

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 General Government Appropriations Committee

BILL: CS/SB 794

INTRODUCER: Communications & Public Utilities Committee and Senator Bennett

SUBJECT: Underground Utilities/Excavations and Demolitions

DATE: April 8, 2008 **REVISED:** _____

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

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill prohibits an excavator or a member operator from charging expenses associated with compliance with the requirements of chapter 556, Florida Statutes.

The bill substantially amends section 556.105, Florida Statutes.

II. Present Situation:

Chapter 556, F.S., known as the Underground Facility Damage Prevention and Safety Act, provides a method for excavating contractors and the public to provide notification of their intent to engage in excavation or demolition, to allow underground utility operators to identify underground facilities prior to the activity. 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 of the corporation.

Section 556.105, F.S., provides that, not less than two 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 pre-mark 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 pre-marking proposed excavation sites or marking underground utility routes.

III. Effect of Proposed Changes:

The bill amends s. 556.105, F.S., to prohibit an excavator or a member operator from charging expenses associated with compliance with the chapter. 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.

The bill provides that the act shall take effect upon becoming 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 bill 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 on February 21, 2008:**

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.