

**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 Communications and Public Utilities Committee

**BILL:** CS/SB 794

**INTRODUCER:** Communications & Public Utilities Committee and Senator Bennett

**SUBJECT:** Underground Utilities/Excavations and Demolitions

**DATE:** March 3, 2008      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	<b>Fav/CS</b>
2.	Herrin	Yeatman	CA	<b>Favorable</b>
3.			GA	
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The committee substitute (CS) prohibits an excavator or a member operator from charging expenses associated with compliance with chapter 556, F.S.

The CS substantially amends section 556.105 of the Florida Statutes.

**II. Present Situation:**

Chapter 556, F.S., is the Underground Facility Damage Prevention and Safety Act. The intent of the act is to provide a system for excavating contractors and the public to provide notification of their intent to engage in excavation or demolition so that underground utility operators have an opportunity to identify and locate their underground facilities prior to the planned excavation or demolition to prevent damage to these underground facilities.

The notification system is operated by Sunshine State One-Call Of Florida, Inc. (One-Call), created by the act as a non-profit corporation. Each operator of an underground facility is a member.

Section 556.105, F.S., provides system procedures. Not less than 2 full business days before beginning any excavation or demolition, an excavator must provide specified information to the One-Call system. The One-Call system then notifies all member operators within the defined area of a proposed excavation or demolition. The statute then sets out four possible scenarios relating to the duty to identify the location of the planned excavation and the underground utilities, three of which require marking.

- When an excavation site cannot be described in the notice of intent to excavate with sufficient particularity to enable the member operator to locate the excavation site, the excavator must premark the site of the proposed excavation before a member operator is required to mark the route of its nearby underground facilities.
- If a member operator determines that a proposed excavation is in proximity to or in conflict with an underground facility of the member operator, except a facility beneath the waters of the state, the member operator must mark the route of the underground utility using markers specified in the statute.
- If a member operator determines that a proposed excavation is in proximity to or in conflict with an underground facility of the member operator beneath the waters of the state, the member operator must mark the route of the underground facility using different (floating) specified markers.

The statute does not address any charges for premarking proposed excavation sites or marking underground utility routes.

### **III. Effect of Proposed Changes:**

The CS amends section 556.105, F.S., to prohibit an excavator or a member operator from charging expenses associated with compliance with the chapter after the effective date of the act, which is upon becoming a law. It also provides that this prohibition does not excuse a member operator or excavator from liability for any damage or injury for which it would be responsible under applicable law.

### **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:**

Neither excavators nor operators of underground utilities will be able to recover expenses and administrative costs associated with marking the site of a proposed excavation or the route of an underground utility. To the extent that the potential for such marking charges is a disincentive to persons planning to excavate to participate in the notice system, the CS will increase participation in the notice system and avoid potential damage to underground utilities.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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

**CS by Communications & Public Utilities Committee on 2/21/08:**

The bill originally provided the prohibition against charging expenses by amending three paragraphs of s. 556.105, F.S., addressing the three types of situations individually. The committee substitute instead creates a new subsection (13) to address them collectively. It also adds that the prohibition does not excuse a member operator or excavator from liability for any damage or injury for which it would be responsible under applicable law.

**B. Amendments:**

None.