy
87 the value of that property and cause economic harm not only to
88 the entity or person providing the information, but to the
89 ratepayers through reduced competition for the provision of
90 vital electric utility services.

91 (3) In finding that the public records exemption created by
92 this act is a public necessity, the Legislature also finds that
93 the public and private harm in disclosing such proprietary
94 confidential business information significantly outweighs any
95 public benefit derived from disclosure of the information and
96 that the exemption created by this act will enhance the ability
97 of electric utilities to optimize their performance, thereby
98 benefiting the ratepayers.

99 Section 3. This act shall take effect July 1, 2013.



345996

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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public records; amending s.
119.0713, F.S.; providing an exemption from public
records requirements for specified proprietary
confidential business information held by an electric
utility that is subject to ch. 119, F.S., in
conjunction with a due diligence review of an electric
project or a project to improve the delivery, cost, or
diversification of fuel or renewable energy resources;
providing for the retention of such information for a
specified time; providing for future review and repeal
of the exemption; providing a statement of public
necessity; providing an effective date.



522420

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2013	.	
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	.	

The Committee on Communications, Energy, and Public Utilities
(Hukill) recommended the following:

Senate Amendment to Amendment (345996)

Delete line 85
and insert:
disclosed upon request. Disclosure of any proprietary
confidential



370400

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/06/2013	.	
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	.	
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The Committee on Communications, Energy, and Public Utilities
(Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) is added to section 119.0713,
Florida Statutes, to read:

119.0713 Local government agency exemptions from inspection
or copying of public records.—

(4) (a) Proprietary confidential business information means
information, regardless of form or characteristics, which is
held by an electric utility that is subject to chapter 119, is
intended to be and is treated by the entity that provided the



370400

13 information to the electric utility as private in that the
14 disclosure of the information would cause harm to the providing
15 entity or its business operations, and has not been disclosed
16 unless disclosed pursuant to a statutory provision, an order of
17 a court or administrative body, or private agreement that
18 provides that the information will not be released to the
19 public. Proprietary confidential business information includes,
20 but is not limited to:

21 1. Trade secrets.

22 2. Internal auditing controls and reports of internal
23 auditors.

24 3. Security measures, systems, or procedures.

25 4. Information concerning bids or other contractual data,
26 the disclosure of which would impair the efforts of the electric
27 utility to contract for goods or services on favorable terms.

28 5. Information relating to competitive interests, the
29 disclosure of which would impair the competitive business of the
30 provider of the information.

31 (b) Proprietary confidential business information held by
32 an electric utility that is subject to chapter 119 in
33 conjunction with a due diligence review of an electric project
34 as defined in s. 163.01(3)(d) or a project to improve the
35 delivery, cost, or diversification of fuel or renewable energy
36 resources is confidential and exempt from s. 119.07(1) and s.
37 24(a), Art. I of the State Constitution.

38 (c) All proprietary confidential business information
39 described in paragraph (b) shall be retained for one year after
40 the due diligence review has been completed and the electric
41 utility has decided whether or not to participate in the



370400

42 project.

43 (d) This subsection is subject to the Open Government
44 Sunset Review Act in accordance with s. 119.15, and shall stand
45 repealed on October 2, 2018, unless reviewed and saved from
46 repeal through reenactment by the Legislature.

47 Section 2. (1) The Legislature finds that it is a public
48 necessity that proprietary confidential business information
49 held by an electric utility that is subject to chapter 119,
50 Florida Statutes, in conjunction with a due diligence review of
51 an electric project as defined in s. 163.01(3)(d), Florida
52 Statutes, or a project to improve the delivery, cost, or
53 diversification of fuel or renewable energy resources be made
54 confidential and exempt from public records requirements. The
55 disclosure of such proprietary confidential business
56 information, such as trade secrets, internal auditing controls
57 and reports, security measures, systems, or procedures, or other
58 information relating to competitive interests, could injure the
59 provider in the marketplace by giving its competitors detailed
60 insights into its financial status and strategic plans, thereby
61 putting the provider at a competitive disadvantage. Without this
62 exemption, providers might be unwilling to enter into
63 discussions with the utility regarding the feasibility of future
64 contracting. This could, in turn, limit opportunities the
65 utility might otherwise have for finding cost-effective or
66 strategic solutions for providing electric service or improving
67 the delivery, cost, or diversification of fuel or renewable
68 energy. This would put public providers of electric utility
69 services at a competitive disadvantage by limiting their ability
70 to optimize services to their customers and adversely affecting



71 the customers of those utilities by depriving them of
72 opportunities for rate reductions or other improvements in
73 services.

74 (2) Proprietary confidential business information derives
75 actual or potential independent economic value from not being
76 generally known to, and not being readily ascertainable by
77 proper means by, other persons who can derive economic value
78 from its disclosure or use. A utility, in performing the
79 appropriate due diligence review of electric projects or
80 projects to improve the delivery, cost, or diversification of
81 fuel or renewable energy sources, may need to obtain proprietary
82 confidential business information. Without an exemption from
83 public records requirements for this information, it becomes a
84 public record when received by an electric utility and must be
85 disclosed upon request. Disclosure of any proprietary
86 confidential business information under the public records law
87 would destroy the value of that property and cause economic harm
88 not only to the entity or person providing the information, but
89 to the ratepayers through reduced competition for the provision
90 of vital electric utility services.

91 (3) In finding that the public records exemption created by
92 this act is a public necessity, the Legislature also finds that
93 the public and private harm in disclosing such proprietary
94 confidential business information significantly outweighs any
95 public benefit derived from disclosure of the information and
96 that the exemption created by this act will enhance the ability
97 of electric utilities to optimize their performance, thereby
98 benefiting the ratepayers.

99 Section 3. This act shall take effect July 1, 2013.



370400

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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public records; amending s.
119.0713, F.S.; providing an exemption from public
records requirements for specified proprietary
confidential business information held by an electric
utility that is subject to ch. 119, F.S., in
conjunction with a due diligence review of an electric
project or a project to improve the delivery, cost, or
diversification of fuel or renewable energy resources;
providing for the retention of such information for a
specified time; providing for future review and repeal
of the exemption; providing a statement of public
necessity; providing an effective date.

By Senator Simmons

10-00765-13

2013714

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.0713, F.S.; providing an exemption from public
4 records requirements for specified proprietary
5 confidential business information provided by a
6 private or out-of-state entity to an electric utility
7 that is subject to ch. 119, F.S., in conjunction with
8 a due diligence review of an electric project or a
9 project to improve the delivery, cost, or
10 diversification of fuel or renewable energy resources;
11 providing for the return of such information to the
12 provider; providing for future review and repeal of
13 the exemption; providing a statement of public
14 necessity; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Subsection (4) is added to section 119.0713,
19 Florida Statutes, to read:

20 119.0713 Local government agency exemptions from inspection
21 or copying of public records.—

22 (4) (a) Proprietary confidential business information, as
23 defined in s. 366.093(3), provided by a private or out-of-state
24 entity to an electric utility that is subject to chapter 119 in
25 conjunction with a due diligence review of an electric project
26 as defined in s. 163.01(3)(d) or a project to improve the
27 delivery, cost, or diversification of fuel or renewable energy
28 resources is exempt from s. 119.07(1) and s. 24(a), Art. I of
29 the State Constitution.

10-00765-13

2013714

30 (b) All proprietary confidential business information
31 described in paragraph (a) shall be returned to the custody of
32 the person or entity providing the information after the due
33 diligence review has been completed and the utility has decided
34 whether or not to participate in the project.

35 (c) Paragraph (a) is subject to the Open Government Sunset
36 Review Act in accordance with s. 119.15, and shall stand
37 repealed on October 2, 2018, unless reviewed and saved from
38 repeal through reenactment by the Legislature.

39 Section 2. (1) The Legislature finds that it is a public
40 necessity that proprietary confidential business information, as
41 defined in s. 366.093(3), Florida Statutes, provided by a
42 private or out-of-state entity to an electric utility that is
43 subject to chapter 119, Florida Statutes, in conjunction with a
44 due diligence review of an electric project as defined in s.
45 163.01(3)(d), Florida Statutes, or a project to improve the
46 delivery, cost, or diversification of fuel or renewable energy
47 resources be made confidential and exempt from public records
48 requirements. The disclosure of such proprietary confidential
49 business information, such as trade secrets, internal auditing
50 controls and reports, security measures, systems, or procedures,
51 or other information relating to competitive interests, could
52 injure the provider in the marketplace by giving its competitors
53 detailed insights into its financial status and strategic plans,
54 thereby putting the provider at a competitive disadvantage.
55 Without this exemption, providers might be unwilling to enter
56 into discussions with the utility regarding the feasibility of
57 future contracting. This could, in turn, limit opportunities the
58 utility might otherwise have for finding cost-effective or

10-00765-13

2013714

59 strategic solutions for providing electric service or improving
60 the delivery, cost, or diversification of fuel or renewable
61 energy. This would put public providers of electric utility
62 services at a competitive disadvantage by limiting their ability
63 to optimize services to their customers and adversely affecting
64 the customers of those utilities by depriving them of
65 opportunities for rate reductions or other improvements in
66 services.

67 (2) Proprietary confidential business information derives
68 actual or potential independent economic value from not being
69 generally known to, and not being readily ascertainable by
70 proper means by, other persons who can derive economic value
71 from its disclosure or use. A utility, in performing the
72 appropriate due diligence review of electric projects or
73 projects to improve the delivery, cost, or diversification of
74 fuel or renewable energy sources, may need to obtain proprietary
75 confidential business information. Without an exemption from
76 public records requirements for this information, it becomes a
77 public record when received by a utility that is subject to
78 chapter 119, Florida Statutes, and must be disclosed upon
79 request. Disclosure of any propriety confidential business
80 information under the public records law would destroy the value
81 of that property and cause economic harm not only to the entity
82 or person providing the information, but to the ratepayers
83 through reduced competition for the provision of vital electric
84 utility services.

85 (3) In finding that the public records exemption created by
86 this act is a public necessity, the Legislature also finds that
87 the public and private harm in disclosing such proprietary

10-00765-13

2013714__

88 confidential business information significantly outweighs any
89 public benefit derived from disclosure of the information and
90 that the exemption created by this act will enhance the ability
91 of electric utilities to optimize their performance, thereby
92 benefiting the ratepayers.

93 Section 3. This act shall take effect July 1, 2013.

CourtSmart Tag Report

Room: SB 301

Case:

Caption: Committee on Communications, Energy, and Public Utilities

Type:

Judge:

Started: 3/6/2013 2:02:31 PM

Ends: 3/6/2013 2:20:49 PM Length: 00:18:19

2:02:35 PM Chair Flores calls meeting to order
2:02:37 PM CAA calls roll
2:02:54 PM Tab 1 - CS/SB 52 by Sen. Detert - Use of Wireless Communications Devices While Driving
2:03:12 PM Sen. Detert announces Amend #190062
2:03:20 PM Sen. Detert explains Amendment #190062
2:03:36 PM Amend. #190062 adopted
2:03:45 PM Sen. Smith with question
2:04:04 PM Sen. Detert with response
2:04:31 PM Sen. Gibson with question
2:04:49 PM Sen. Detert response
2:05:45 PM Sen. Flores has record show that Sen. Hukill has offered the Amendment for Sen. Garcia
2:05:50 PM Sen. Bean with question
2:06:12 PM Sen. Detert with response
2:06:34 PM Follow-up from Sen. Bean
2:06:59 PM Sen. Smith with question
2:07:27 PM Sen. Detert response
2:07:45 PM Sen. Smith with follow-up
2:08:29 PM Sen. Detert response
2:09:00 PM Sen. Garcia with question
2:09:36 PM Sen. Detert response
2:10:24 PM Sen. Gibson with question
2:11:14 PM Sen. Detert response
2:12:41 PM Casey Cook, Florida League of Cities waives in support
2:12:48 PM Chris Nuland, Fla Public Health Assoc. & Fla Chapter of American College of Surgeons waives in support
2:12:54 PM Sam Bell, Florida Pediatric Society waives in support
2:13:04 PM Lee Moffitt, AutoNation, Inc. waives in support
2:13:12 PM Lee Moffitt, AAA Florida waives in support
2:13:15 PM Amy Mercer, Fla Police Chiefs Association waives in support
2:13:20 PM Travis Blanton, Alliance of Automobile Manufacturers waives in support
2:13:26 PM Mary Rose Sirianni, AT&T waives in support
2:13:32 PM James "Doc" Reirbeubach, Abate of Florida waives in support
2:13:45 PM Jim Messer, Florida Justice Assoc. waives
2:13:50 PM Laura Cantwell. AARP waives in support
2:14:00 PM Kenya Corey, National Solid Wastes Management Assoc.-Fl Chapter waives in support
2:14:06 PM Dawn Steward, Florida PTA waives in support
2:14:09 PM Lena Juarez, Florida Virtual School waives in support
2:14:15 PM Marty Cassini, Broward County waives in support
2:14:19 PM Lt. Cliff Williams, on behalf of Sheriff Ben Johnson & FSA waives in support
2:14:31 PM Toni Large, Fl College of Emergency Physicians & Fl Orthopedic Society waives in support
2:14:35 PM Jess McCarty, Miami-Dade County waives in support
2:14:40 PM Mary Lou Rajchel, Florida Trucking Assoc. waives in support
2:15:04 PM Sen. Flores recognizes Sen. Bean
2:15:08 PM Sen. Bean with remarks
2:15:27 PM Sen. Detert comments
2:15:42 PM Sen. Detert closes
2:16:34 PM Sen. Bean moves for a CS
2:16:43 PM CAA calls roll for CS/CS/SB 52
2:16:53 PM CS/CS/SB 52 passes favorably
2:17:06 PM Move to Tab 3 - SB 714 by Sen. Simmons
2:17:17 PM Sen. Simmons recognized to present SB 714 - Public Records/Proprietary Confidential Business Information
2:17:43 PM Amend #345996 by Sen. Hukill

2:17:51 PM Amend. to Amend #522420 by Sen. Hukill
2:18:02 PM Sen. Simmons explains the amendment to the amendment
2:18:12 PM Amendment #522420 is adopted
2:18:24 PM The strike-all amendment #345996 is adopted
2:18:43 PM Chip Merriam, Orlando Utilities Commission waives in support
2:18:48 PM Suzanne Goss, JEA waives in support
2:18:59 PM Sen. Simmons waives his close
2:19:04 PM Sen. Bean moves for a CS
2:19:12 PM CAA calls roll on CS/SB 714
2:19:28 PM CS/SB 714 passes favorably
2:19:39 PM Tab 2 - SB 326 by Sen. Hays and presented by Nanci Cornwell, his aide
2:20:10 PM Wellington Meffert. FI Greenways & Trails Foundation waives in support
2:20:18 PM Nanci waives close
2:20:22 PM CAA calls roll on SB 326
2:20:34 PM SB 326 passes favorably
2:20:44 PM Sen. Garcia moves to rise

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 6 2013

Meeting Date

Topic Distracted Driving

Bill Number SB 52, by Detert
(if applicable)

Name H. Lee Moffitt

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 2457 Care Drive

Phone 850 878-2411

Street

Tallahassee

FL

32308

City

State

Zip

E-mail lee.moffitt@arlaw.com

Speaking: For Against Information

Representing AAA Auto Club Group

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD



(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 6, 2013
Meeting Date

Topic Wireless Com Bill Number SB 52
(if applicable)

Name James D. "Doc" Reichenbach Amendment Barcode _____
(if applicable)

Job Title Hobbyist

Address PO Box 912 Phone 352-362-2150
Street

Silver Springs FL 34489 E-mail Abatef1@afl.net
City State Zip

Speaking: For Against Information

Representing ABATE of Florida, INC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD



(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/13

Meeting Date

Topic Ban on Texting while Driving

Bill Number 52
(if applicable)

Name Laura Cantwell

Amendment Barcode _____
(if applicable)

Job Title Associate State Director

Address 200 W College Avenue, Suite 304

Phone 577 5163

Street

Tallahassee FL 32301

City

State

Zip

E-mail lcantwell@aarp.org

Speaking: For Against Information

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

①

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/13

Meeting Date

Topic Texting while driving

Bill Number SB 52
(if applicable)

Name Travis Blanton

Amendment Barcode _____
(if applicable)

Job Title _____

Address 537 E. Park Ave.
Street

Phone 850-224-1900

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Alliance of Automobile Manufacturers

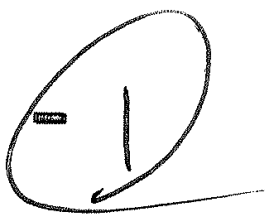
Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)



THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 6 2013

Meeting Date

Topic Distracted Driving

Bill Number SB 52, by Detert
(if applicable)

Name H. Lee Moffitt

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 2457 Care Drive

Phone 850 878-2411

Street

Tallahassee

FL

32308

City

State

Zip

E-mail lee.moffitt@arlaw.com

Speaking: For Against Information

Representing AutoNation, Inc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

①

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic Wireless Communications Device Bill Number CS/SB 52
(if applicable)

Name DAWN STEWARD Amendment Barcode _____
(if applicable)

Job Title FLORIDA PTA

Address 2130 Blossom Lane Phone 407-645-0273
Street

Winter Park FL 32789 E-mail st42130@aol.com
City State Zip

Speaking: For Against Information

Representing Florida PTA

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

①

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/13

Meeting Date

Topic Ban on Texting while Driving

Bill Number 52

(if applicable)

Name Lena Juarez

Amendment Barcode _____

(if applicable)

Job Title _____

Address P.O. Box 10390

Phone 2128330

Street

Tallahassee FL 32301

E-mail lena.e.juarez.com

City

State

Zip

Speaking: For Against Information

Representing Florida Virtual School

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD



3/6/13
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Topic Texting

Bill Number 52
(if applicable)

Name Marty Cassini

Amendment Barcode _____
(if applicable)

Job Title Legislative Counsel

Address 115 S. Andrews Ave

Phone 954-895-5325

Fort Lauderdale FL 33301
City State Zip

E-mail mcassini@broward.org

Speaking: For Against Information

Representing Broward County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

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(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/05/13

Meeting Date

Topic USE OF WIRELESS COMMUNICATION DEVICE

Bill Number 52

(if applicable)

Name LIEUTENANT CLIFF WILLIAMS

Amendment Barcode _____

(if applicable)

Job Title DEPUTY SHERIFF

Address 123 INDIANA AVE

Phone 386 668 3830

Street

DELAND

FL

32720

E-mail CWILLIAMS@UCSO.US

City

State

Zip

Speaking: For Against Information

Representing SHERIFF BEN JOHNSON & FSA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/2013
Meeting Date

Topic POWERS & DUTIES OF DEP

Bill Number SB 326
(if applicable)

Name WELLINGTON McFERT

Amendment Barcode _____
(if applicable)

Job Title BD OF DIRECTORS

Address E18 ENGLISIDE AVE

Phone 850 591 1778

TALLAHASSEE FL 32301
City State Zip

E-mail wellingtonm2@comcast.net

Speaking: For Against Information

Representing FLORIDA GREENWAYS & TRAILS FOUNDATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

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3/6/13
Meeting Date

Topic Texting

Bill Number 52
(if applicable)

Name Amy Mercer

Amendment Barcode _____
(if applicable)

Job Title EX, Director

Address 924 N. Gadsden St,

Phone 850-219-3631

Tallahassee, FL, 32303
Street City State Zip

E-mail amercer@fpcfla.com

Speaking: For Against Information

Representing FL Police Chiefs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

8/6/13

Meeting Date

Topic

Bill Number CS/ SB 52
(if applicable)

Name Mary Lou Rajchel

Amendment Barcode
(if applicable)

Job Title President & CEO

Address 350 E. College Avenue

Phone 850.222.9900

Street Tallahassee, *State* FL *Zip* 32301

E-mail mrajchel@fltrucking.org

Speaking: For Against Information

Representing Florida Trucking Assn.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)



Meeting Date _____

Topic FL BAN ON TEXTING WHILE DRIVING

Bill Number CS/SB 52
(if applicable)

Name JIM MESSER

Amendment Barcode _____
(if applicable)

Job Title CITIZEN LOBBYIST

Address 6400 Standing Timis
Street
Indianessce
City State Zip

Phone 490-993-0602

E-mail jamesmesserjr@gmail.com

Speaking: For Against Information

Representing FLORIDA JUSTICE ASSOC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

1

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/13
Meeting Date

Topic FL BAN TEXTING WHILE DRIVING

Bill Number SB 52
(if applicable)

Name KEYNA CORY

Amendment Barcode _____
(if applicable)

Job Title LOBBYIST

Address 110 E. COLLEGE AVE

Phone 850 681-1065

TALLAHASSEE FL 32301
City State Zip

E-mail Keynacory@paconsultants.com

Speaking: For Against Information

Representing NATIONAL SOLIDWASTES MANAGEMENT ASSN - FL CHAPTER

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

1

3-6-13

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic _____

Bill Number SB 52
(if applicable)

Name JESS MCCARTY

Amendment Barcode _____
(if applicable)

Job Title ASS'T COUNTY ATTY

Address 111 NW 1ST ST 2810

Phone 305-979-7110

Street
MIAMI 33128

E-mail JMM2@MIAMIDADE.GOV

City State Zip

Speaking: For Against Information

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

①

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 52

Meeting Date

Topic Texting while Driving

Bill Number SB 52
(if applicable)

Name SAM BELL

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1298 MILLSTREAM
Street

Phone 850-222-3533

TALLAHASSEE, FL 32312
City State Zip

E-mail sbelle@penningtonlaw.com

Speaking: For Against Information

Representing FLORIDA PEDIATRIC SOCIETY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

"WAIVE IN SUPPORT"

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

①

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 6, 13
Meeting Date

Topic Ban on texting & driving

Bill Number 52
(if applicable)

Name Toni Large

Amendment Barcode _____
(if applicable)

Job Title Director of Government Affairs

Address # 513 E. Park Ave.
Street
Tallahassee, FL 32301
City State Zip

Phone 556-1461

E-mail toni@sulaw.net

Speaking: For Against Information

Representing FL College of Emergency Physicians & FL Orthopedics Society

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

1

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/13

Meeting Date

Topic _____

Bill Number 52
(if applicable)

Name Chris Nuland

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1000 Riverside Ave #115

Phone 904-355-1555

Street

Jacksonville, FL 32204

E-mail nulandlaw@aol.com

City

State

Zip

Speaking: For Against Information

Representing Florida Public Health Association; Florida Chapter, American College of Surgeons

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

①

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/13
Meeting Date

Topic Texting While Driving

Bill Number 52
(if applicable)

Name Mary Rose Sirianni

Amendment Barcode _____
(if applicable)

Job Title External Affairs Manager

Address 150 S. Monroe Ste. 400

Phone 850-577-5553

Tallahassee FL 32317
City State Zip

E-mail ~~ms8675~~ ms8675@att.com

Speaking: For Against Information

Representing ATT

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/13
Meeting Date

Topic SB 52

Bill Number 52
(if applicable)

Name Casey Cook

Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address Po Box 1757

Phone 850 701 3701

Tallahassee FL 32302
City State Zip

E-mail ccook@flcities.com

Speaking: For Against Information

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/2013
Meeting Date

Topic POWERS & DUTIES OF DEP

Bill Number SB 326
(if applicable)

Name WELLINGTON McFERTY

Amendment Barcode _____
(if applicable)

Job Title BD OF DIRECTORS

Address 818 ENGLISIDE AVE

Phone 850 591 1778

TALLAHASSEE FL 32301
Street City State Zip

E-mail wellingtonm2@comcast.net

Speaking: For Against Information

Representing FLORIDA GREENWAYS & TRAILS FOUNDATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

LS

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 6, 2013
Meeting Date

Topic Public Records Exemption

Bill Number 714
(if applicable)

Name Chip Merriam

Amendment Barcode _____
(if applicable)

Job Title Vice President

Address 6113 Pershing Ave
Street
Orlando, FL 32822
City State Zip

Phone 407-434-2201

E-mail Cmerriame@ok.com

Speaking: For Against Information

Representing Orlando Utilities Commission

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/6/13
Meeting Date

Topic Public Records

Bill Number SB 714
(if applicable)

Name Suzanne Goss

Amendment Barcode _____
(if applicable)

Job Title Government Relations Specialist

Address 21 W. Church St
Street

Phone 904 665 8331

Jacksonville FL 32202
City State Zip

E-mail gossse@jea.com

Speaking: For Against Information

Representing JEA (electric, water, sewer)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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