

CHAMBER ACTION

1 The Utilities & Telecommunications Committee recommends the  
2 following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to damage prevention and safety for  
8 underground facilities; amending s. 556.101, F.S.;  
9 providing legislative intent that Sunshine State One-Call  
10 of Florida, Inc., is not required or permitted to locate  
11 or mark underground facilities; amending s. 556.102, F.S.;  
12 redefining the term "member operator" to remove an  
13 exception for a small municipality that elects not to  
14 participate in the notification system; amending ss.  
15 556.103 and 556.104, F.S.; deleting provisions exempting a  
16 small city from membership in the Sunshine State One-Call  
17 of Florida, Inc.; amending s. 556.105, F.S.; requiring  
18 that specified information be placed in the excavation  
19 notification system; providing an exception for underwater  
20 excavations; providing that the information is valid for  
21 30 calendar days; requiring that a notification number  
22 assigned to an excavator be provided to a law enforcement  
23 officer, government code inspector, or code enforcement

HB 789

2006  
CS

24 officer upon request; requiring that a member operator  
25 respond to the system within a specified time indicating  
26 the status of its facility protection operations;  
27 requiring the corporation to establish a communication  
28 system between member operators and excavators; requiring  
29 an excavator to verify the system's positive responses  
30 before beginning excavation; requiring operators to use a  
31 specified color-code manual; amending s. 556.106, F.S.;  
32 providing that the notification system has no duty to and  
33 may not mark or locate underground facilities; providing  
34 that a person has no right of recovery against the  
35 notification system for failing to mark or locate  
36 underground facilities; providing that the system is not  
37 liable for the failure of a member operator to comply with  
38 the requirements of the act; amending s. 556.107, F.S.;  
39 correcting cross-references; providing for the  
40 distribution of civil penalties; revising procedures for  
41 disposition of citations; authorizing the corporation to  
42 retain legal counsel to represent the corporation in  
43 certain legal proceedings; amending s. 556.108, F.S.;  
44 providing that certain excavations are exempt from  
45 mandatory location notification if mechanized equipment is  
46 not used; exempting pest control services and certain  
47 activities by a water control district under certain  
48 circumstances; providing an effective date.

49  
50 Be It Enacted by the Legislature of the State of Florida:  
51

HB 789

2006  
CS

52 Section 1. Section 556.101, Florida Statutes, is amended  
53 to read:

54 556.101 Short title; legislative intent.--

55 (1) This act may be cited as the "Underground Facility  
56 Damage Prevention and Safety Act."

57 (2) It is the intent of the Legislature to provide access  
58 for excavating contractors and the public to provide  
59 notification to the system of their intent to engage in  
60 excavation or demolition. This notification system shall provide  
61 the member operators an opportunity to identify and locate their  
62 underground facilities. Under this notification system, Sunshine  
63 State One-Call of Florida, Inc., is not required or permitted to  
64 locate or mark underground facilities.

65 (3) It is the purpose of this act to:

66 (a) Aid the public by preventing injury to persons or  
67 property and the interruption of services resulting from damage  
68 to an underground facility caused by excavation or demolition  
69 operations.

70 (b) Create a not-for-profit corporation comprised of  
71 operators of underground facilities in this state to administer  
72 ~~the provisions of~~ this act.

73 (c) Fund the cost of administration through contributions  
74 from the member operators for services provided to the member  
75 operators and from charges made to others for services requested  
76 and provided, such as record searches, education or training,  
77 and damage prevention activities.

78 (d) Reserve to the state the power to regulate any subject  
79 matter specifically addressed in this act.

HB 789

2006  
CS

80 (e) Permit any local law enforcement officer, local  
 81 government code inspector, or code enforcement officer ~~or~~  
 82 ~~permitting agency inspector~~ to enforce this act without the need  
 83 to incorporate the provisions of this act into any local code or  
 84 ordinance.

85 (4) It is not the purpose of this act to amend or void any  
 86 permit issued by a state agency for placement or maintenance of  
 87 facilities in its right-of-way.

88 Section 2. Subsection (8) of section 556.102, Florida  
 89 Statutes, is amended to read:

90 556.102 Definitions.--As used in this act:

91 (8) "Member operator" means any person who furnishes or  
 92 transports materials or services by means of an underground  
 93 facility ~~except a small municipality that has elected not to~~  
 94 ~~participate in the one call notification system in the manner~~  
 95 ~~set forth in s. 556.103(1).~~

96 Section 3. Subsection (1) of section 556.103, Florida  
 97 Statutes, is amended to read:

98 556.103 Creation of the corporation; establishment of the  
 99 board of directors; authority of the board; annual report.--

100 (1) The "Sunshine State One-Call of Florida, Inc." is  
 101 ~~hereby~~ created as a not-for-profit corporation. Each operator of  
 102 an underground facility in this state shall be a member of the  
 103 corporation and shall use and participate in the system, ~~except~~  
 104 ~~that a small city as defined in s. 120.52 may elect by January~~  
 105 ~~1, 1998, not to participate in the system until January 1, 2003,~~  
 106 ~~through a written notification identifying any reasons for~~  
 107 ~~declining membership. The corporation shall be formed by June 1,~~

HB 789

2006  
CS

108 | ~~1993.~~ The corporation shall administer the provisions of this  
 109 | act. The corporation shall exercise its powers through a board  
 110 | of directors established pursuant to this section.

111 | Section 4. Section 556.104, Florida Statutes, is amended  
 112 | to read:

113 | 556.104 Free-access notification system.--The corporation  
 114 | shall maintain a free-access notification system. Any person who  
 115 | furnishes or transports materials or services by means of an  
 116 | underground facility in this state shall participate as a member  
 117 | operator of the system ~~except that a small city as defined in s.~~  
 118 | ~~120.52 may elect not to participate in the system in the manner~~  
 119 | ~~set forth in s. 556.103(1).~~ The purpose of the system is to  
 120 | receive notification of planned excavation or demolition  
 121 | activities and to notify member operators of the ~~such~~ planned  
 122 | excavation or demolition activities. The system shall provide a  
 123 | single toll-free telephone number within this state which  
 124 | excavators can use to notify member operators of planned  
 125 | excavation or demolition activities, and the system may also  
 126 | provide additional modes of access at no cost to the user.

127 | Section 5. Section 556.105, Florida Statutes, is amended  
 128 | to read:

129 | 556.105 Procedures.--

130 | (1) (a) Not less than 2 ~~nor more than 5~~ full business days  
 131 | before beginning any excavation or demolition, except an  
 132 | excavation beneath the waters of the state, an excavator shall  
 133 | provide the following information through the system:

HB 789

2006  
CS

- 134           1. The name of the individual who provided notification  
135 and the name, address, including the street address, city,  
136 state, zip code, and telephone number of her or his employer.
- 137           2. The name and telephone number of the representative for  
138 the excavator, and a valid electronic address to facilitate a  
139 positive response by the system should be provided, if  
140 available.
- 141           3. The county, the city or closest city, and the street  
142 address or the closest street, road, or intersection to the  
143 location where the excavation or demolition is to be performed,  
144 and the construction limits of the excavation or demolition.
- 145           4. The commencement date and anticipated duration of the  
146 excavation or demolition.
- 147           5. Whether machinery will be used for the excavation or  
148 demolition.
- 149           6. The person or entity for whom the work is to be done.
- 150           7. The type of work to be done.
- 151           8. The approximate depth of the excavation.
- 152           (b) The excavator shall provide the ~~such~~ information by  
153 notifying the system through its free-access notification system  
154 during business hours, as determined by the corporation, or by  
155 such other method as authorized by the corporation. Any  
156 notification received by the system at any time other than  
157 during business hours shall be considered to be received at the  
158 beginning of the next business day.
- 159           (c) Information provided by an excavator is ~~shall be~~  
160 ~~considered~~ valid for 30 ~~a period of 20~~ calendar days after the  
161 ~~each~~ date such information is provided to the system. In

HB 789

2006  
CS

162 computing the period for which information furnished is  
163 ~~considered~~ valid, the date the notice is provided is ~~shall~~ not  
164 ~~be~~ counted, but the last day of the ~~such~~ period shall be counted  
165 unless it is a Saturday, Sunday, or a legal holiday, in which  
166 event, the period runs ~~shall run~~ until the end of the next day  
167 that ~~which~~ is not a Saturday, Sunday, or a legal holiday.

168 (2) Each notification by means of the system shall be  
169 recorded to document compliance with this act. Such record may  
170 be made by means of electronic, mechanical, or any other method  
171 of all incoming and outgoing wire and oral communications  
172 concerning location requests in compliance with chapter 934. The  
173 ~~Such~~ records shall be kept for ~~a period of~~ 5 years and, upon  
174 written request, shall be available to the excavator making the  
175 request, the member operator intended to receive the request,  
176 and their agents. However, custody of the records may ~~shall~~ not  
177 be transferred from the system except under subpoena.

178 (3) The system shall provide the person who provided  
179 notification with the names of the member operators who shall  
180 ~~will~~ be advised of the notification and a notification number  
181 that ~~which~~ specifies the date and time of the notification.

182 (4) The notification number provided to the excavator  
183 under this section shall be provided to any law enforcement  
184 officer, government code inspector, or code enforcement officer  
185 upon request.

186 (5)-(4) All member operators within the defined area of a  
187 proposed excavation or demolition shall be promptly notified  
188 through the system, except that member operators with state-  
189 owned underground facilities located within the right-of-way of

HB 789

2006  
CS

190 a state highway need not be notified of excavation or demolition  
191 activities and are under no obligation to mark or locate the  
192 ~~such~~ facilities.

193 (a) When an excavation site cannot be described in  
194 information provided under subparagraph (1)(a)3. with sufficient  
195 particularity to enable the member operator to ascertain the  
196 excavation site, and if the excavator and member operator have  
197 not mutually agreed otherwise, the excavator shall premark the  
198 proposed area of the excavation before a member operator is  
199 required to identify the horizontal route of its underground  
200 facilities in the proximity of any excavation. However,  
201 premarking is not required for any excavation that is over 500  
202 feet in length and is not required where the premarking could  
203 reasonably interfere with traffic or pedestrian control.

204 (b) If a member operator determines that a proposed  
205 excavation or demolition is in proximity to or in conflict with  
206 an underground facility of the member operator, except a  
207 facility beneath the waters of the state, which is governed by  
208 paragraph (c), the member operator shall identify the horizontal  
209 route by marking to within 24 inches from the outer edge of  
210 either side of the underground facility by the use of stakes,  
211 paint, flags, or other suitable means within 2 full business  
212 days after the time the notification is received under  
213 subsection (1). If the member operator is unable to respond  
214 within such time, the member operator shall communicate with the  
215 person making the request and negotiate a new schedule and time  
216 that is agreeable to, and should not unreasonably delay, the  
217 excavator.



HB 789

2006  
CS

218 (c) If a member operator determines that a proposed  
219 excavation is in proximity to or in conflict with an underground  
220 facility of the member operator beneath the waters of the state,  
221 the member operator shall identify the estimated horizontal  
222 route of the underground facility, within 10 business days,  
223 using marking buoys or other suitable devices, unless directed  
224 otherwise by an agency having jurisdiction over the waters of  
225 the state under which the member operator's underground facility  
226 is located.

227 (d) When excavation is to take place within a tolerance  
228 zone, an excavator shall use increased caution to protect  
229 underground facilities. The protection requires hand digging,  
230 pot holing, soft digging, vacuum excavation methods, or other  
231 similar procedures to identify underground facilities. Any use  
232 of mechanized equipment within the tolerance zone must be  
233 supervised by the excavator.

234 (6) (a) ~~(5) (a)~~ An excavator shall avoid excavation in the  
235 area described in the notice given under ~~pursuant to~~ subsection  
236 (1) until each member operator underground facility has been  
237 marked and located or until the excavator has been notified that  
238 no member operator has underground facilities in the area  
239 described in the notice, or for the time allowed for markings  
240 set forth in paragraphs (5) (b) ~~(4) (b)~~ and (c), whichever occurs  
241 first. If a member operator has not located and marked its  
242 underground facilities within the time allowed for marking set  
243 forth in paragraphs (5) (b) ~~(4) (b)~~ and (c), the excavator may  
244 proceed with the excavation, if ~~provided~~ the excavator does so  
245 with reasonable care, and if ~~provided, further, that~~ detection

Page 9 of 20

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

hb0789-01-c1

HB 789

2006  
CS

246 equipment or other acceptable means to locate underground  
247 facilities are used.

248 (b) An excavator may ~~shall~~ not demolish in the area  
249 described in the notice given under ~~pursuant to~~ subsection (1)  
250 until all member operator underground facilities have been  
251 marked and located, or removed.

252 (7) (a) ~~(6) (a)~~ A member operator that states that it does  
253 not have accurate information concerning the exact location of  
254 its underground facilities is exempt from the requirements of  
255 paragraphs (5) (b) ~~(4) (b)~~ and (c), but shall provide the best  
256 available information to the excavator in order to comply with  
257 the requirements of this section. An excavator is not liable for  
258 any damage to an underground facility under the exemption in  
259 this subsection if the excavation or demolition is performed  
260 with reasonable care and detection equipment or other acceptable  
261 means to locate underground facilities are used.

262 (b) A member operator may not exercise the exemption  
263 provided by this subsection if the member operator has  
264 underground facilities that have not been taken out of service  
265 and that are locatable using available designating technologies  
266 to locate underground facilities.

267 (8) (a) ~~(7) (a)~~ If extraordinary circumstances exist, a  
268 member operator shall notify the system of the member operator's  
269 inability to comply with this section. For the purposes of this  
270 section, the term "extraordinary circumstances" means  
271 circumstances other than normal operating conditions that ~~which~~  
272 exist and make it impractical for a member operator to comply  
273 with ~~the provisions of~~ this act. After the system has received

HB 789

2006  
CS

274 notification of a member operator's inability to comply, the  
275 system shall make that information known to excavators who  
276 subsequently notify the system of an intent to excavate. The  
277 member operator is relieved of responsibility for compliance  
278 under the law during the period that the extraordinary  
279 circumstances exist and shall promptly notify the system when  
280 the extraordinary circumstances cease to exist.

281 (b) During the period when extraordinary circumstances  
282 exist, the system shall remain available during business hours  
283 to provide information to governmental agencies, member  
284 operators affected by the extraordinary circumstances, and  
285 member operators who can provide relief to the affected parties,  
286 unless the system itself has been adversely affected by  
287 extraordinary circumstances.

288 (9) (a) After receiving notification from the system, a  
289 member operator shall provide a positive response to the system  
290 within 2 full business days, or 10 such days for an underwater  
291 excavation, indicating the status of operations to protect the  
292 facility.

293 ~~(8) (a) If a member operator determines that the excavation~~  
294 ~~or demolition is not near an existing underground facility of~~  
295 ~~the member operator, the member operator shall notify the~~  
296 ~~excavator within 2 full business days after the time of the~~  
297 ~~notification to the system that no conflict exists and that the~~  
298 ~~excavation or demolition area is clear. An excavator who has~~  
299 ~~knowledge of the existence of an underground facility of a~~  
300 ~~member operator in the area is responsible for contacting the~~  
301 ~~member operator if a facility is not marked.~~

HB 789

2006  
CS

302        (b) The system shall establish and maintain a process to  
303 facilitate a positive-response communication between member  
304 operators and excavators. The system is exempt from any  
305 requirement to initiate a positive response to an excavator when  
306 an excavator does not provide a valid electronic address to  
307 facilitate a positive response by the system.

308        (c) An excavator shall verify the system's positive  
309 responses before beginning excavation. If an excavator knows  
310 that an existing underground facility of a member operator is in  
311 the area, the excavator must contact the member operator if the  
312 facility is not marked and a positive response has not been  
313 received by the system. ~~The system shall implement procedures~~  
314 ~~for positive response by January 1, 2004.~~

315        (10)-(9) A member operator shall use the "Uniform Color  
316 Code for Utilities" ~~recommended guidelines for uniform temporary~~  
317 ~~marking of underground facilities as approved by the Utility~~  
318 ~~Location and Coordinating Council~~ of the American Public Works  
319 Association when marking the horizontal route of any underground  
320 facility of the operator.

321        (11)-(10) ~~Before~~ Prior to or during excavation or  
322 demolition, if the marking of the horizontal route of any  
323 facility is removed or is no longer visible, the excavator shall  
324 stop excavation or demolition activities in the vicinity of the  
325 facility and shall notify the system to have the route remarked.

326        (12)-(11) If any contact with or damage to any pipe, cable,  
327 or its protective covering, or any other underground facility  
328 occurs, the excavator causing the contact or damage shall  
329 immediately notify the member operator. Upon receiving notice,

HB 789

2006  
CS

330 | the member operator shall send personnel to the location as soon  
 331 | as possible to effect temporary or permanent repair of the  
 332 | contact or damage. Until such time as the contact or damage has  
 333 | been repaired, the excavator shall cease excavation or  
 334 | demolition activities that may cause further damage to such  
 335 | underground facility.

336 |       Section 6. Subsection (2) of section 556.106, Florida  
 337 | Statutes, is amended, present subsection (6) is redesignated as  
 338 | subsection (7) and amended, and a new subsection (6) is added to  
 339 | that section, to read:

340 |       556.106 Liability of the member operator, excavator, and  
 341 | system.--

342 |       (2) (a) If a ~~In the event any~~ person violates s. 556.105(1)  
 343 | or (6) ~~(5)~~, and subsequently, whether by himself or herself or  
 344 | through the person's employees, contractors, subcontractors, or  
 345 | agents, performs an excavation or demolition that ~~which~~ damages  
 346 | an underground facility of a member operator, it is ~~shall be~~  
 347 | rebuttably presumed that the ~~such~~ person was negligent. The ~~Such~~  
 348 | person, if found liable, is ~~shall be~~ liable for the total sum of  
 349 | the losses to all member operators involved as those costs are  
 350 | normally computed. Any damage for loss of revenue and loss of  
 351 | use may ~~shall~~ not exceed \$500,000 per affected underground  
 352 | facility, except that revenues lost by a governmental member  
 353 | operator whose, ~~which~~ revenues are used to support payments on  
 354 | principal and interest on bonds may, ~~shall~~ not be limited. Any  
 355 | liability of the state and its agencies and its subdivisions  
 356 | which arises out of this chapter is ~~shall be~~ subject to the  
 357 | provisions of s. 768.28.

HB 789

2006  
CS

358 (b) If any excavator fails to discharge a duty imposed by  
359 the provisions of this act, the ~~such~~ excavator, if found liable,  
360 is ~~shall be~~ liable for the total sum of the losses to all  
361 parties involved as those costs are normally computed. Any  
362 damage for loss of revenue and loss of use may ~~shall~~ not exceed  
363 \$500,000 per affected underground facility, except that revenues  
364 lost by a governmental member operator whose, ~~which~~ revenues are  
365 used to support payments on principal and interest on bonds may,  
366 ~~shall~~ not be limited.

367 (c) Any liability of the state, its agencies, or its  
368 subdivisions which arises out of this act is ~~shall be~~ subject to  
369 the provisions of s. 768.28.

370 (d) Obtaining information as to the location of an  
371 underground facility from the member operator as required by  
372 this act does not excuse any excavator from performing an  
373 excavation or demolition in a careful and prudent manner, based  
374 on accepted engineering and construction practices, and it ~~nor~~  
375 does not ~~it~~ excuse the ~~such~~ excavator from liability for any  
376 damage or injury resulting from any excavation or demolition.

377 ~~(e) When an excavator knows or should know of the presence~~  
378 ~~of an underground facility of a nonmember small city as defined~~  
379 ~~in s. 120.52, he or she shall make reasonable efforts to contact~~  
380 ~~the small city that owns or operates that facility prior to~~  
381 ~~commencing an excavation or demolition.~~

382 (6) The system does not have a duty to mark or locate  
383 underground facilities and may not do so, and a right of  
384 recovery does not exist against the system for failing to mark  
385 or locate underground facilities. The system is not liable for

HB 789

2006  
CS

386 | the failure of a member operator to comply with the requirements  
387 | of this act.

388 |       ~~(7)(6)~~ An excavator who performs any excavation with hand  
389 | tools under ~~pursuant to~~ s. 556.108(5) is liable for any damage  
390 | to any operator's underground facilities damaged during such  
391 | excavation.

392 |       Section 7. Section 556.107, Florida Statutes, is amended  
393 | to read:

394 |       556.107 Violations.--

395 |       (1) NONCRIMINAL INFRACTIONS.--

396 |       (a) Violations of the following provisions are noncriminal  
397 | infractions:

398 |       1. Section 556.105(1), relating to providing required  
399 | information.

400 |       2. Section 556.105(6) ~~556.105(5)~~, relating to the  
401 | avoidance of excavation.

402 |       3. Section 556.105(11) ~~556.105(10)~~, relating to the need  
403 | to stop excavation or demolition.

404 |       4. Section 556.105(12) ~~556.105(11)~~, relating to the need  
405 | to cease excavation or demolition activities.

406 |       5. Section 556.105(5)(b) ~~556.105(4)(b)~~ and (c) relating to  
407 | identification of underground facilities, if a member operator  
408 | does not mark an underground facility, but not if a member  
409 | operator marks an underground facility incorrectly.

410 |       (b) Any excavator or member operator who commits a  
411 | noncriminal infraction under paragraph (a) may be issued a  
412 | citation by any local or state law enforcement officer,  
413 | government code inspector, or code enforcement officer

HB 789

2006  
CS

414 ~~permitting agency inspector~~, and the issuer of a citation may  
415 require an ~~any~~ excavator to cease work on any excavation or not  
416 start a proposed excavation until there has been compliance with  
417 the provisions of this act. Citations may be issued to any  
418 employee of the excavator or member operator who is directly  
419 involved in the noncriminal infraction.

420 (c) Any excavator or member operator who commits a  
421 noncriminal infraction under paragraph (a) may be required to  
422 appear before the county court. The civil penalty for any such  
423 infraction is \$250 plus fees and court costs, except as  
424 otherwise provided in this section. If a citation is issued by a  
425 local law enforcement officer, a local government code  
426 inspector, or a code enforcement officer, 80 percent of the  
427 civil penalty collected by the clerk of the court shall be  
428 distributed to the local governmental entity whose employee  
429 issued the citation and 20 percent of the penalty shall be  
430 retained by the clerk to cover administrative costs, in addition  
431 to other fees or court costs. If a citation is issued by a state  
432 law enforcement officer, the civil penalty collected by the  
433 clerk shall be retained by the clerk for deposit into the fine  
434 and forfeiture fund established pursuant to s. 142.01. Any  
435 person who fails to appear or otherwise properly respond to a  
436 citation issued pursuant to paragraph (d) shall, in addition to  
437 the citation, be charged with the offense of failing to respond  
438 to such citation and, upon conviction, commits ~~be guilty of~~ a  
439 misdemeanor of the second degree, punishable as provided in s.  
440 775.082 or s. 775.083. A written warning to this effect shall be



HB 789

2006  
CS

441 provided at the time any citation is issued pursuant to  
442 paragraph (b).

443 (d) Any person cited for an infraction under paragraph  
444 (a), unless required to appear before the county court, may:

445 1. Post a bond, which shall be equal in amount to the  
446 applicable civil penalty plus fees or court costs; or

447 2. Sign and accept a citation indicating a promise to  
448 appear before the county court.

449

450 The person issuing the citation ~~officer~~ may indicate on the  
451 citation the time and location of the scheduled hearing and  
452 shall indicate the applicable civil penalty.

453 (e) Any person charged with a noncriminal infraction under  
454 paragraph (a), unless required to appear before the county  
455 court, may:

456 1. Pay the civil penalty plus fees and court costs, in  
457 lieu of appearance, either by mail or in person, within 30 ~~10~~  
458 days after the date of receiving the citation; or

459 2. Forfeit bond, if a bond has been posted, by not  
460 appearing at the designated time and location.

461

462 If the person cited follows either of the above procedures, she  
463 or he is ~~shall be~~ deemed to have admitted to committing the  
464 infraction and to have waived the right to a hearing on the  
465 issue of commission of the infraction. The ~~Such~~ admission may be  
466 used as evidence in any other proceeding under this act.

467 (f) Any person electing to appear before the county court  
468 or who is required to appear shall be deemed to have waived the

HB 789

2006  
CS

469 limitations on the civil penalty specified in paragraph (c). The  
470 court, after a hearing, shall make a determination as to whether  
471 an infraction has been committed. If the commission of an  
472 infraction has been proven, the court may impose a civil penalty  
473 not to exceed \$5,000 plus court costs. In determining the amount  
474 of the civil penalty, the court may consider previous  
475 noncriminal infractions committed.

476 (g) At a hearing under this chapter, the commission of a  
477 charged infraction must be proven by a preponderance of the  
478 evidence.

479 (h) If a person is found by the hearing official to have  
480 committed an infraction, the ~~such~~ person may appeal that finding  
481 to the circuit court.

482 (i) Sunshine State One-Call of Florida, Inc., may, at its  
483 own cost, retain an attorney to assist in the presentation of  
484 relevant facts and law in the county court proceeding pertaining  
485 to the citation issued under this section. The corporation may  
486 also appear in any case appealed to the circuit court if a  
487 county court finds that an infraction of the chapter was  
488 committed. An appellant in the circuit court proceeding shall  
489 timely notify the corporation of any appeal under this section.

490 (2) MISDEMEANORS.--Any person who knowingly and willfully  
491 removes or otherwise destroys the valid stakes or other valid  
492 physical markings described in s. 556.105(5)(b) ~~s. 556.105(4)(b)~~  
493 and (c) used to mark the horizontal route of an underground  
494 facility commits a misdemeanor of the second degree, punishable  
495 as provided in s. 775.082 or s. 775.083. For purposes of this  
496 subsection, stakes or other nonpermanent physical markings are

HB 789

2006  
CS

497 considered valid for 30 ~~20~~ calendar days after information is  
498 provided to the system under s. 556.105(1)(c).

499 Section 8. Subsections (4) and (5) of section 556.108,  
500 Florida Statutes, are amended, and subsection (6) is added to  
501 that section, to read:

502 556.108 Exemptions.--The notification requirements  
503 provided in s. 556.105(1) do not apply to:

504 (4) Any excavation of 18 inches or less for:

505 (a) Surveying public or private property by surveyors or  
506 mappers as defined in chapter 472 and services performed by a  
507 pest control licensee under chapter 482, excluding marked  
508 rights-of-way, marked easements, or permitted uses where marked,  
509 if ~~provided~~ mechanized equipment is not used in the process of  
510 such surveying or pest control services and the surveying or  
511 pest control services are ~~is~~ performed in accordance with the  
512 practice rules established under s. 472.027 or s. 482.051,  
513 respectively; ~~or~~

514 (b) Maintenance activities performed by a state agency and  
515 its employees when such activities are within the right-of-way  
516 of a public road; however, ~~provided~~, if a member operator has  
517 permanently marked facilities on such right-of-way, ~~no~~  
518 mechanized equipment may not be used without first providing  
519 notification; or

520 (c) Locating, repairing, connecting, adjusting, or routine  
521 maintenance of a private or public utility facility by an  
522 excavator, if mechanized equipment is not used.

523 (5) Any excavation with hand tools by a member operator or  
524 an agent of a member operator for:

HB 789

2006  
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525 (a) Locating, repairing, connecting, or protecting, or  
526 routine maintenance of, the member operator's underground  
527 facilities; or

528 (b) The extension of a member operator's underground  
529 facilities onto the property of a person to be served by such  
530 facilities.

531  
532 ~~(c)~~—The exemption provided in this subsection ~~paragraphs (a)~~  
533 ~~and (b)~~ is limited to excavations to a depth of 30 inches if the  
534 right-of-way has permanently marked facilities of a company  
535 other than the member operator or its agents performing the  
536 excavation.

537 (6) Any excavation or related maintenance activity by a  
538 water control district created under chapter 298 or by special  
539 act if all of the following conditions are met:

540 (a) The activity is performed by a district employee.

541 (b) The activity is performed within a district right-of-  
542 way or on district-owned lands.

543 (c) The district has required permits for all underground  
544 or underwater facilities and maintains maps and locations of  
545 permitted underground or underwater facilities.

546 (d) All member operators' facilities within district  
547 rights-of-way or on district-owned lands are required to be  
548 permanently marked.

549 Section 9. This act shall take effect October 1, 2006.