

Tab 1	SB 144 by Garcia (CO-INTRODUCERS) Campbell, Perry; (Identical to H 00069) Use of Wireless Communications Devices While Driving						
897144	A	S	L	RCS	CU, Garcia	Delete L.20 - 32:	03/07 06:03 PM

Tab 2	SB 596 by Hutson; (Identical to H 00687) Utilities						
904906	D	S		RCS	CU, Hutson	Delete everything after	03/07 06:03 PM
829302	AA	S		RCS	CU, Hutson	Delete L.235:	03/07 06:03 PM

Tab 3	SB 678 by Montford; (Identical to H 00629) Financial Assistance for Water and Wastewater Infrastructure						
--------------	--	--	--	--	--	--	--

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

MEETING DATE: Tuesday, March 7, 2017
TIME: 4:00—6:00 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Artiles, Chair; Senator Montford, Vice Chair; Senators Broxson, Campbell, Clemens, Perry, Stargel, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 144 Garcia (Identical H 69, Compare S 1742)	Use of Wireless Communications Devices While Driving; Providing for primary enforcement of the Florida Ban on Texting While Driving Law for drivers age 18 or younger; requiring deposit of fines into the Emergency Medical Services Trust Fund, etc. CU 02/07/2017 Temporarily Postponed CU 03/07/2017 Fav/CS TR ATD AP	Fav/CS Yeas 6 Nays 1
2	SB 596 Hutson (Identical H 687)	Utilities; Creating the "Advanced Wireless Infrastructure Deployment Act"; prohibiting the Department of Transportation and certain local governmental entities, collectively referred to as the "authority," from prohibiting, regulating, or charging for the collocation of small wireless facilities in public rights-of-way under certain circumstances; providing that approval of, and charges by, an authority are not required for routine maintenance, the replacement of certain wireless facilities, or the installation, placement, maintenance, or replacement of certain micro wireless facilities, etc. CU 03/07/2017 Fav/CS GO RC	Fav/CS Yeas 7 Nays 1
3	SB 678 Montford (Identical H 629)	Financial Assistance for Water and Wastewater Infrastructure; Allowing disbursement of financial assistance for water and wastewater infrastructure projects based upon invoiced costs; providing that recipients are not required to request advance payment; providing for the submission of proof of payment, etc. CU 03/07/2017 Favorable AEN AP	Favorable Yeas 8 Nays 0
	Presentation by Cayce Hinton, Director of the Office of Industry Development and Market Analysis, Florida Public Service Commission		Presented

COMMITTEE MEETING EXPANDED AGENDA

Communications, Energy, and Public Utilities
Tuesday, March 7, 2017, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
		Presentation by J.R. Kelly, Public Counsel, Office of the Public Counsel	Presented

Other Related Meeting Documents

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 144

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Garcia

SUBJECT: Use of Wireless Communications Devices While Driving

DATE: March 7, 2017 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.			TR	
3.			ATD	
4.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

SB 144 amends s. 316.305, F.S., to authorize enforcement of the ban on texting while driving as a primary offense. It also requires that all penalties collected for a violation of the ban be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health.

The bill takes effect July 1, 2017.

II. Present Situation:

Florida Ban on Texting While Driving Law

Section 316.305, F.S., is the “Florida Ban on Texting While Driving Law.” It bans a person from operating a motor vehicle while using a wireless communications device¹ in specified ways. Enforcement is permitted only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of chapter 316, chapter 320, or chapter 322, F.S.

¹ The statute defines the term “wireless communications device” to mean any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15, F.S., and that allows text communications.

More specifically, the statute bans operation of a motor vehicle either while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of non-voice interpersonal communication.² The ban does not apply to a stationary motor vehicle or to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle,³ a law enforcement or fire service professional, or an emergency medical services professional.
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities.
- Receiving messages that are: related to the operation or navigation of the 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, except to activate, deactivate, or initiate a feature or function.
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.
- Operating an autonomous vehicle in autonomous mode.

Any person who violates the ban commits a noncriminal traffic infraction. A first violation is punishable as a nonmoving violation, and a second or subsequent violation within 5 years after the date of a prior conviction is punishable as a moving violation.

A user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages are admissible as evidence in any proceeding to determine whether a violation of the ban has been committed only in the event of a crash resulting in death or personal injury.

Traffic Infraction Civil Penalties

Section 318.18, F.S., provides for penalties for traffic infractions and establishes a penalty of \$30 for a nonmoving traffic violation and \$60 for a moving violation.

Section 318.21, F.S., requires that all traffic infraction civil penalties be paid monthly as follows:

- One dollar from every civil penalty shall be remitted to the Department of Revenue for deposit into the Child Welfare Training Trust Fund for child welfare training purposes.
- One dollar from every civil penalty shall be remitted to the Department of Revenue for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes.
- Of the remainder:

² This includes but is not limited to texting, e-mailing, and instant messaging.

³ The term "authorized emergency vehicle" is defined in s. 322.01(4), F.S., to mean a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized 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; it does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

- Fifty-six and four-tenths percent: shall be divided if the violation occurred within a municipality, with 50.8 percent paid to that municipality and 5.6 percent deposited into the fine and forfeiture trust fund for use by the clerk of the circuit court in performing court-related functions; shall be deposited into the fine and forfeiture fund for use by the clerk of the circuit court in performing court-related functions if the violation occurred within the unincorporated area of a county; or shall be paid to a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe if the violation occurred there.
- Twenty and six-tenths percent shall be remitted to the Department of Revenue for deposit into the General Revenue Fund of the state, except that the first \$300,000 shall be deposited into the Grants and Donations Trust Fund in the Justice Administrative Commission for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels in a constitutional charter county.
- Seven and two-tenths percent shall be remitted to the Department of Revenue for deposit in the Emergency Medical Services Trust Fund.
- Five and one-tenth percent shall be remitted to the Department of Revenue for deposit in the Additional Court Cost Clearing Trust Fund for criminal justice purposes.
- Eight and two-tenths percent shall be remitted to the Department of Revenue for deposit in the Brain and Spinal Cord Injury Program Trust Fund.
- Two percent shall be remitted to the Department of Revenue and transmitted monthly to the Florida Endowment Foundation for Vocational Rehabilitation.
- Five-tenths percent shall be paid to the clerk of the court for administrative costs.

III. Effect of Proposed Changes:

The bill authorizes enforcement of the ban as a primary offense.

It also requires that all penalties collected for a violation of the ban on texting while driving be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health. Currently, only seven and two-tenths percent of the penalties is deposited in this fund pursuant to s. 318.21, F.S.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Operators of motor vehicles will have increased likelihood of being cited for a violation of the ban on texting while driving, with increased likelihood of resulting penalties.

C. Government Sector Impact:

To the extent that the authorization to enforce violations as a primary offense results in an increase in penalties, the Emergency Medical Services Trust Fund of the Department of Health will receive a far greater percentage of those penalties, and the other current recipients will no longer receive any of these funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.305 of the Florida Statutes.

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

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

CS by Communications, Energy, and Public Utilities on March 7, 2017:

- Deletes the proposed language on enforcement as a primary offense when an operator of a motor vehicle is 18 years of age or younger, and
- Deletes from the existing statute the restriction that enforcement be only as a secondary offense, thus making the texting ban enforceable as a primary offense against all operators of motor vehicles.

B. Amendments:

None.



897144

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Delete lines 20 - 32

and insert:

(5) Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for a violation of this section shall be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health ~~Enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary~~



897144

11 ~~action when an operator of a motor vehicle has been detained for~~
12 ~~a suspected violation of another provision of this chapter,~~
13 ~~chapter 320, or chapter 322.~~

14 Section 1. This act shall take effect October 1, 2017.

15 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

16 And the directory clause is amended as follows:

17 Delete lines 13 - 14

18 and insert:

19 (5) of section 316.305, Florida Statutes, are amended to read:

20

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

22 And the title is amended as follows:

23 Delete lines 3 - 6

24 and insert:

25 devices while driving; amending s. 316.305, F.S.;

26 revising the legislative intent relating to the

27 authorization of law enforcement officers to stop

28 motor vehicles and issue citations to persons who are

29 texting while driving; deleting a provision requiring

30 that enforcement of the Florida Ban on Texting While

31 Driving Law be accomplished only as a secondary

32 action; requiring deposit of fines into the Emergency

By Senator Garcia

36-00316-17

2017144__

1 A bill to be entitled
2 An act relating to the use of wireless communications
3 devices while driving; amending s. 316.305, F.S.;
4 providing for primary enforcement of the Florida Ban
5 on Texting While Driving Law for drivers age 18 or
6 younger; requiring deposit of fines into the Emergency
7 Medical Services Trust Fund; providing an effective
8 date.
9

10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Paragraph (d) of subsection (2) and subsection
13 (5) of section 316.305, Florida Statutes, are amended, and
14 subsection (6) is added to that section, to read:

15 316.305 Wireless communications devices; prohibition.—

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

17 (d) Authorize law enforcement officers to stop motor
18 vehicles and issue citations ~~as a secondary offense~~ to persons
19 who are texting while driving.

20 (5) Enforcement of this section by state or local law
21 enforcement agencies may be accomplished as a primary action
22 when an operator of a motor vehicle is 18 years of age or
23 younger. Otherwise, such enforcement must be accomplished only
24 as a secondary action when an operator of a motor vehicle has
25 been detained for a suspected violation of another provision of
26 this chapter, chapter 320, or chapter 322.

27 (6) Notwithstanding s. 318.21, all proceeds collected
28 pursuant to s. 318.18 for a violation of this section shall be
29 remitted to the Department of Revenue for deposit into the
30 Emergency Medical Services Trust Fund of the Department of
31 Health.

32 Section 2. This act shall take effect July 1, 2017.

APPEARANCE RECORD

March 7, 2017 Meeting Date

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

SB 144 Bill Number (if applicable)

Topic Use of wireless communication devices while driving

897144 Amendment Barcode (if applicable)

Name Shane Bennett

Job Title Chief of Police

Address 2793 Lake Street

Phone 904-782-3751

Lawtey FL 32058 City State Zip

Email lawteypolicepd@flcjn.net

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing The Florida Police Chiefs Association

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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 (10/14/14)

APPEARANCE RECORD

03/07/17 Meeting Date

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

144 Bill Number (if applicable)

Topic Texting While Driving

897144 Amendment Barcode (if applicable)

Name Mark Merwitz

Job Title Student

Address 14730 SW 75 Ave.

Phone 786-505-7272

Village of Palmetto Bay FL 33157 City State Zip

Email mmerwitz@gmail.com

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Palmetto Bay Youth Community Involvement Board

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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 (10/14/14)

Amendment

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/7/17
Meeting Date

SB 144

Bill Number (if applicable)

897144

Amendment Barcode (if applicable)

Topic Use of Wireless Communications Devices

Name Ms. Zayne Smith

Job Title Associate State Director

Address 200 W College Ave.
Street

Phone 850 228-4243

Tally FL 32301
City State Zip

Email zsmith@aarps.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/7/17
Meeting Date

144

Bill Number (if applicable)

897144

Amendment Barcode (if applicable)

Topic Texting & Driving

Name Sarah Newell

Job Title Lobbyist

Address 325 W. College Ave.
Street

Phone 850 425 4000

Tallahassee FL 32301
City State Zip

Email Sarahnewell@ncalawfirm.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Nationwide Insurance

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-7-17
Meeting Date

144
Bill Number (if applicable)

Topic Texting while Driving ban

Amendment Barcode (if applicable)

Name Richard Pinsky

Job Title _____

Address 106 E. College Ave #1200 Phone _____
Street

Tallahassee FL 32301 Email _____
City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Miami-Dade 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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/2017
Meeting Date

144
Bill Number (if applicable)

Topic Texting and Driving

Amendment Barcode (if applicable)

Name Samantha Sexton

Job Title VP of Legislative and Regulatory Affairs

Address 215 S Monore Street, Suite 835 Phone 3215441577
Street

Tallahassee FL 32301 Email samantha.sexton@piff.net
City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Personal Insurance Federation of Florida

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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/7/2017

144

Meeting Date

Bill Number (if applicable)

Topic Texting and Driving

Amendment Barcode (if applicable)

Name Samantha Sexton

Job Title VP of Legislative and Regulatory Affairs

Address 215 S Monore Street, Suite 835

Phone 3215441577

Street

Tallahassee

FL

32301

City

State

Zip

Email samantha.sexton@piff.net

Speaking: [] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing Personal Insurance Federation of Florida

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] 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 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/7/17

144

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Chris Noland

Job Title

Address 1000 Riverside Ave #240

Phone 904-233-3051

Street

Jacksonville FL 32204

City

State

Zip

Email nolandlaw@aol.com

Speaking: [x] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing Florida Public Health Association / FL Neurological Society

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] 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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 7th 2017
Meeting Date

SB144
Bill Number (if applicable)

Topic Texting While Driving

Amendment Barcode (if applicable)

Name Erin Ballas

Job Title Chapter Lobbyist

Address 130 E. ~~10th~~ Park Ave
Street
Tallahassee FL 32301
City State Zip

Phone 850 728 6387
Email erinballas@paconsultants.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The National Waste and Recycling 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.

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

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

03/07/2017
Meeting Date

SB 144
Bill Number (if applicable)

Topic Distracted Driving - Texting while driving

Amendment Barcode (if applicable)

Name H Lee Moffitt

Job Title Attorney

Address 3327 NW Perimeter Road
Street
Palm City FL 34990
City State Zip

Phone 813 760-5712
Email MrSpeaker@aol.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

SB 144
Bill Number (if applicable)

Topic Use of wireless Communications Devices

Amendment Barcode (if applicable)

Name Ms. Zayne Smith

Job Title Associate State Director

Address 200 W. College Ave
Street

Phone 850 228-4243

Tally FL 32301
City State Zip

Email zsmith@aarp.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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 (10/14/14)

Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

144
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Leslie Dughi

Job Title _____

Address 101 East College Avenue
Street

Phone _____

Tallahassee, FL 32301
City State Zip

Email dughil@gtlaw.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Insurance Council

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

March 7, 2017
Meeting Date

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

SB 144
Bill Number (if applicable)

Topic Use of wireless communication devices while driving

Amendment Barcode (if applicable)

Name Share Bennett

Job Title Chief of Police

Address 2793 Lake Street

Phone 904-782-3751

Lawtey FL 32058
City State Zip

Email lawteypolicepd@flcjn.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Florida 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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

March 7, 2017
Meeting Date

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

SB144
Bill Number (if applicable)

Topic Texting while driving

Amendment Barcode (if applicable)

Name Keyna Cory

Job Title _____

Address 730 E. Park Ave

Phone 850 566 9575

Tallahassee, FL 32301
City State Zip

Email keynacory@paconsultants.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Don't Text and Drive Coalition (FL DNTXT N DRV)

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

SR 144
Bill Number (if applicable)

Topic Use of Wireless devices

Amendment Barcode (if applicable)

Name Bruce Kershner

Job Title _____

Address 231 West Bay Ave

Phone 407-830-1882

Street

Longwood

FL

32750

Email BKershner@att.net

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing National Assn. of Credit Mgt - Improved Construction Practices Committee

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 (10/14/14)

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 596

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Hutson

SUBJECT: Utilities

DATE: March 7, 2017 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

Needs the CS box add-in

I. Summary:

CS/SB 596 creates the Advanced Wireless Infrastructure Deployment Act. Put very simply, it creates a process for gaining access to and use of public rights-of-way in connection with the installation of small wireless communications infrastructure.

The bill creates a process and time limits for review and approval of applications. The authority must approve a complete application unless it does not meet the authority’s applicable codes, defined to include “uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization, or local amendments to those codes, enacted solely to address threats of destruction of property or injury to persons,” and qualifying government historic preservation zoning regulations. This excludes consideration and application of zoning, land use, and aesthetic ordinances and of any other source of public safety protections.

The bill provides for application or permit fees and collocation or pole attachment fees. Collocation fees cannot exceed \$15 per year per authority utility pole. Collocation fees include the costs to alter a pole to strengthen it to support the installation of the wireless infrastructure, including costs to replace a pole if necessary. They do not include any consultant fees or expenses.

The bill does not authorize a person to collocate small wireless facilities on a privately owned utility pole, a utility pole owned by an electric cooperative, a privately owned wireless support structure, or other private property without the consent of the property owner.

The bill takes effect July 1, 2017.

II. Present Situation:

Section 337.401, F.S., authorizes the Department of Transportation (DOT or the department) and local governmental entities that have jurisdiction and control of public roads (jointly referred to as the or an authority) to prescribe and enforce reasonable rules or regulations for placing and maintaining of structures across, on, or within the right-of-way limits of a road. An authority may authorize any person who is a resident of this state or any corporation either organized under the laws of this state or licensed to do business within this state to use a right-of-way for the utility¹ in accordance with the authority's adopted rules or regulations. The statute prohibits a utility from installing, locating, or relocating within a right-of-way unless authorized by a written permit. The permit must require the permitholder to be responsible for any damage resulting from the use of the right-of-way. Municipal and county rights-of-way access rules and regulations relating to communications services providers must be reasonable and nondiscriminatory and must be generally applicable to all providers of communications services.

III. Effect of Proposed Changes:

The bill creates the Advanced Wireless Infrastructure Deployment Act, a new subsection s. 337.401(7), F.S.

Definitions

The bill creates definitions, including the following related to wireless entities.

- An “applicant” is a person who submits an application and is a wireless provider.
- An “application” is a request submitted by an applicant to an authority for a permit to collocate small wireless facilities.
- A “wireless provider” is a wireless services provider or a wireless infrastructure provider.
- A “wireless services provider” is a person who provides wireless services.
- “Wireless services” are any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.
- A “wireless infrastructure provider” is a person certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures, but is not a wireless services provider.

The bill defines four types of wireless infrastructure.

- A “wireless facility” is equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and

¹ Existing paragraph 337.401(1)(a), F.S., refers to “any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures referred to in this section and in ss. 337.402, 337.403, and 337.404 as the ‘utility’.” This indirectly defines the term “utility” not by type of entity or by type of service provided but by the type of structure some type of entity might use in providing some type of service.

equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:

- The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
- Wireline backhaul facilities; or
- Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
- A “small wireless facility” is a wireless facility that meets both the following qualifications:
 - Each antenna associated with the facility is located inside an enclosure of no more than six cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than six cubic feet in volume; and
 - All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.
- A “micro wireless facility” is a small wireless facility having dimensions not larger than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.
- An “antenna” is communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

The bill defines three types of structures on which an applicant may seek to locate infrastructure.

- An “authority utility pole” is a utility pole owned or operated by an authority in the right-of-way. The term does not include a utility pole owned by a municipal electric company.
- A “utility pole” is a pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function.
- A “wireless support structure” is a freestanding structure, such as a monopole, a guyed or self-supporting tower, a billboard, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

The bill also creates the following definitions.

- “Applicable codes” means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization, or local amendments to those codes, enacted solely to address threats of destruction of property or injury to persons. The term also includes local government historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C s. 332(c)(7), the requirements for facility modifications under 47 U.S.C. s. 1455(a), or the National Historic Preservation Act of 1966, as amended, and the regulations adopted to implement these laws.
- The bill does not define “authority,” however existing s. 337.401(1)(a), F.S., does indirectly, stating: “The department and local governmental entities, referred to in this section and in ss. 337.402, 337.403, and 337.404, F.S., as the ‘authority’” The department here is the Department of Transportation (DOT or the department).

- “Collocate” or “collocation” means to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole.
- “FCC” means the Federal Communications Commission.

Application

The process necessarily begins with an application; however, the bill does not expressly authorize an authority to develop a form or to require that an applicant provide specific information, although it does contain statements that *imply* some level of authorization. For example, it prohibits an authority from requiring an applicant to provide more information to obtain a permit than is required of electric service providers and other communications service providers that are not wireless service providers.² A proponent has argued that this prohibition against requiring more information *indirectly authorizes* an authority to require an applicant to provide the same information as the listed providers. The bill also makes numerous references to a “complete” application. An application cannot be determined to be complete or incomplete without some standard by which to judge, which presumably would be set forth in requirements for the application and permit. However, this, too, is implied or indirect authority.

It *appears* that the application process is for small wireless facilities only, although the bill defines three other types of infrastructure:

- When the bill mentions infrastructure in substantive provisions, it is usually small wireless facilities, and the definition of “application” is a request submitted by an applicant to an authority for a permit to collocate small wireless facilities.³
- However, it is possible that an application could be for installation of a micro wireless facility. A micro wireless facility is a type of small wireless facility, so it could be included in the substantive provisions on small wireless facilities. Additionally, the only use of the term micro wireless facility is in a prohibition against authorities requiring approval or fees for specified activities involving micro wireless facilities,⁴ which does not necessarily rule out an application for other uses of these facilities.
- The term antenna is used most often in defining the components of other infrastructure and is used only once in a substantive provision, which prohibits an authority from requiring placement of multiple antenna systems on a single utility pole.⁵
- The bill only used the term “wireless facility” in defining “small wireless facility.”

Application Review and Approval

The bill establishes the following process and time requirements for the application review and approval.

² Section 337.401(7)(d)1., F.S.

³ Definitions are not substantive law, so this only provides some level of guidance in interpreting the substantive provisions.

⁴ Section 337.401(7)(e)3., F.S.

⁵ Section 337.401(7)(d)3., F.S.

- The authority must determine whether the application is complete⁶ and notify the applicant by electronic mail within 10 days after receiving an application.⁷ If an authority deems an application incomplete, the authority must specifically identify the missing information. The application is deemed complete when the applicant submits all documents, information, and fees specifically enumerated in the authority's permit application form or if the authority fails to provide notification to the applicant within 10 days.⁸
- If the authority fails to approve or deny a complete application within 60 days after receipt of the application, the application is deemed approved.⁹
- The authority must notify the applicant of approval or denial by electronic mail. The bill requires an authority to approve a complete application unless it does not meet the authority's applicable codes.¹⁰ If the authority denies the application, the authority must specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the authority denies the application. The applicant then has 30 days after notice of the denial is sent to the applicant to cure the identified deficiencies and resubmit the application. The authority then must approve or deny the revised application within 30 days after receipt or the application will be deemed approved. Any subsequent review is limited to the deficiencies cited in the denial.¹¹
- An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of multiple small wireless facilities.¹² Presumably, the above time limit requirements apply to such a consolidated application.

In reviewing an application, the authority must process applications on a nondiscriminatory basis.¹³ The bill prohibits the authority from doing the following.

- Directly or indirectly requiring an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority;¹⁴
- Requiring an applicant to provide more information to obtain a permit than is required of electric service providers and other communications service providers that are not wireless service providers;¹⁵

⁶ The bill does not authorize authorities to establish requirements or standards by which completeness of an application may be determined.

⁷ Ten days may be an inadequate time for a local government to make the engineering determination that a proposed location, installation, and resulting wind load comply with applicable codes.

⁸ Section 337.401(7)(d)5., F.S.

⁹ Section 337.401(7)(d)6., F.S.

¹⁰ The term "applicable codes" is defined to include "uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization, or local amendments to those codes, enacted solely to address threats of destruction of property or injury to persons."¹⁰ This excludes consideration and application of zoning, land use, and aesthetic ordinances and of any other source of public safety protections.

¹¹ Section 337.401(7)(d)7., F.S.

¹² Section 337.401(7)(d)8., F.S.

¹³ Section 337.401(7)(d)6., F.S.

¹⁴ Section 337.401(7)(d)1., F.S.

¹⁵ Section 337.401(7)(d)2., F.S.

- Requiring the placement of small wireless facilities on any specific utility pole or category of poles or requiring multiple antenna systems on a single utility pole;¹⁶
- Limit the placement of small wireless facilities by minimum separation distances or a maximum height limitation; however, an authority may limit the height of a small wireless facility to no more than 10 feet above the tallest existing utility pole, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the authority may limit the height of the small wireless facility to no more than 60 feet. The height limitations do not apply to the placement of any small wireless facility on a utility pole or wireless support structure constructed on or before June 30, 2017, if the small wireless facility does not extend more than 10 feet above the structure.¹⁷
- Enter into an exclusive arrangement with any person for the right to attach equipment to authority utility poles.¹⁸

The bill prohibits requiring either approval or fees for:

- Routine maintenance;
- Replacement of existing wireless facilities with wireless facilities that are substantially similar or the same size or smaller; or
- Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by a communications service provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202.¹⁹

Fees

The bill addresses two types of fees. The first is an application or permit fee. The bill provides that an authority may charge a permit fee only in accordance with existing subsection (3) on fees for access to rights-of-way.²⁰ That subsection allows local governments to choose whether to charge permit fees. The local government can choose to require and collect permit fees from any providers of communications services that use or occupy municipal or county roads or rights-of-way, in which case the rate of the local communications services tax imposed by such jurisdiction, as computed under s. 202.20, F.S., shall automatically be reduced by a rate of 0.12 percent. Alternatively, the local government can elect not to require and collect permit fees in which case the rate for the local communications services tax as computed under s. 202.20, F.S., for that jurisdiction may be increased by ordinance or resolution by an amount not to exceed a rate of 0.12 percent.

The second type of fee is a pole attachment fee, or collocation fee, which includes any costs of make-ready work.²¹ The rates and fees for collocations on authority utility poles must be

¹⁶ Section 337.401(7)(d)3., F.S.

¹⁷ Section 337.401(7)(d)4., F.S.

¹⁸ Section 337.401(7)(f)1., F.S.

¹⁹ Section 337.401(7)(e), F.S.

²⁰ Section 337.401(7)(d), F.S.

²¹ “Make-ready” generally refers to the modification of poles or lines or the installation of guys and anchors to accommodate additional facilities. Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC

nondiscriminatory, regardless of the services provided by the collocating person. The rate to collocate equipment on authority utility poles may not exceed the lesser of the annual recurring rate that would be permitted under rules adopted by the FCC under 47 U.S.C. s. 224(d) if the collocation rate were regulated by the FCC or \$15 per year per authority utility pole.²²

If the authority has an existing pole attachment rate, fee, or other term that does not comply with this subsection, the authority must, no later than January 1, 2018, revise the rate, fee, or term to comply with this subsection.

Persons owning or controlling authority utility poles must offer rates, fees, and other terms that comply with this subsection. By the later of January 1, 2018, or 3 months after receiving a request to collocate its first small wireless facility on a utility pole owned or controlled by an authority, the person owning or controlling the authority utility pole must make available, through ordinance or otherwise, rates, fees, and terms for the collocation of small wireless facilities on the authority utility pole which comply with this subsection.

The rates, fees, and terms must be nondiscriminatory, competitively neutral, and commercially reasonable and must comply with this subsection.

The bill provides procedures and timelines for make-ready work.

- If the authority utility pole supports aerial facilities used to provide communications services or electric service, the parties must comply with the process for make-ready work under 47 U.S.C. s. 224²³ and implementing regulations.²⁴ The good faith estimate of the person

Docket Nos. 96-98, 95-185, Order on Reconsideration, 14 FCC Rcd 18049, 18056 n.50 (1999) (Local Competition Reconsideration Order). https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-50A1.pdf (Last accessed March 2, 2017).

²² Section 337.401(7)(f)3., F.S.

²³ Under this law, a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

<https://www.law.cornell.edu/uscode/text/47/224> (Last accessed March 2, 2017.)

²⁴ A utility that has received a complete application for pole attachment from a cable operator or telecommunications carrier must respond within 45 days of receipt of the application (or within 60 days, in the case of larger orders, defined as orders up to the lesser of 3000 poles or 5 percent of the utility's poles in a state). This response may be a notification that the utility has completed a survey of poles for which access has been requested. A complete application is an application that provides the utility with the information necessary under its procedures to begin to survey the poles. If the request for attachment is not denied, the utility must present an estimate of charges to perform all necessary make-ready work within 14 days of providing the response. A utility may withdraw an outstanding estimate of charges to perform make-ready work within 14 days after the estimate is presented. A cable operator or telecommunications carrier may accept a valid estimate and make payment anytime after receipt of an estimate but before the estimate is withdrawn.

Upon receipt of payment of the estimate, the utility must immediately provide written notice to all known entities with existing attachments that may be affected by the make-ready.

- For attachments in the communications space, the utility must complete all make-ready work no later than 60 days after notification is sent (or 105 days in the case of larger orders). If the utility has not completed the make-ready work by within this time, the cable operator or telecommunications carrier requesting access may complete the specified make-ready.
- For wireless attachments above the communications space, the utility must complete all make-ready work no later than 90 days after notification is sent (or 135 days in the case of larger orders). The utility must complete the make-ready work by this date.

A utility may deviate from the time limits specified in this section:

owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested collocation must include pole replacement if necessary.

- If the authority utility pole does not support aerial facilities used to provide communications services or electric service, the authority must provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant.
- The authority may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to communications service providers other than wireless service providers for similar work and may not include any consultant fees or expenses.

For many local government authorities, the technology, pole attachments, and siting process contemplated in the bill are relatively new, and it may take time and experience to determine what is necessary to support the wireless infrastructure safely. Consequently, initial implementation of the bill may require consultants to obtain reasonable assurances of public safety. However, the bill prohibits recovery of any consultant fees or expenses.²⁵

The bill provides that it does not authorize a person to collocate small wireless facilities on a privately owned utility pole, a utility pole owned by an electric cooperative, a privately owned wireless support structure, or other private property without the consent of the property owner.

The bill provides that the new subsection may not be construed to limit local governments' authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C s. 332(c)(7), the requirements for facility modifications under 47 U.S.C. s.1455(a), or the National Historic Preservation Act of 1966, as amended, and the regulations adopted to implement these laws.

The bill takes effect July 1, 2017.

-
- Before offering an estimate of charges if the parties have no agreement specifying the rates, terms, and conditions of attachment.
 - During performance of make-ready for good and sufficient cause that renders it infeasible for the utility to complete the make-ready work within the prescribed time frame. A utility that so deviates shall immediately notify, in writing, the cable operator or telecommunications carrier requesting attachment and other affected entities with existing attachments, and shall include the reason for and date and duration of the deviation. The utility shall deviate from the time limits specified in this section for a period no longer than necessary and shall resume make-ready performance without discrimination when it returns to routine operations.

47 CFR 1.1420 - Timeline for access to utility poles. <https://www.law.cornell.edu/cfr/text/47/1.1420> (Last accessed March 2, 2017).

²⁵ Section 337.401(7)(f)5.d., F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of section 18, Article VII of the Florida Constitution, provides that except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandate requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2016-2017 was \$2 million or less.^{26,27,28}

The county/municipality mandates provision of section 18, Article VII of the Florida Constitution, may apply because this bill prohibits governmental entities with authority over public roads and rights-of-way from recovering any consultant fees or expenses relating to preparing a pole for use by a wireless provider. Given the novelty of the infrastructure, pole attachments, and potential risks of liability, local government authorities may need to make frequent use of consultants to ensure public safety, and the bill prohibits recovery of these consultant costs. The Revenue Estimating Conference has not examined the fiscal impact of this bill, however, the bill's impact may exceed the \$2 million threshold.

The bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

According to information provided by opponents of the bill, currently the amount of the pole attachment fee is subject only to market forces, and some authorities are charging considerable more than the bill's maximum of 15 dollars per attachment per year; the

²⁶ FLA. CONST. art. VII, s. 18(d).

²⁷ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited Feb. 13, 2017).

²⁸ Based on the Demographic Estimating Conference's population adopted on November 1, 2016. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited Feb. 13, 2017).

Jacksonville Electric Authority's Small Cell Site Rental Schedule, for example, shows a charge of \$1,236.00 per year for each small cell site.

B. Private Sector Impact:

Wireless providers should be able to provide better service to customers.

C. Government Sector Impact:

Authorities may have difficulty and expenses in early implementation as the technology and installations involved are new uses of rights-of-way and the process includes engineering determinations of wind load, structural integrity, and safety.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not address any responsibility or liability of wireless providers relating to potential personal injury or property damage.

VIII. Statutes Affected:

This bill substantially amends section 337.401 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Communications, Energy, and Public Utilities on March 7, 2017:

- Amends the definition of “applicable codes” to include qualifying local government historic preservation zoning regulations,
- Amends the definition of “authority utility pole” to exclude a utility pole owned by a municipal electric company,
- Excludes from the definition of “wireless facility” wireline backhaul facilities and coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna,
- Makes the prohibition against an authority requiring approval or fees relating to micro wireless facilities that are suspended applicable to facilities suspended from any type of cable, not just “messenger” cables,
- Provides that the new subsection does not authorize collocation of small wireless facilities on a utility pole owned by an electric cooperative, and
- Provides that the new subsection may not be construed to limit local government’s authority to qualifying enforce historic preservation zoning regulations.

B. Amendments:

None.

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



904906

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (7) is added to section 337.401, Florida Statutes, to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(7) (a) This subsection may be cited as the "Advanced Wireless Infrastructure Deployment Act."



904906

- 11 (b) As used in this subsection, the term:
- 12 1. "Antenna" means communications equipment that transmits
- 13 or receives electromagnetic radio frequency signals used in
- 14 providing wireless services.
- 15 2. "Applicable codes" means uniform building, fire,
- 16 electrical, plumbing, or mechanical codes adopted by a
- 17 recognized national code organization, or local amendments to
- 18 those codes, enacted solely to address threats of destruction of
- 19 property or injury to persons. The term includes local
- 20 government historic preservation zoning regulations consistent
- 21 with the preservation of local zoning authority under 47 U.S.C
- 22 s. 332(c)(7), the requirements for facility modifications under
- 23 47 U.S.C. s. 1455(a), or the National Historic Preservation Act
- 24 of 1966, as amended, and the regulations adopted to implement
- 25 these laws.
- 26 3. "Applicant" means a person who submits an application
- 27 and is a wireless provider.
- 28 4. "Application" means a request submitted by an applicant
- 29 to an authority for a permit to collocate small wireless
- 30 facilities.
- 31 5. "Authority utility pole" means a utility pole owned by
- 32 an authority in the right-of-way. The term does not include a
- 33 utility pole owned by a municipal electric company.
- 34 6. "Collocate" or "collocation" means to install, mount,
- 35 maintain, modify, operate, or replace one or more wireless
- 36 facilities on, under, within, or adjacent to a wireless support
- 37 structure or utility pole.
- 38 7. "FCC" means the Federal Communications Commission.
- 39 8. "Micro wireless facility" means a small wireless



904906

40 facility having dimensions no larger than 24 inches in length,
41 15 inches in width, and 12 inches in height and an exterior
42 antenna, if any, no longer than 11 inches.

43 9. "Small wireless facility" means a wireless facility that
44 meets the following qualifications:

45 a. Each antenna associated with the facility is located
46 inside an enclosure of no more than 6 cubic feet in volume or,
47 in the case of antennas that have exposed elements, each antenna
48 and all of its exposed elements could fit within an enclosure of
49 no more than 6 cubic feet in volume; and

50 b. All other wireless equipment associated with the
51 facility is cumulatively no more than 28 cubic feet in volume.
52 The following types of associated ancillary equipment are not
53 included in the calculation of equipment volume: electric
54 meters, concealment elements, telecommunications demarcation
55 boxes, ground-based enclosures, grounding equipment, power
56 transfer switches, cutoff switches, vertical cable runs for the
57 connection of power and other services, and utility poles or
58 other support structures.

59 10. "Utility pole" means a pole or similar structure that
60 is used in whole or in part to provide communications services
61 or for electric distribution, lighting, traffic control,
62 signage, or a similar function.

63 11. "Wireless facility" means equipment at a fixed location
64 which enables wireless communications between user equipment and
65 a communications network, including radio transceivers,
66 antennas, wires, coaxial or fiber-optic cable or other cables,
67 regular and backup power supplies, and comparable equipment,
68 regardless of technological configuration, and equipment



904906

69 associated with wireless communications. The term includes small
70 wireless facilities. The term does not include:

71 a. The structure or improvements on, under, within, or
72 adjacent to the structure on which the equipment is collocated;

73 b. Wireline backhaul facilities; or

74 c. Coaxial or fiber-optic cable that is between wireless
75 structures or utility poles or that is otherwise not immediately
76 adjacent to or directly associated with a particular antenna.

77 12. "Wireless infrastructure provider" means a person who
78 is certificated to provide telecommunications service in the
79 state and who builds or installs wireless communication
80 transmission equipment, wireless facilities, or wireless support
81 structures, but is not a wireless services provider.

82 13. "Wireless provider" means a wireless infrastructure
83 provider or a wireless services provider.

84 14. "Wireless services" means any services provided using
85 licensed or unlicensed spectrum, whether at a fixed location or
86 mobile, using wireless facilities.

87 15. "Wireless services provider" means a person who
88 provides wireless services.

89 16. "Wireless support structure" means a freestanding
90 structure, such as a monopole, a guyed or self-supporting tower,
91 a billboard, or another existing or proposed structure designed
92 to support or capable of supporting wireless facilities. The
93 term does not include a utility pole.

94 (c) Except as provided in this subsection, an authority may
95 not prohibit, regulate, or charge for the collocation of small
96 wireless facilities in the public rights-of-way.

97 (d) An authority may require permit fees only in accordance



904906

98 with subsection (3). An authority shall accept applications for
99 permits and shall process and issue permits subject to the
100 following requirements:

101 1. An authority may not directly or indirectly require an
102 applicant to perform services unrelated to the collocation for
103 which approval is sought, such as in-kind contributions to the
104 authority, including reserving fiber, conduit, or pole space for
105 the authority.

106 2. An applicant may not be required to provide more
107 information to obtain a permit than is required of electric
108 service providers and other communications service providers
109 that are not wireless services providers.

110 3. An authority may not require the placement of small
111 wireless facilities on any specific utility pole or category of
112 poles or require multiple antenna systems on a single utility
113 pole.

114 4. An authority may not limit the placement of small
115 wireless facilities by minimum separation distances or a maximum
116 height limitation; however, an authority may limit the height of
117 a small wireless facility to no more than 10 feet above the
118 tallest existing utility pole, measured from grade in place
119 within 500 feet of the proposed location of the small wireless
120 facility. If there is no utility pole within 500 feet, the
121 authority may limit the height of the small wireless facility to
122 no more than 60 feet. The height limitations do not apply to the
123 placement of any small wireless facility on a utility pole or
124 wireless support structure constructed on or before June 30,
125 2017, if the small wireless facility does not extend more than
126 10 feet above the structure.



904906

127 5. Within 10 days after receiving an application, an
128 authority must determine and notify the applicant by electronic
129 mail as to whether the application is complete. If an
130 application is deemed incomplete, the authority must
131 specifically identify the missing information. An application is
132 deemed complete if the authority fails to provide notification
133 to the applicant within 10 days or when all documents,
134 information, and fees specifically enumerated in the authority's
135 permit application form are submitted by the applicant to the
136 authority.

137 6. An application must be processed on a nondiscriminatory
138 basis. A complete application is deemed approved if an authority
139 fails to approve or deny the application within 60 days after
140 receipt of the application.

141 7. An authority must notify the applicant of approval or
142 denial by electronic mail. An authority shall approve a complete
143 application unless it does not meet the authority's applicable
144 codes. If the application is denied, the authority must specify
145 in writing the basis for denial, including the specific code
146 provisions on which the denial was based, and send the
147 documentation to the applicant by electronic mail on the day the
148 authority denies the application. The applicant may cure the
149 deficiencies identified by the authority and resubmit the
150 application within 30 days after notice of the denial is sent to
151 the applicant. The authority shall approve or deny the revised
152 application within 30 days after receipt or the application is
153 deemed approved. Any subsequent review shall be limited to the
154 deficiencies cited in the denial.

155 8. An applicant seeking to collocate small wireless



904906

156 facilities within the jurisdiction of a single authority may, at
157 the applicant's discretion, file a consolidated application and
158 receive a single permit for the collocation of multiple small
159 wireless facilities.

160 (e) An authority may not require approval or require fees
161 or other charges for:

162 1. Routine maintenance;

163 2. Replacement of existing wireless facilities with
164 wireless facilities that are substantially similar or of the
165 same or smaller size; or

166 3. Installation, placement, maintenance, or replacement of
167 micro wireless facilities that are suspended on cables strung
168 between existing utility poles in compliance with applicable
169 codes by a communications service provider authorized to occupy
170 the rights-of-way and who is remitting taxes under chapter 202.

171 (f) An authority shall approve the collocation of small
172 wireless facilities on authority utility poles, subject to the
173 following requirements:

174 1. An authority may not enter into an exclusive arrangement
175 with any person for the right to attach equipment to authority
176 utility poles.

177 2. The rates and fees for collocations on authority utility
178 poles must be nondiscriminatory, regardless of the services
179 provided by the collocating person.

180 3. The rate to collocate equipment on authority utility
181 poles may not exceed the lesser of the annual recurring rate
182 that would be permitted under rules adopted by the FCC under 47
183 U.S.C. s. 224(d) if the collocation rate were regulated by the
184 FCC or \$15 per year per authority utility pole.



904906

185 4. If an authority has an existing pole attachment rate,
186 fee, or other term that does not comply with this subsection,
187 the authority shall, no later than January 1, 2018, revise such
188 rate, fee, or term to be in compliance with this subsection.

189 5. A person owning or controlling an authority utility pole
190 shall offer rates, fees, and other terms that comply with this
191 subsection. By the later of January 1, 2018, or 3 months after
192 receiving a request to collocate its first small wireless
193 facility on a utility pole owned or controlled by an authority,
194 the person owning or controlling the authority utility pole
195 shall make available, through ordinance or otherwise, rates,
196 fees, and terms for the collocation of small wireless facilities
197 on the authority utility pole which comply with this subsection.

198 a. The rates, fees, and terms must be nondiscriminatory,
199 competitively neutral, and commercially reasonable and must
200 comply with this subsection.

201 b. For an authority utility pole that supports an aerial
202 facility used to provide communications services or electric
203 service, the parties shall comply with the process for make-
204 ready work under 47 U.S.C. s. 224 and implementing regulations.
205 The good faith estimate of the person owning or controlling the
206 pole for any make-ready work necessary to enable the pole to
207 support the requested collocation must include pole replacement
208 if necessary.

209 c. For an authority utility pole that does not support an
210 aerial facility used to provide communications services or
211 electric service, the authority shall provide a good faith
212 estimate for any make-ready work necessary to enable the pole to
213 support the requested collocation, including necessary pole



904906

214 replacement, within 60 days after receipt of a complete
215 application. Make-ready work, including any pole replacement,
216 must be completed within 60 days after written acceptance of the
217 good faith estimate by the applicant.

218 d. An authority may not require more make-ready work than
219 is required to meet applicable codes or industry standards. Fees
220 for make-ready work may not include costs related to preexisting
221 damage or prior noncompliance. Fees for make-ready work,
222 including any pole replacement, may not exceed actual costs or
223 the amount charged to communications service providers other
224 than wireless services providers for similar work and may not
225 include any consultant fee or expense.

226 (g) Except as provided in this chapter or specifically
227 required by state law, an authority may not adopt or enforce any
228 regulation on the placement or operation of communications
229 facilities in the rights-of-way by a provider authorized by
230 state law to operate in the rights-of-way and may not regulate
231 any communications services or impose or collect any tax, fee,
232 or charge not specifically authorized under state law.

233 (h) This subsection does not authorize a person to
234 collocate small wireless facilities on a privately owned utility
235 pole, a privately owned wireless support structure, or other
236 private property without the consent of the property owner.

237 (i) This subsection may not be construed to limit local
238 governments' authority to enforce historic preservation zoning
239 regulations consistent with the preservation of local zoning
240 authority under 47 U.S.C s. 332(c) (7), the requirements for
241 facility modifications under 47 U.S.C. s.1455(a), or the
242 National Historic Preservation Act of 1966, as amended, and the



243 regulations adopted to implement these laws.

244 Section 2. This act shall take effect July 1, 2017.

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

246 And the title is amended as follows:

247 Delete everything before the enacting clause

248 and insert:

249 A bill to be entitled

250 An act relating to utilities; amending s. 337.401,

251 F.S.; providing a short title; defining terms;

252 prohibiting the Department of Transportation and

253 certain local governmental entities, collectively

254 referred to as the "authority," from prohibiting,

255 regulating, or charging for the collocation of small

256 wireless facilities in public rights-of-way under

257 certain circumstances; authorizing an authority to

258 require permit fees only under certain circumstances;

259 requiring an authority to receive and process

260 applications for permits, and to issue such permits,

261 subject to specified requirements; providing that

262 height limitations do not apply to the placement of

263 small wireless facilities on or before a specified

264 date under certain circumstances; prohibiting an

265 authority from requiring approval or charges for

266 routine maintenance, the replacement of certain

267 wireless facilities, or the installation, placement,

268 maintenance, or replacement of certain micro wireless

269 facilities; requiring an authority to approve the

270 collocation of small wireless facilities on authority

271 utility poles, subject to certain requirements;



904906

272 providing requirements for rates, fees, and other
273 terms related to authority utility poles; prohibiting
274 an authority from adopting or enforcing any regulation
275 on the placement or operation of certain
276 communications facilities and from regulating any
277 communications services or imposing or collecting any
278 tax, fee, or charge not specifically authorized under
279 state law; providing construction; providing an
280 effective date.



829302

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2017	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (904906)

Delete line 235

and insert:

pole, a utility pole owned by an electric cooperative, a
privately owned wireless support structure, or other

By Senator Hutson

7-00327A-17

2017596__

1 A bill to be entitled
 2 An act relating to utilities; amending s. 337.401,
 3 F.S.; providing a short title; defining terms;
 4 prohibiting the Department of Transportation and
 5 certain local governmental entities, collectively
 6 referred to as the "authority," from prohibiting,
 7 regulating, or charging for the collocation of small
 8 wireless facilities in public rights-of-way under
 9 certain circumstances; specifying that an authority
 10 may require permit fees only under certain
 11 circumstances; requiring an authority to receive and
 12 process applications for and to issue permits subject
 13 to specified requirements; providing that approval of,
 14 and charges by, an authority are not required for
 15 routine maintenance, the replacement of certain
 16 wireless facilities, or the installation, placement,
 17 maintenance, or replacement of certain micro wireless
 18 facilities; requiring an authority to approve the
 19 collocation of small wireless facilities on authority
 20 utility poles, subject to certain requirements;
 21 providing requirements for rates, fees, and other
 22 terms related to authority utility poles; providing
 23 that specified provisions do not authorize
 24 collocations of small wireless facilities on certain
 25 property; prohibiting an authority from adopting or
 26 enforcing any regulations on the placement or
 27 operation of certain communications facilities and
 28 from regulating any communications services or
 29 imposing or collecting any taxes, fees, or charges not
 30 specifically authorized under state law; providing an
 31 effective date.
 32

Page 1 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00327A-17

2017596__

33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Subsection (7) is added to section 337.401,
 36 Florida Statutes, to read:

37 337.401 Use of right-of-way for utilities subject to
 38 regulation; permit; fees.-

39 (7) (a) This subsection shall be known as the "Advanced
 40 Wireless Infrastructure Deployment Act."

41 (b) As used in this subsection, the following definitions
 42 apply:

43 1. "Antenna" means communications equipment that transmits
 44 or receives electromagnetic radio frequency signals used in
 45 providing wireless services.

46 2. "Applicable codes" means uniform building, fire,
 47 electrical, plumbing, or mechanical codes adopted by a
 48 recognized national code organization, or local amendments to
 49 those codes, enacted solely to address threats of destruction of
 50 property or injury to persons.

51 3. "Applicant" means a person who submits an application
 52 and is a wireless provider.

53 4. "Application" means a request submitted by an applicant
 54 to an authority for a permit to collocate small wireless
 55 facilities.

56 5. "Authority utility pole" means a utility pole owned or
 57 operated by an authority in the right-of-way.

58 6. "Collocate" or "collocation" means to install, mount,
 59 maintain, modify, operate, or replace one or more wireless
 60 facilities on, under, within, or adjacent to a wireless support
 61 structure or utility pole.

Page 2 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00327A-17

2017596__

62 7. "FCC" means the Federal Communications Commission.

63 8. "Micro wireless facility" means a small wireless
 64 facility having dimensions not larger than 24 inches in length,
 65 15 inches in width, and 12 inches in height and that has an
 66 exterior antenna, if any, no longer than 11 inches.

67 9. "Small wireless facility" means a wireless facility that
 68 meets both the following qualifications:

69 a. Each antenna associated with the facility is located
 70 inside an enclosure of no more than 6 cubic feet in volume or,
 71 in the case of antennas that have exposed elements, each antenna
 72 and all of its exposed elements could fit within an enclosure of
 73 no more than 6 cubic feet in volume; and

74 b. All other wireless equipment associated with the
 75 facility is cumulatively no more than 28 cubic feet in volume.
 76 The following types of associated ancillary equipment are not
 77 included in the calculation of equipment volume: electric
 78 meters, concealment elements, telecommunications demarcation
 79 boxes, ground-based enclosures, grounding equipment, power
 80 transfer switches, cut-off switches, vertical cable runs for the
 81 connection of power and other services, and utility poles or
 82 other support structures.

83 10. "Utility pole" means a pole or similar structure that
 84 is used in whole or in part to provide communications services
 85 or for electric distribution, lighting, traffic control,
 86 signage, or a similar function.

87 11. "Wireless facility" means equipment at a fixed location
 88 which enables wireless communications between user equipment and
 89 a communications network, including:

90 a. Equipment associated with wireless communications; and

7-00327A-17

2017596__

91 b. Radio transceivers, antennas, wires, coaxial or fiber
 92 optic cable or other cables, regular and backup power supplies,
 93 and comparable equipment, regardless of technological
 94 configuration. The term includes small wireless facilities. The
 95 term does not include the structure or improvements on, under,
 96 within, or adjacent to the structure on which the equipment is
 97 collocated.

98 12. "Wireless infrastructure provider" means a person
 99 certificated to provide telecommunications service in the state
 100 and who builds or installs wireless communication transmission
 101 equipment, wireless facilities, or wireless support structures,
 102 but is not a wireless services provider.

103 13. "Wireless provider" means a wireless infrastructure
 104 provider or a wireless services provider.

105 14. "Wireless services" means any services provided using
 106 licensed or unlicensed spectrum, whether at a fixed location or
 107 mobile, using wireless facilities.

108 15. "Wireless services provider" means a person who
 109 provides wireless services.

110 16. "Wireless support structure" means a freestanding
 111 structure, such as a monopole, a guyed or self-supporting tower,
 112 a billboard, or another existing or proposed structure designed
 113 to support or capable of supporting wireless facilities. The
 114 term does not include a utility pole.

115 (c) Except as provided in this subsection, an authority may
 116 not prohibit, regulate, or charge for the collocation of small
 117 wireless facilities in the public rights-of-way.

118 (d) An authority may require permit fees only in accordance
 119 with subsection (3). An authority shall accept applications for,

7-00327A-17

2017596__

120 process, and issue permits subject to the following
 121 requirements:

122 1. An authority may not directly or indirectly require an
 123 applicant to perform services unrelated to the collocation for
 124 which approval is sought, such as in-kind contributions to the
 125 authority, including reserving fiber, conduit, or pole space for
 126 the authority.

127 2. An applicant may not be required to provide more
 128 information to obtain a permit than is required of electric
 129 service providers and other communications service providers
 130 that are not wireless service providers.

131 3. An authority may not require the placement of small
 132 wireless facilities on any specific utility pole or category of
 133 poles or require multiple antenna systems on a single utility
 134 pole.

135 4. An authority may not limit the placement of small
 136 wireless facilities by minimum separation distances or a maximum
 137 height limitation; however, an authority may limit the height of
 138 a small wireless facility to no more than 10 feet above the
 139 tallest existing utility pole, measured from grade in place
 140 within 500 feet of the proposed location of the small wireless
 141 facility. If there is no utility pole within 500 feet, the
 142 authority may limit the height of the small wireless facility to
 143 no more than 60 feet. The height limitations do not apply to the
 144 placement of any small wireless facility on a utility pole or
 145 wireless support structure constructed on or before June 30,
 146 2017, if the small wireless facility does not extend more than
 147 10 feet above the structure.

148 5. Within 10 days after receiving an application, an

Page 5 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00327A-17

2017596__

149 authority must determine and notify the applicant by electronic
 150 mail as to whether the application is complete. If an
 151 application is deemed incomplete, the authority must
 152 specifically identify the missing information. An application
 153 shall be deemed complete if the authority fails to provide
 154 notification to the applicant within 10 days or when all
 155 documents, information, and fees specifically enumerated in the
 156 authority's permit application form are submitted by the
 157 applicant to the authority.

158 6. An application must be processed on a nondiscriminatory
 159 basis. A complete application is deemed approved if the
 160 authority fails to approve or deny the application within 60
 161 days after receipt of the application.

162 7. The authority must notify the applicant of approval or
 163 denial by electronic mail. An authority shall approve a complete
 164 application unless it does not meet the authority's applicable
 165 codes. If the application is denied, the authority must specify
 166 in writing the basis for denial, including the specific code
 167 provisions on which the denial was based, and send the
 168 documentation to the applicant by electronic mail on the day the
 169 authority denies the application. The applicant may cure the
 170 deficiencies identified by the authority and resubmit the
 171 application within 30 days after notice of the denial is sent to
 172 the applicant. The authority shall approve or deny the revised
 173 application within 30 days after receipt or the application will
 174 be deemed approved. Any subsequent review shall be limited to
 175 the deficiencies cited in the denial.

176 8. An applicant seeking to collocate small wireless
 177 facilities within the jurisdiction of a single authority may, at

Page 6 of 9

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00327A-17 2017596__

178 the applicant's discretion, file a consolidated application and
 179 receive a single permit for the collocation of multiple small
 180 wireless facilities.

181 (e) An authority may not require approval or require fees
 182 or other charges for:

183 1. Routine maintenance;
 184 2. Replacement of existing wireless facilities with
 185 wireless facilities that are substantially similar or the same
 186 size or smaller; or

187 3. Installation, placement, maintenance, or replacement of
 188 micro wireless facilities that are suspended on messenger cables
 189 strung between existing utility poles in compliance with
 190 applicable codes by a communications service provider authorized
 191 to occupy the rights-of-way and who is remitting taxes under
 192 chapter 202.

193 (f) An authority shall approve the collocation of small
 194 wireless facilities on authority utility poles, subject to the
 195 following requirements:

196 1. An authority may not enter into an exclusive arrangement
 197 with any person for the right to attach equipment to authority
 198 utility poles.

199 2. The rates and fees for collocations on authority utility
 200 poles must be nondiscriminatory, regardless of the services
 201 provided by the collocating person.

202 3. The rate to collocate equipment on authority utility
 203 poles may not exceed the lesser of the annual recurring rate
 204 that would be permitted under rules adopted by the FCC under 47
 205 U.S.C. s. 224(d) if the collocation rate were regulated by the
 206 FCC or \$15 per year per authority utility pole.

7-00327A-17 2017596__

207 4. If the authority has an existing pole attachment rate,
 208 fee, or other term that does not comply with this subsection,
 209 the authority shall, no later than January 1, 2018, revise such
 210 rate, fee, or term to be in compliance with this subsection.

211 5. Persons owning or controlling authority utility poles
 212 shall offer rates, fees, and other terms that comply with this
 213 subsection. By the later of January 1, 2018, or 3 months after
 214 receiving a request to collocate its first small wireless
 215 facility on a utility pole owned or controlled by an authority,
 216 the person owning or controlling the authority utility pole
 217 shall make available, through ordinance or otherwise, rates,
 218 fees, and terms for the collocation of small wireless facilities
 219 on the authority utility pole which comply with this subsection.

220 a. The rates, fees, and terms must be nondiscriminatory,
 221 competitively neutral, and commercially reasonable and must
 222 comply with this subsection.

223 b. For authority utility poles that support aerial
 224 facilities used to provide communications services or electric
 225 service, the parties shall comply with the process for make-
 226 ready work under 47 U.S.C. s. 224 and implementing regulations.
 227 The good faith estimate of the person owning or controlling the
 228 pole for any make-ready work necessary to enable the pole to
 229 support the requested collocation must include pole replacement
 230 if necessary.

231 c. For authority utility poles that do not support aerial
 232 facilities used to provide communications services or electric
 233 service, the authority shall provide a good faith estimate for
 234 any make-ready work necessary to enable the pole to support the
 235 requested collocation, including necessary pole replacement,

7-00327A-17

2017596__

236 within 60 days after receipt of a complete application. Make-
237 ready work, including any pole replacement, must be completed
238 within 60 days after written acceptance of the good faith
239 estimate by the applicant.

240 d. The authority may not require more make-ready work than
241 is required to meet applicable codes or industry standards. Fees
242 for make-ready work may not include costs related to preexisting
243 damage or prior noncompliance. Fees for make-ready work,
244 including any pole replacement, may not exceed actual costs or
245 the amount charged to communications service providers other
246 than wireless service providers for similar work and may not
247 include any consultant fees or expenses.

248 (g) This subsection does not authorize a person to
249 collocate small wireless facilities on a privately owned utility
250 pole, a privately owned wireless support structure, or other
251 private property without the consent of the property owner.

252 (h) Except as provided in this chapter or specifically
253 required by state law, an authority may not adopt or enforce any
254 regulations on the placement or operation of communications
255 facilities in the rights-of-way by any provider authorized by
256 state law to operate in the rights-of-way and shall not regulate
257 any communications services or impose or collect any taxes,
258 fees, or charges not specifically authorized under state law.

259 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

SB 596
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Beth Cooley

Job Title DIRECTOR, STATE LEGISLATIVE AFFAIRS

Address 1400 16th ST. NW, STE 600

Phone 202-736-3664

Street

WASHINGTON

DC

20036

Email bcooley@ctia.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing CTIA

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/17/17
Meeting Date

596
Bill Number (if applicable)

Topic Cell Towers

Amendment Barcode (if applicable)

Name ERIC POOLE

Job Title Asst Leg. Director

Address 100 Monroe

Phone 9724300

Street

FL

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Assoc. Counties

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

52596
Bill Number (if applicable)

Topic Wireless Communication Infrastructure

Amendment Barcode (if applicable)

Name GIL ZIFFER

Job Title Tallahassee City Commissioner

Address 301 S. Adams St.
Street

Phone 850-891-8181

TALC FL 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing City of Tallahassee

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 7
Meeting Date

596
Bill Number (if applicable)

Topic Small Cell Pole Attachment

904904
Amendment Barcode (if applicable)

Name Amy Zubaly

Job Title Interim Executive Director

Address 417 E. College Ave
Street

Phone 850-224-3314

Tallahassee FL 32301
City State Zip

Email azubaly@publicpower.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Municipal Electric 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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3-7-17

Meeting Date

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

596

Bill Number (if applicable)

Topic Utilities

Amendment Barcode (if applicable)

Name Mayor Jordan Leonard

Job Title Mayor Bay Harbor Islands

Address 9665 Bay Harbor Ter Phone _____

Bay Harbor Islands FL 33154

City State Zip Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3-7-17

Meeting Date

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

596

Bill Number (if applicable)

Topic Utilities

Amendment Barcode (if applicable)

Name Michael Beedie

Job Title City Manager, Fort Walton Beach

Address 107 MERRILL STREET PKWY SW Phone (850) 933-9612

FORT WALTON BEACH FL 32548

City State Zip Email MBEEDIE@FWB.GOV

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing CITY OF FORT WALTON BEACH

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-7-17

Meeting Date

596

Bill Number (if applicable)

Topic Utilities

Amendment Barcode (if applicable)

Name Mayor Scott Fischer

Job Title Mayor City of Destin

Address 8 Moreno Point RD

Phone 850 460-7046

Street Destin

Email Scott_Fischer@yahoo.com

City Destin State FL Zip 32541

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The City of Destin

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-7-17

Meeting Date

596

Bill Number (if applicable)

Topic Utilities

Amendment Barcode (if applicable)

Name Dawn Pardo

Job Title Councilwoman, Riviera Beach

Address 600 W Blue Heron

Phone 561 845 3683

Street Riviera Beach

Email dpardo@riviera-beach.com

City Riviera Beach State FL Zip 33404

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3-7-17

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

596

Bill Number (if applicable)

Topic Utilities

Amendment Barcode (if applicable)

Name Megan Sirjane-Samples

Job Title Legislative Advocate

Address P.O. 1758

Phone 850.701.3455

Tallahassee FL 32302

Email MSIRJANESAMPLES@FLCITIES.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/7/17

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

56596

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title _____

Address 301 S. Bronough Suite 300

Phone 222 9684

Tallahassee FL 32302

Email KConn@FLcities.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

596
Bill Number (if applicable)

Topic Cell towers & equipment facilities in ROW Amendment Barcode (if applicable)

Name Gary Resnick

Job Title Mayor

Address 2020 Wilton Dr. Phone 954-390-2120

Street

Wilton Manor FL 33305

City

State

Zip

Email gresnick@wiltonmanor.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing City of Wilton Manor

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-7
Meeting Date

596
Bill Number (if applicable)

Topic Communications, energy Utilities Amendment Barcode (if applicable)

Name JAMES TAYLOR

Job Title EXECUTIVE DIRECTOR

Address 115 E. PAUL AVE Phone 888 803 8324

Street

Tallahassee FL 32301

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA TECHNOLOGY COUNCIL

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 (10/14/14)

APPEARANCE RECORD

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

3/7/2017 Meeting Date

596 Bill Number (if applicable)

Topic COMMUNICATIONS - SMALLCELLS

Amendment Barcode (if applicable)

Name TRACY HATCH

Job Title GENERAL ATTORNEY

Address 150 S. MONROE ST STE 400

Phone 850-425-6368

Street

Tallahassee

FL

32301

Email th9467@att.com

City

State

Zip

Speaking: [X] For [] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing AT&T

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [] Yes [X] 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 (10/14/14)

APPEARANCE RECORD

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

03/07/2017 Meeting Date

596 Bill Number (if applicable)

Topic Small Cell Wireless

Amendment Barcode (if applicable)

Name Lauren Jackson

Job Title Lobbyist

Address 205 S. Adams St.

Phone 931-265-8999

Street

Tallahassee

FL

32301

Email lauren@ericksconsultants.com

City

State

Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [] In Support [X] Against (The Chair will read this information into the record.)

Representing Ericks Consultants, Inc : City of Fort Lauderdale

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

SB 596
Bill Number (if applicable)

Topic Advanced Wireless Infrastructure

Amendment Barcode (if applicable)

Name Sally Everett

Job Title Director, Government Affairs

Address City Hall
Street

Phone 727-~~32~~ 267-2111

St. Petersburg FL 33701
City State Zip

Email sally.everett@stpete.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing City of St. Petersburg

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

596
Bill Number (if applicable)

Topic Public Works

Amendment Barcode (if applicable)

Name Diana Arteaga

Job Title Director of Govt Relations

Address 444 SW 2nd Ave, 10th floor
Street

Phone 786-469-1644

Miami FL 33130
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing City of Miami

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-7-17
Meeting Date

596
Bill Number (if applicable)

Topic Utilities - Small cell

Amendment Barcode (if applicable)

Name Rob Johnson

Job Title _____

Address 110 E. Jefferson
Street

Phone 491-1430

Tall FL
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ASSOCIATED Industries of Florida

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/16
Meeting Date

596
Bill Number (if applicable)

Topic Small wireless facilities

Amendment Barcode (if applicable)

Name Robert Davis

Job Title State Government Affairs

Address One Verizon Place
Street

Phone 678-339-5465

Alpharetta GA 30007
City State Zip

Email robert.g.davis@verizon.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Verizon

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

594
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Cynthia Henderson

Job Title _____

Address 108 E. Jefferson St. Suite E

Phone 850-559-0855

Street

Tallahassee FL

32301

Email cynthenderson@me.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Wireless Infrastructure 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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

596
Bill Number (if applicable)

Topic utilities

Amendment Barcode (if applicable)

Name Ron Pierce

Job Title Consultant

Address 113 E. College Ave.

Phone 813-777-5578

Street

Tallahassee

FL

32301

Email ron@rsaconsultingllc.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Mobilitie

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/7/17
Meeting Date

596
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Lorrie Turner

Job Title Sr. Manager - Government Affairs

Address Dr. Ravinia Dr.
Street

Phone 678-462-8279

Atlanta GA 30344
City State Zip

Email lorrie.turner@t-mobile.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing T-mobile

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/8/17
Meeting Date

596
Bill Number (if applicable)

Topic 5G service

Amendment Barcode (if applicable)

Name Doug Mannheim

Job Title Attorney / Lobbyist

Address 215 S. Monroe St. Suite 400
Street

Phone 850 681 6810

Tall. FL 32301
City State Zip

Email dmannheimer@broadandcassel.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Sprint

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 (10/14/14)

APPEARANCE RECORD

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

3/7

Meeting Date

596

Bill Number (if applicable)

Topic UTILITIES

Amendment Barcode (if applicable)

Name SIATER BAYLISS

*AS AMENDED

Job Title

Address 204 S. MONROE ST

Phone 850 222 8900

Street

TALLAHASSEE FL 32301

Email swb@cardenaslaw.com

City

State

Zip

Speaking: [X] For [] Against [] Information

Waive Speaking: [X] In Support [] Against (The Chair will read this information into the record.)

Representing TECHNET

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] 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 (10/14/14)

APPEARANCE RECORD

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

3-7-17

Meeting Date

596

Bill Number (if applicable)

Topic SB 596

Amendment Barcode (if applicable)

Name Eddy Gonzalez

Job Title Lobbyist

Address 7625 W 14 CT

Phone 786-351-5849

Street

Milaniah FL 33018

Email egonzalez0102@yahoo.com

City

State

Zip

Speaking: [] For [X] Against [] Information

Waive Speaking: [] In Support [] Against (The Chair will read this information into the record.)

Representing Milaniah Gardens, Miami Lakes

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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 (10/14/14)

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 678

INTRODUCER: Senator Montford

SUBJECT: Financial Assistance for Water and Wastewater Infrastructure

DATE: March 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.			AEN	
3.			AP	

I. Summary:

SB 678 amends ss. 403.1835, 403.1838, and 403.8532 F.S., to authorize the Department of Environmental Protection (DEP or the department) to disburse financial assistance under those sections based solely upon invoiced costs, without a requirement that the recipients request advance payment pursuant to s. 216.181(16), F.S. The recipient must submit proof of payment of invoiced costs before or concurrent with the recipient's next disbursement request.

The bill takes effect July 1, 2017.

II. Present Situation:

Overview

According to the Department of Environmental Protection (DEP or the department), this bill is one of their 2017 legislative priorities. The department uses money from the State Revolving Fund Program (SRF) to provide financial assistance pursuant to ss. 403.1835, 403.1838, and 403.8532, F.S., relating to water pollution control, small community sewer construction, and drinking water, respectively.

Historically, the SRF program operated in much the same way as a bank does with a loan for house construction. With a construction loan, the owner takes out a construction loan from a bank; their contractor does work and sends them an invoice; they give that invoice to their bank, who verifies the work was performed and approves a draw to pay the contractor. In the context of the SRF program, the local community's contractor performed work and invoiced the community; the local community sent the SRF program the invoice; the SRF program reviewed the invoice and approved payment to the local community, who then paid the contractor.

Then, in 2010 and 2013, statutes on state grant and contract procedures were amended to create safeguards. It was unclear whether these statutory changes applied to loan programs, however, both the department's Inspector General and the department's Division of Finance and Accounting raised a concern that, without explicit statutory language indicating the SRF loan program could operate based on invoiced costs, the program should be operating as a cost reimbursement program in accordance with s. 216.181(16), F.S. Under a cost reimbursement program:

- The local community takes out a loan from the SRF program.
- The local community's contractor performs work and sends the local community the invoice.
- The local community pays that invoice and then sends the SRF program proof that they already paid the contractor.
- The SRF program then reimburses the costs the community already paid to its contractor.

This is burdensome on small communities that often cannot afford to front the funding to the contractors, so for those local communities that cannot afford to front the money to pay the contractors, the SRF program is currently proceeding as follows:

- The local community must fill out advance payment request forms, which must be approved by the SRF program, the department's Division of Finance and Accounting, and the Department of Financial Services.
- The local community's loan agreement must be amended to add advance payment language, and the amended agreement must be signed by both the local community and the department.
- When the amendment is finalized, the SRF program can advance the funding to cover invoiced costs (i.e. operate as it did historically).
- Each subsequent payment request must demonstrate that the contractor's prior invoice was paid.
- The local community must also file a quarterly report on any interest earned on the advance payments received.

The department states that SRF has program accountability measures in place to assure the program is sound and loans are adequately monitored:

- SRF program's project manager makes site visits to inspect progress and conduct a closeout inspection at project completion.
- Sponsors must submit annual audits.
- The U.S. Environmental Protection Agency conducts annual SRF program audits.
- An independent auditor conducts annual financial audits.
- DEP's Inspector General's Office conducts ongoing loan agreement audits.
- DEP maintains separate staff to manage SRF projects and to qualify loan recipients based upon financial review.
- It also has the department's project managers and financial managers conduct separate review of requests for payment.

Accordingly, DEP wants to allow disbursement of loan funds based solely upon invoiced costs without any requirement to request advance payment pursuant to s. 216.181(16), F.S., to reduce the burden on loan recipients, particularly small and financially disadvantaged communities.

Section 216.181(16), F.S.

Section 216.181(16), F.S., authorizes advance payment of funds provided in any specific appropriation in the General Appropriations Act if the Act specifically so provides. More specifically, if the General Appropriations Act or another law expressly authorizes an agency or the judicial branch to make advances, it may do so for program startup or for contracted services, but such disbursements are limited to other governmental entities and not-for-profit corporations. Additionally, the amount of an initial disbursement cannot exceed the expected cash needs of the contractor or recipient within the initial 3 months, and all subsequent disbursements can be made only on a reimbursement basis. As an alternative, a recipient can request that the Chief Financial Officer (CFO), after consultation with the legislative appropriations committees, advance funds beyond a three-month requirement if it is determined to be consistent with the intent of the approved operating budget.

DEP Financing Programs***Water Pollution Control***

Section 403.1835, F.S., establishes the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund for DEP to use to fund water pollution control projects that are eligible under the Federal Water Pollution Control Act. Eligible projects include, but are not limited to, planning, designing, constructing, and implementing of wastewater management systems, stormwater management systems, nonpoint source pollution management systems, and estuary conservation and management.

DEP must prioritize eligible projects according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. It must consider the relative costs of achieving environmental and public health benefits in assigning priorities. The department must, by rule, adopt a priority system that gives priority to projects that:

- Eliminate public health hazards;
- Enable compliance with laws requiring the elimination of discharges to specific water bodies, including requirements regarding domestic wastewater ocean outfalls;
- Assist in the implementation of total maximum daily loads;
- Enable compliance with other pollution control requirements, including, but not limited to, toxics control, wastewater residuals management, and reduction of nutrients and bacteria;
- Assist in the implementation of surface water improvement and management plans and pollutant load reduction goals developed under state water policy;
- Promote reclaimed water reuse;
- Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or
- Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

To apply for a loan, an entity must:

- Submit evidence of credit worthiness, loan security, and a loan repayment schedule in support of the request for a loan.
- Submit plans and specifications and evidence of permissibility in support of a request for funding of construction or other activities requiring a permit from the department.
- Provide assurance that records will be kept using generally accepted accounting principles and that the department, the Auditor General, or their agents will have access to all records pertaining to the financial assistance provided.
- Provide assurance that the subject facilities, systems, or activities will be properly operated and maintained.
- Identify the revenues to be pledged and document their sufficiency for loan repayment and pledged revenue coverage in support of a request for a loan.
- Provide assurance that financial information will be provided as required by the department.
- Provide assurance that a project audit prepared by an independent certified public accountant upon project completion will be submitted to the department in support of a request for a grant.
- Submit project planning documentation demonstrating a cost comparison of alternative methods, environmental soundness, public participation, and financial feasibility for any proposed project or activity.

If a local governmental agency becomes delinquent on its loan, the department must certify the delinquency to the CFO, who must forward the delinquent amount to the department from any unobligated funds due to the local governmental agency under any revenue-sharing or tax-sharing fund. The department may also pursue any other available remedies, may impose a penalty not to exceed 18 percent per annum on the amount due, and may charge the cost to handle and process the debt.

If a non-governmental loan recipient defaults on a loan, the department may pursue any remedy available to it at law or in equity, may impose a penalty not to exceed 18 percent per annum on any amount due, and may charge the cost to handle and process the debt.

The department must prepare an annual report detailing the amount of grants, amount loaned, interest earned, grant allocations, and loans outstanding at the end of each fiscal year.

Small Community Sewer Construction

Section 403.1838, F.S., is the Small Community Sewer Construction Assistance Act. The act requires the department to use funds specifically appropriated to award grants to assist financially disadvantaged small communities¹ with their needs for adequate sewer facilities. The department may provide grants for up to 100 percent of the costs of planning, designing, constructing, upgrading, or replacing wastewater collection, transmission, treatment, disposal, and reuse facilities, including necessary legal and administrative expenses.

¹ A “financially disadvantaged small community” is a county, municipality, or special district that has a population of 10,000 or fewer, according to the latest decennial census, and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce.

In administering the loan program, the department is to be governed by rules of the Environmental Regulation Commission,² which must:

- Require that projects to plan, design, construct, upgrade, or replace wastewater collection, transmission, treatment, disposal, and reuse facilities be cost-effective, environmentally sound, permissible, and implementable.
- Require appropriate user charges, connection fees, and other charges sufficient to ensure the long-term operation, maintenance, and replacement of the facilities constructed under each grant.
- Require that grant applications be submitted on appropriate forms with appropriate supporting documentation, and require records to be maintained.
- Establish a system to determine eligibility of grant applications.
- Establish a system to determine the relative priority of grant applications. The system must consider public health protection and water pollution abatement.
- Establish requirements for competitive procurement of engineering and construction services, materials, and equipment.
- Provide for termination of grants when program requirements are not met.

The department must perform adequate overview of each grant, including technical review, regular inspections, disbursement approvals, and auditing.

Drinking Water

Section 403.8533, F.S., creates the Drinking Water Revolving Loan Trust Fund to be the depository for all moneys awarded by the Federal Government to fund revolving loan programs. The Department of Environmental Protection is to administer the trust fund for the purposes of:

- Funding for low-interest loans for planning, engineering design, and construction of public drinking water systems and improvements to such systems;
- Funding for compliance activities, operator certification programs, and source water protection programs;
- Funding for administering loans by the department; and
- Paying amounts payable under any service contract entered into by the department and the Florida Water Pollution Control Financing Corporation, subject to annual appropriation.

Section 403.8532, F.S., provides for the use of the Drinking Water Revolving Loan Trust Fund. The fund is to be used exclusively to establish infrastructure financing, technical assistance, and source water protection programs to assist public drinking water systems in achieving and maintaining compliance with the Florida Safe Drinking Water Act and the federal Safe Drinking

² Section 20.255(6), F.S., creates the Environmental Regulation Commission (commission) as a part of the Department of Environmental Protection. The commission is composed of seven residents of this state appointed by the Governor and subject to confirmation by the Senate. Membership must provide reasonable representation from all sections of the state, and must be representative of agriculture, the development industry, local government, the environmental community, lay citizens, and members of the scientific and technical community who have substantial expertise in the areas of the fate and transport of water pollutants, toxicology, epidemiology, geology, biology, environmental sciences, or engineering. Terms are 4 years. The Governor appoints the chair, and the members elect the vice chair. Members serve without compensation, but receive travel and per diem. The department furnishes administrative, personnel, and other necessary support services. The commission may employ independent counsel and contract for the services of outside technical consultants.

Water Act and to conserve and protect the quality of waters of the state. The department may use the fund to:

- Make, loans, grants, and deposits to community water systems; for-profit, privately owned, or investor-owned water systems; nonprofit, transient, noncommunity water systems; and nonprofit, nontransient, noncommunity water systems to assist them in planning, designing, and constructing public water systems.³
- Provide loan guarantees, purchase loan insurance, and refinance local debt through the issue of new loans for projects approved by the department.
- Make loans to public water systems that pledge any available revenues or other adequate security to repay any funds borrowed.

Department rules must:

- Set forth a priority system for loans based on public health considerations, compliance with state and federal requirements relating to public drinking water systems, and affordability. The priority system shall give special consideration to:
 - Projects that provide for the development of alternative drinking water supply projects and management techniques in areas where existing source waters are limited or threatened by saltwater intrusion, excessive drawdowns, contamination, or other problems;
 - Projects that provide for a dependable, sustainable supply of drinking water and that are not otherwise financially feasible; and
 - Projects that contribute to the sustainability of regional water sources.
- Establish the requirements for the award and repayment of financial assistance.
- Require evidence of credit worthiness and adequate security, including an identification of revenues to be pledged, and documentation of their sufficiency for loan repayment and pledged revenue coverage, to ensure that each loan recipient can meet its loan repayment requirements.
- Require each project receiving financial assistance to be cost-effective, environmentally sound, implementable, and self-supporting.
- Implement other provisions of the federal Safe Drinking Water Act, as amended.

The statute has special provisions for small public water systems⁴ and financially disadvantaged communities.⁵ The department may provide financial assistance to financially disadvantaged communities for the purpose of planning, designing, and constructing public water systems. This assistance may include the forgiveness of loan principal. Additionally, in any fiscal year, the department must reserve from the amounts credited to the Drinking Water Revolving Loan Trust Fund:

- At least 15 percent for qualifying small public water systems.
- Up to 15 percent for qualifying financially disadvantaged communities.

³ “Public water system” means all facilities, including land, necessary for the treatment and distribution of water for human consumption. Such systems may be publicly owned, privately owned, investor-owned, or cooperatively held.

⁴ “Small public water system” means a public water system that regularly serves fewer than 10,000 people.

⁵ “Financially disadvantaged community” means the service area of a project to be served by a public water system that meets criteria established by department rule and in accordance with federal guidance.

An applicant for a loan must, at a minimum:

- Provide a repayment schedule.
- Submit evidence of the permissibility or implementability of the project proposed for financial assistance.
- Submit plans and specifications, biddable contract documents, or other documentation of appropriate procurement of goods and services.
- Provide assurance that records will be kept using generally accepted accounting principles and that the department or its agents and the Auditor General will have access to all records pertaining to the loan.
- Provide assurance that the public water system will be properly operated and maintained in order to achieve or maintain compliance with the requirements of the Florida Safe Drinking Water Act and the federal Safe Drinking Water Act, as amended.
- Document that the public water system will be self-supporting.

The term of loans may not exceed 30 years.

The department may require reasonable service fees on loans made to public water systems to ensure that the trust fund will be operated in perpetuity. Service fees cannot be less than 2 percent nor greater than 4 percent of the loan amount exclusive of the service fee. Service fee revenues must be deposited into the department's Grants and Donations Trust Fund, and the fee revenues and interest earnings must be used exclusively to carry out the purposes of this section.

If a local governmental agency⁶ defaults, the department must certify the default to the Chief Financial Officer, who must forward the delinquent amount to the department from any unobligated funds due to the local governmental agency under any revenue-sharing or tax-sharing fund. The department may also pursue any other available remedies, including accelerating loan repayments, eliminating all or part of the interest rate subsidy on the loan, and court appointment of a receiver to manage the public water system.

If a non-governmental loan recipient defaults on a loan, the department may pursue any remedy available to it at law.

The department may impose a penalty of 6 percent of the amount due for delinquent loan payments, in addition to charging the cost to handle and process the debt.

The department also is authorized to terminate or rescind a financial assistance agreement when the recipient fails to comply with the terms and conditions of the agreement.

The department may conduct an audit of the loan project upon completion, or may require submission of a separate project audit prepared by an independent certified public accountant.

⁶ "Local governmental agency" means any municipality, county, district, or authority, or any agency thereof, or a combination of two or more of the foregoing acting jointly in connection with a project, having jurisdiction over a public water system.

The department shall prepare a report at the end of each fiscal year, detailing the financial assistance provided under this section, service fees collected, interest earned, and loans outstanding.

III. Effect of Proposed Changes:

The bill amends ss. 403.1835, 403.1838, and 403.8532 F.S., to authorize DEP to disburse financial assistance under those sections based solely upon invoiced costs, without a requirement that the recipients request advance payment pursuant to s. 216.181(16), F.S. The recipient must submit proof of payment of invoiced costs before or concurrent with the recipient's next disbursement request.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to DEP, the bill will reduce the burden on loan recipients, particularly small and financially disadvantaged communities, thus saving them time and money.

C. Government Sector Impact:

The bill should reduce workload for DEP and the CFO's office, thus saving them time and money.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.1835, 403.1838, and 403.8532.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Montford

3-00416A-17

2017678__

1 A bill to be entitled
 2 An act relating to financial assistance for water and
 3 wastewater infrastructure; amending ss. 403.1835,
 4 403.1838, and 403.8532, F.S.; allowing disbursement of
 5 financial assistance for water and wastewater
 6 infrastructure projects based upon invoiced costs;
 7 providing that recipients are not required to request
 8 advance payment; providing for the submission of proof
 9 of payment; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsection (12) is added to section 403.1835,
 14 Florida Statutes, to read:

15 403.1835 Water pollution control financial assistance.—

16 (12) Recipients of financial assistance under this section
 17 may receive disbursements based upon invoiced costs and are not
 18 required to request advance payment pursuant to s. 216.181(16).
 19 Proof of payment of invoiced costs shall be submitted before or
 20 concurrent with the recipient's next disbursement request.

21 Section 2. Subsection (4) is added to section 403.1838,
 22 Florida Statutes, to read:

23 403.1838 Small Community Sewer Construction Assistance
 24 Act.—

25 (4) Recipients of financial assistance under this section
 26 may receive disbursements based upon invoiced costs and are not
 27 required to request advance payment pursuant to s. 216.181(16).
 28 Proof of payment of invoiced costs shall be submitted before or
 29 concurrent with the recipient's next disbursement request.

30 Section 3. Subsection (17) is added to section 403.8532,
 31 Florida Statutes, to read:

32 403.8532 Drinking water state revolving loan fund; use;

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

3-00416A-17

2017678__

33 rules.—

34 (17) Recipients of financial assistance under this section
 35 may receive disbursements based upon invoiced costs and are not
 36 required to request advance payment pursuant to s. 216.181(16).
 37 Proof of payment of invoiced costs shall be submitted before or
 38 concurrent with the recipient's next disbursement request.

39 Section 4. This act shall take effect July 1, 2017.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Overview of the Florida Public Service Commission

Presentation to the

Florida Senate Communications, Energy, and Public Utilities Committee



Cayce Hinton, Director
Office of Industry Development and Market Analysis
March 7, 2017

The FPSC Regulates



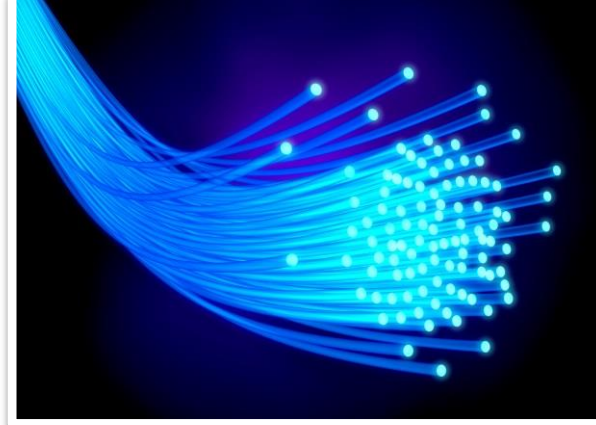
ELECTRIC



NATURAL GAS



WATER & WASTEWATER



TELECOMMUNICATIONS



Mission:

*To facilitate the efficient provision of
safe and reliable utility services
at fair prices*



FPSC Regulatory Overview

- The Public Service Commission (PSC) is a Legislative agency with authority over the rates and service of the state's investor-owned utilities (IOUs)
- Electricity, Natural Gas, and Water & Wastewater:
 - The PSC regulates the electric and gas IOUs, and the water & wastewater IOUs in those counties that have given jurisdiction to the PSC
 - The PSC also has limited jurisdiction over publicly-owned municipal and rural cooperative utilities
- Telecommunications:
 - The PSC has regulatory authority over the wholesale relationships of the state's various telecommunications companies, and over certain retail programs such as Lifeline and Relay



FPSC Regulatory Jurisdiction

- The PSC currently regulates the rates and service of:
 - 5 investor-owned electric utilities
 - 8 investor-owned natural gas utilities
 - 146 investor-owned water and wastewater utilities
- The PSC has limited jurisdiction over:
 - 18 rural electric cooperatives
 - 35 municipal electric utilities
 - 27 municipal natural gas utilities
 - 4 special gas districts
- The PSC exercises competitive market oversight for:
 - 10 incumbent local exchange telephone companies (ILECs)
 - 241 competitive local exchange telephone companies (CLECs)
 - 57 competitive pay telephone service providers



FPSC Regulatory Authority

- **Rate Base/Economic Regulation**
 - Analyze requested rate changes
 - Conduct earnings surveillance to ensure that regulated utilities are not exceeding their authorized rates of return
- **Consumer Protection, Safety, Reliability, and Service**
 - Investigate and respond to consumer questions
 - Disseminate consumer education materials
 - Conduct safety inspections of gas systems and electric facilities
 - Oversight of the planning, development, and maintenance of the grid to assure an adequate and reliable source of energy
- **Competitive Market Oversight**
 - Facilitate the development of competitive markets, where directed by statute, and address issues associated with those markets



Regulatory Compact

- Rate regulation occurs for essential services that are provided by monopoly firms
- Government protects the interests of both the consumer and the supplier
- In return, the supplier has rights AND responsibilities



Regulatory Compact

- **Rights of the Utility:**
 - Natural monopoly
 - Franchise for defined territories
 - Can charge rates to recover the prudent costs of service
 - Entitled to an opportunity to earn a fair and reasonable return on investments
- **Responsibilities of the Utility:**
 - Obligation to serve all customers in the defined territory
 - May not unduly discriminate in providing service or charging rates
 - Must provide safe and reliable service
 - May not build unnecessary facilities or incur costs for unnecessary services
 - Must open books to regulators



The “Public Interest”

- Regulators are tasked with making decisions that are in the public interest
- Composite of economic efficiency, sympathetic gradualism, and political accountability
- Involves balancing several interests



FPSC Balancing Act

Balance the interests of customers with those of the utility and its shareholders



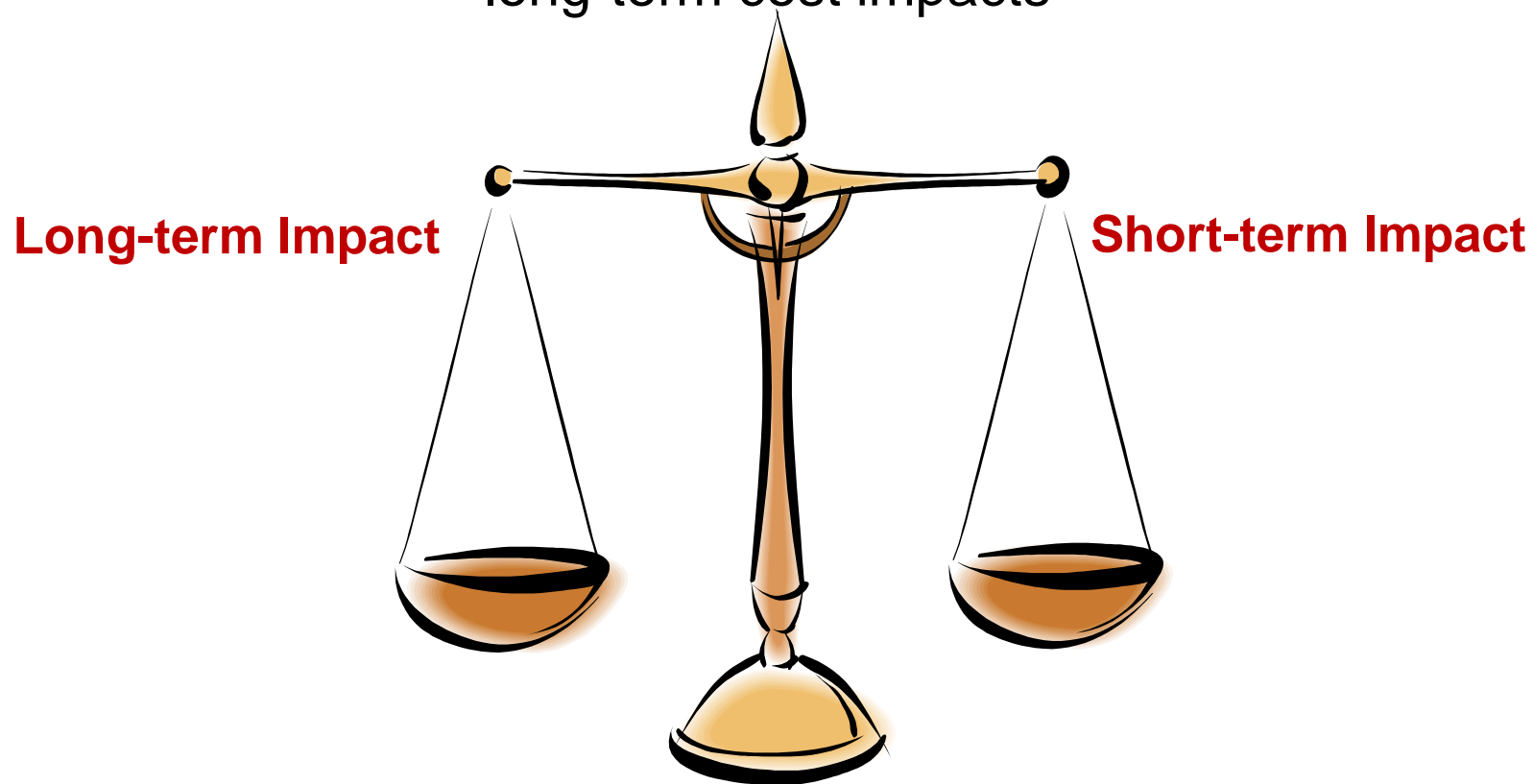
FPSC Balancing Act

Balance the need for reliability with the desire for low rates



FPSC Balancing Act

Balance the need for long-term planning with the effect of short- and long-term cost impacts



Methods for Changing Rates

- The Annual Cost Recovery Clauses
- General Rate Base Proceedings



Cost Recovery Clauses

- Base rate cases typically can take up to a year to complete
- The Commission has authority to allow certain expenses that can vary year-to-year to be recovered through annual adjustment clauses
- Formal hearings held annually to determine prudence of requested expenses
- These include:
 - Fuel costs, including purchased power
 - Conservation program costs
 - Environmental compliance costs
 - Nuclear pre-construction costs



Rate Base and Rate of Return

- Rate Base = the net investment in facilities, equipment, and other property necessary to provide utility service, minus accrued depreciation
- Rate of Return = (r) the % return earned, or allowed to be earned, on the utility's rate base, including a return on equity and recovery of debt expense
- Utility systems are capital intensive industries with long lived assets of 40-60 years. Once costs are deemed prudent, cost recovery is permitted
- During a rate case, “base rates” are changed and are fixed until the next rate case



Revenue Requirement

- Base rates are set to permit a utility to recover its costs, or Revenue Requirement, and have the opportunity to earn a fair rate of return on its capital investments for a test year

- Formula:

$$\text{Revenue Requirement, RR} = r \overbrace{(V-D)}^{\text{"Rate Base"}} + \overbrace{O + T + d}^{\text{"Expenses"}}$$

r = % Overall Rate of Return (weighted-average cost of capital)

V = Gross Investment

D = Accumulated Depreciation (sum of past "d")

O = Operating Expenses (O&M, Personnel, Administration, etc.)

T = Taxes (corporate income taxes + other taxes)

d = Annual Depreciation Expense



Key Supreme Court Cases

- In 1923, in Bluefield Water Works v. Public Service Commission of West Virginia, the Supreme Court ruled that:
 - A public utility is entitled to rates that allow it to earn a return on the value of the plant and equipment it owns
 - While the public utility has no right to profits from speculative ventures
- In 1944, in FPC v. Hope Natural Gas, the Supreme Court ruled that:
 - From the investor or company perspective, prices are set such that there be enough revenue for operating expenses and to cover the costs of capital and debt expenses
 - Additionally, the return to equity owners should be commensurate with returns on firms with similar risks and to allow the utility to maintain its ability to attract capital



The Electric Rate Case Process

- Any substantially affected party can intervene and the Office of Public Counsel intervenes on behalf of the customers
- The Commission conducts service hearings in the territory of the affected utility to take public testimony on the quality of service
- The rate case is conducted as a Chapter 120 hearing process—sworn testimony, witnesses, and post hearing filings
- All aspects of the revenue requirement equation can be disputed and the return on equity is always at issue
- After the Commission votes, the order changing rates is effective in 30 days



Steps in Designing Rates

- Develop estimate of how many kilowatt-hours will be sold during the test period (“billing determinants”)
- Classify costs as to function and determine if they are fixed or variable costs
- Try to assign fixed costs on demand (kW) basis and assign variable costs on energy (kWh)
- The industry practice is to use “cost of service” assignment of costs to each homogenous class of customer to reflect the actual cost to serve that class



How are Rate Classes Determined?

- Customers are grouped together into a rate class based on common energy use characteristics (meter type, demand size, voltage level)
- Residential: Single Family and multi-family dwellings
- General Service or Commercial Class: small, medium, large (usually based on kW demand and/or voltage level)
- Industrial Rate Class
- Other rate classes: Street Lighting, Irrigation, Water Pumping, Standby Service



Fundamental Rate Elements

- Demand Charge:
 - Measured in dollars per kW of monthly metered customer billing demand (maximum demand during the month). Mainly designed to recover fixed costs.
- Energy Charge:
 - Measured in dollars per kWh of monthly customer energy usage. Mainly designed to recover variable costs.
- Customer Charge:
 - Measured in dollars per customer per month. Mainly designed to recover directly assignable costs.



Post Rate Case Monitoring

- Once new rates are established utilities file monthly surveillance reports and staff evaluates if the utility is over or under earning based on reported Return on Equity (ROE)
- If the utility is overearning, the utility can be called in for a rate case to lower rates. Likewise, if it's earnings are below the authorized ROE, the utility can petition to increase its rates.
- Earnings can change due to change in sales, change in debt cost, new or unpredictable regulatory costs, and change in customer consumption patterns
- In all cases, rates must be adjusted to meet the Hope and Bluefield standards



Other Rate Change Processes

- Staff Assisted Rate Cases (Water/Wastewater)
- Tariff filings
- Index/Pass-through provisions (Water/Wastewater)
- Limited Proceedings



Questions?



THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 3-7-17

Bill Number (if applicable) _____

Topic FPSC Interview Presentation

Amendment Barcode (if applicable) _____

Name Layne Hinton

Job Title Director, Office of Industry Development & Market Analysis

Address 2540 Shumard Oak Blvd

Phone 413-6950

Street Talkeussee City FL State FL Zip 32399

Email ehinton@psc.state.fl.us

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Public Service Commissions

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.

Office of Public Counsel

The Office of Public Counsel was created by the 1974 regular session of the Florida Legislature to provide legal representation for the people of the state in utility related matters (Section 350.061, et seq., Florida Statutes). Legislative and public concern that the diverse functions concentrated in the Florida Public Service Commission of judge, investigator, advocate, and enforcer of the state's public utility regulatory statutes were mutually incompatible, led to the creation of the Public Counsel separate from and independent of the Commission. It is the Public Counsel's statutory responsibility to advocate the interests of the Florida utility consumers.

The Public Counsel is appointed by the Joint Legislative Committee on Public Counsel Oversight, and the Public Counsel serves at the pleasure of the Committee. The office is located in the Claude Pepper Building in Tallahassee. The physical separation of the office from the Public Service Commission serves to underscore the independence of the Office of Public Counsel.

It is the duty of the Public Counsel to provide legal representation for the people of the state in rate proceedings before the Public Service Commission involving electric, water, wastewater and gas utilities, as well as other numerous proceedings involving these utilities. This includes all customers, including residential, commercial, industrial and governmental. The Public Counsel also has the duty to provide legal presentation for the people of the state in water and wastewater proceedings before counties pursuant to Section 367.171(8), Florida Statutes. The Office of Public Counsel performs independent analysis, presents testimony of expert witnesses, cross-examines utility witnesses, and files recommendations and briefs in these cases,

and advances positions which he or she deems to be in the public interest. Depending on the significance of the issue(s) or potential rate impact involved in a proceeding, the Public Counsel may formally intervene in the proceeding or participate in an informal manner. The decision whether to intervene is made on a case-by-case basis after a review of the initial filing to initiate the docket. The Public Counsel also has the authority to file petitions to commence proceedings in the name of the state or its citizens before the Public Service Commission or counties to urge any position which he or she deems to be in the public interest.

In addition to participating in proceedings before the Public Service Commission or counties, the Office of Public Counsel also renders assistance to utility customers on an informal basis. This assistance varies from answering consumer correspondence, helping to resolving service complaints, and advising customers on matters before the Public Service Commission in which the Public Counsel has not officially intervened. In carrying out its statutory responsibility, the Public Counsel has since 1974 represented Florida utility customers before such diverse tribunals as: the Public Service Commission, the Florida Circuit Court, the Florida District Court of Appeal, the Florida Supreme Court, the Federal Communications Commission, the Internal Revenue Service, the United States Treasury Department, the Federal District Court, the Federal Circuit Court of Appeal, the United States Supreme Court and United States Congressional Committees.

The Office of Public Counsel also assists consumers who wish to participate in the Lifeline Telephone and Broadband Assistance Program. The Office of Public Counsel maintains a toll free hotline to answer questions about how to enroll in the program, advises

qualified consumers how best to apply for assistance, and verifies income eligibility for consumers who apply for funding assistance under the income test.

The Office of Public Counsel has an operational budget for fiscal year 2016-2017 of \$2,400,836 and is authorized 16.5 FTE's (full time equivalents). Of the total staff, 3.5 FTE's are assigned to the Lifeline program.

Office of Public Counsel – Current Caseload for 2017

The Office of Public Counsel (OPC) is currently participating in the following dockets initiated at the Public Service Commission (PSC), either through formal intervention or informal review and analysis:

Electric – 34
Water/wastewater – 36
Gas – 9
Other – 5

The following provides a brief description of the major cases in which OPC is currently participating or anticipates may be filed during 2017:

Electric:

Gulf Power Company (Gulf) – Docket #160186. Gulf filed a petition in October 2016 for an annual base rate increase of \$107 million, which represents an increase to base rates of 25% for residential customers, and an overall increase to base rates of 17.9% to all customers. OPC formally intervened and will be contesting certain issues in this docket.

Tampa Electric Company (TECO). OPC entered into a settlement agreement with TECO and other intervenors in 2013. Under this agreement, TECO is barred from seeking an increase to its base rates effective prior to January 1, 2018, except for certain delineated reasons. As this agreement is set to expire at the end of 2017, TECO is eligible to file a petition for a base rate increase as early as the March/April 2017 timeframe. In that event, OPC would formally intervene on behalf of the customers to contest any costs that are not reasonable or prudent.

Florida Public Utilities Company (FPUC) – Docket #150001. FPUC filed a petition in the 2015 Fuel Clause hearing seeking to recover costs pertaining to certain transmission assets. The PSC granted FPUC's request and OPC subsequently appealed this decision to the Florida Supreme Court. Briefs were filed in early 2016 and oral argument was held in November 2016. Depending on how the Court rules, additional work will likely be required in this docket.

FPUC – Docket #170033. FPUC filed a petition in February 2017 seeking approval for an electric reliability infrastructure surcharge, on the magnitude of a full base rate case proceeding. OPC formally intervened and will be contesting certain issues in this docket, including procedural aspects.

Florida Power & Light Company (FPL) – Docket #170007. This docket is the annual Environmental Cost Recovery Clause docket. FPL was previously found by the Florida Department of Environmental Protection (DEP) to be in violation of its permitted conditions and rules with respect to the operation of its cooling canals at the Turkey Point Nuclear Facility. These violations have allegedly contributed to a high salinity plume, and the DEP has ordered FPL to reverse the flow of the plume and eradicate it. FPL has indicated it will seek recovery of

these costs from its customers. OPC will intervene to oppose any imprudent costs or costs that result from the actions or inactions of FPL in violation of law.

FPL – Docket #160251. FPL filed on December 29, 2016, for storm recovery costs resulting from Hurricane Matthew. The total amount FPL is seeking is approximately \$320 million. OPC has formally intervened in this docket and will oppose any costs which are not reasonable or prudent.

Hedging of Natural Gas – Undocketed matter. Since 2015, OPC has opposed the hedging of natural gas by the electric utilities based upon the fact the hedging activities have cost Florida ratepayers approximately \$6.5 billion. The PSC is conducting a series of workshops, to be followed by subsequent hearings, on the hedging of natural gas to consider whether to (1) allow the electric utilities to continue hedging in the same manner as they have done for the past 12 years; (2) initiate a new hedging mechanism to be utilized by the electric utilities; or (3) eliminate hedging activities altogether. OPC is actively participating in these workshops.

Incentive Mechanism – Undocketed matter. The PSC is conducting a series of workshops addressing energy transaction incentive mechanisms. OPC is actively participating in these workshops.

Water/wastewater:

Utilities Inc. of Florida (UIF) – Docket #160101. UIF filed a petition in 2016 to consolidate approximately 37 water/wastewater systems that are operating in multiple counties throughout Florida. In addition, UIF is requesting an annual increase in its base rates of \$6.9 million, which represents an increase of 23.6%. OPC has intervened in this docket and will oppose any costs which are not reasonable or prudent.

Other:

Peoples Gas System (Peoples Gas) – Docket #160159. Peoples Gas filed a depreciation study in 2016 requesting new depreciation rates be applied which would ultimately result in increased rates to its customers. OPC intervened and opposed certain depreciation rates which were not reasonable. OPC and PGS filed a settlement agreement in this docket in December 2016 resolving depreciation issues and allowing safety and environmental problems to be addressed without triggering the imminent need for a rate case, which was approved by the PSC during its February 7, 2017 regular Agenda hearing. The Final Order has not yet been issued.

Ongoing dockets:

Nuclear Cost Recovery Clause – Docket #170009. The PSC establishes an annual cost recovery docket to review (1) the past year's actual expenditures, (2) the current year's actual and projected expenditures, and (3) the next year's projected expenditures, for FPL and Duke

Energy Florida (Duke) relating to their proposed new nuclear plants. The OPC formally intervenes in this docket to annually review the filings and cost recovery requested by FPL and Duke, and contests those expenses that are not prudent or reasonable. It is unknown at this time what costs FPL or Duke will seek in 2017.

Cost recovery dockets for fuel, energy efficiency/conservation and environmental issues – Dockets #170001, 170002 and 170007. The PSC establishes annual cost recovery dockets to review (1) the past year's actual expenditures, (2) the current year's actual and projected expenditures, and (3) the next year's projected expenditures, for all electric utilities relating to their costs for fuel, energy efficiency/conservation programs, and environmental issues. The OPC formally intervenes in these dockets to annually review the filings and cost recovery requested by the utilities, and contests those expenses that are not prudent or reasonable.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date 2/9/17

Bill Number (if applicable) _____

Amendment Barcode (if applicable) _____

Topic Office of Public Counsel

Name J.R. Kelly

Job Title Public Counsel

Address 111 W. Madison St.

Street Chickadee City FL State FL Zip 32809

Phone 850-488-9990

Email Kelly.jr@leg.state.fl.us

Speaking: For Against Information Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing _____

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.

CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Committee on Communications, Energy, and Public Utilities

Judge:

Started: 3/7/2017 3:59:28 PM

Ends: 3/7/2017 5:44:02 PM Length: 01:44:35

4:00:20 PM Call to Order
4:00:35 PM Roll Call
4:01:13 PM SB 144 - Use of Wireless Communications Devices While Driving by Sen. Garcia
4:02:10 PM Amendment 897144
4:03:04 PM Shane Bennett, Chief of Police, The FL. Police Chief Assoc.
4:04:59 PM Mark Merwitzer, Student, Palmetto Bay Youth Community Involvement Board
4:07:08 PM Amendment Vote
4:07:22 PM Question - Sen. Clemons
4:07:43 PM Response - Mark Merwitzer
4:08:11 PM Response - Sen. Garcia
4:09:09 PM Follow up - Sen. Clemons
4:09:44 PM Response - Sen. Garcia
4:10:23 PM Question - Sen. Perry
4:10:33 PM Response - Sen. Garcia
4:10:49 PM Follow up - Sen. Perry
4:11:08 PM Response - Sen. Garcia
4:12:00 PM Follow up - Sen. Perry
4:12:05 PM Response - Sen. Garcia
4:12:30 PM Question - Sen. Montford
4:12:52 PM Response - Sen. Garcia
4:13:08 PM Response - Shane Bennett, Chief of Police
4:14:00 PM Question - Sen. Stargel
4:14:16 PM Response - Shane Bennett, Chief of Police
4:14:50 PM Question - Sen. Broxson
4:15:16 PM Response - Sen. Garcia
4:16:17 PM Question - Sen. Campbell
4:16:34 PM Response - Shane Bennett, Chief of Police
4:17:13 PM Follow up - Sen. Campbell
4:17:21 PM Response - Shane Bennett, Chief of Police
4:17:49 PM Follow up - Sen. Campbell
4:17:53 PM Response - Shane Bennett, Chief of Police
4:18:46 PM Keyna Cory, FL. Don't Text and Drive Coalition
4:21:00 PM
4:21:04 PM Discussion - Sen. Clemons
4:23:11 PM Discussion - Sen. Stargel
4:24:22 PM Discussion - Sen. Broxson
4:25:27 PM Discussion - Sen. Montford
4:26:15 PM Discussion - Sen. Artiles
4:27:01 PM Closing Remarks - Sen. Garcia
4:28:17 PM Roll Call Vote on CS
4:28:49 PM SB 596 - Utilities by Sen. Hutson
4:29:16 PM
4:30:03 PM Amendment 904906
4:30:41 PM Amendment 829302
4:31:11 PM Amendment 904906 as Amended
4:31:32 PM SB 596 as Amended
4:31:52 PM Beth Cooley, Dir. State Legislative. Affairs, CTIA
4:34:47 PM Eric Poole, Asst. Leg. Director, FL. Assoc. of Counties
4:39:51 PM Question Sen. Broxson
4:40:24 PM Response - Eric Poole
4:40:45 PM Question - Sen. Montford
4:41:05 PM Response - Eric Poole

4:41:49 PM Follow up - Sen. Montford
4:42:11 PM Response - Eric Poole
4:42:39 PM Gil Ziffer, Tallahassee City Commissioner
4:45:21 PM Question - Sen. Montford
4:45:28 PM Response - Gil Ziffer
4:45:41 PM Amy Zubaly, Interim Executive Director, FL. Municipal Electric Assoc.
4:46:26 PM Jordan Leonard, Mayor, Bay Harbor Islands
4:48:36 PM Question - Sen. Broxson
4:48:50 PM Response - Jordan Leonard
4:49:47 PM Michael Beedie, City Manager, City of Fort Walton Beach
4:51:13 PM Scott Fischer, Mayor, City of Destin
4:52:30 PM Dawn Pardo, Councilwoman, City of Riviera Beach
4:54:56 PM Megan Sirjane-Samples, Legislative Advocate, FL. League of Cities
4:56:32 PM Question - Sen. Clemens
4:56:57 PM Response - Kraig Conn, FL. League of Cities
4:59:38 PM Gary Resnick, Mayor, City of Wilton Manors
5:03:00 PM James Taylor, Executive Director, Florida Technology Council
5:04:37 PM Tracy Hatch, General Attorney, ATandT
5:10:04 PM Question - Sen. Montford
5:10:16 PM Response - Tracy Hatch
5:10:34 PM Follow up - Sen. Montford
5:10:58 PM Response - Tracy Hatch
5:11:41 PM Follow up - Sen. Montford
5:11:53 PM Response - Tracy Hatch
5:12:24 PM Follow up - Sen. Montford
5:12:46 PM
5:13:01 PM Response - Tracy Hatch
5:13:28 PM Question - Sen. Artiles
5:13:36 PM Response - Tracy Hatch
5:14:22 PM Follow up - Sen. Montford
5:14:38 PM Question - Sen. Clemens
5:14:56 PM Debate
5:15:05 PM Discussion - Sen. Artiles
5:15:57 PM Discussion - Sen. Campbell
5:17:13 PM Discussion - Sen. Stargel
5:18:11 PM Closing Remarks - Sen. Hutson
5:19:26 PM Roll Call Vote on CS
5:19:56 PM SB 678 - Financial Assistance for Water and Wastewater Infrastructure by Sen. Montford
5:21:45 PM Roll Call Vote
5:22:17 PM Presentation by Cayce Hinton, Director, Public Service Commission
5:23:15 PM Overview of the Public Service Commission
5:37:59 PM Presentation by J.R. Kelly, Public Counsel, Office of the Public Counsel
5:40:41 PM Question - Sen. Broxson
5:42:24 PM Response - J.R. Kelly
5:43:56 PM Adjourn