

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 408

SPONSOR: Committee on Regulated Industries & Senator Smith

SUBJECT: Interruption of Electric Utilities

DATE: March 9, 2001

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	RI	Favorable/CS
2.	_____	_____	JU	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill gives immunity to the good-faith compliance by an electric utility with a law enforcement or judicial order to interrupt electric service for the purpose of aiding law enforcement personnel in the performance of their duties, so long as the utility and its personnel exercise reasonable care in their actions.

The bill creates section 768.138 of the Florida Statutes.

II. Present Situation:

Currently, there is neither a law requiring uninterrupted electric service nor a law providing immunity for interrupting electric service. The potential for liability of an electric utility for an intentional interruption of electric service is uncertain.

The Florida Public Service Commission's rules require electric utilities to make all reasonable efforts to prevent interruptions of service and, when such interruptions do occur, to attempt to restore service within the shortest time practicable consistent with safety. Rule 25-6.044(2), F.A.C. There is no absolute guarantee of uninterrupted service as circumstances beyond a utility's control can cause problems at a generation plant or with transmission wires that can create a power interruption. Additionally, 25-6.105, F.A.C., provides for circumstances where the utility may discontinue service, including the customer's failure to pay his bill, provide adequate space for the meter, or noncompliance with state or municipal law.

An electric utility can interrupt power in a number of ways, each of which affects a different size area and a different number of customers. If the utility can interrupt the power at a specific customer's meter, it will affect only that customer. If this cannot be done, which may be the case

in an emergency, the power interruption necessarily will affect the electric supply to more customers. If power can be interrupted at a transformer, it may affect a block or a neighborhood. If it must be done at a substation, the power supply will be interrupted over a larger area, affecting the power supply to more people. However, depending on the emergency situation, some of these people may be evacuated from the area in advance of the power interruption.

Currently, s. 934.15, F.S., provides immunity to a telephone company that interrupts service pursuant to an order from law enforcement. The statute provides a number of conditions. First, the supervising law enforcement officer at the scene of the incident must have reasonable cause to believe:

- That a person is holding one or more hostages,
- That a person has barricaded herself or himself and taken a position of confinement to avoid apprehension,
- That there is the probability that a subject about to be arrested will resist with the use of weapons, or
- That a person has barricaded herself or himself and is armed and is threatening suicide.

Second, the telephone lines must be cut, rerouted, or diverted for the purpose of preventing telephone communications between the suspect and any person other than a law enforcement officer or the law enforcement officer's designee. Third, the cutting, rerouting, or diverting of telephone lines must be technically feasible and capable of being performed without endangering the lives of telephone company or other utility personnel.

The statute provides that the good faith reliance by a telephone company on an oral or written order to cut, reroute, or divert telephone lines given by a supervising law enforcement officer constitutes a complete defense to any civil, criminal, or administrative action arising out of such an order.

III. Effect of Proposed Changes:

The bill creates s. 768.138, F.S., to give civil, criminal, and administrative immunity to the good-faith compliance by an electric utility with a law enforcement or judicial order to interrupt electric service for the purpose of aiding law enforcement personnel in the performance of their duties, so long as the utility and its personnel exercise reasonable care in their actions. This appears to give immunity from any action arising from the resulting lack of electric service, but not from negligence in the act of cutting the electricity.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Electric customers and third parties will be prohibited from bringing a cause of action against an electric company for injuries or property damage resulting from an intentional interruption of electric service based on an order from law enforcement. The potential for such a cause of action is uncertain under present law.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.