

By Senator Rodriguez

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1 A bill to be entitled
2 An act relating to private property rights; amending
3 s. 366.02, F.S.; exempting from the definition of
4 "public utility" property owners who own and operate a
5 renewable energy source device, produce renewable
6 energy from that device, and provide or sell the
7 renewable energy to users on that property, under
8 certain circumstances; reenacting ss. 290.007(8),
9 350.111, 366.05(2), 366.96(2)(a), 377.602(3),
10 440.02(24)(d), 538.18(12), 768.1382(1)(e),
11 812.145(1)(e), 815.061(1)(a), 893.13(10), and
12 934.03(2)(g), F.S., relating to state incentives
13 available in enterprise zones, definitions, the powers
14 of the Public Service Commission, storm protection
15 plan cost recovery, definitions, theft of copper or
16 other nonferrous metals, offenses against public
17 utilities, prohibited acts and penalties, and
18 interception and disclosure of wire, oral, or
19 electronic communications, respectively, to
20 incorporate the amendment made to s. 366.02, F.S., in
21 references thereto; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (1) of section 366.02, Florida
26 Statutes, is amended to read:

27 366.02 Definitions.—As used in this chapter:

28 (1) "Public utility" means every person, corporation,
29 partnership, association, or other legal entity and their

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30 lessees, trustees, or receivers supplying electricity or gas
31 (natural, manufactured, or similar gaseous substance) to or for
32 the public within this state.;~~but~~ The term "~~public utility~~"
33 does not include either a cooperative now or hereafter organized
34 and existing under the Rural Electric Cooperative Law of the
35 state; a municipality or any agency thereof; a property owner
36 who owns and operates a renewable energy source device as
37 defined in s. 193.624 with a capacity of up to 2.5 megawatts on
38 his or her property and who produces and provides or sells
39 renewable energy from that device to users located on the
40 property; any dependent or independent special natural gas
41 district; any natural gas transmission pipeline company making
42 only sales or transportation delivery of natural gas at
43 wholesale and to direct industrial consumers; any entity selling
44 or arranging for sales of natural gas which neither owns nor
45 operates natural gas transmission or distribution facilities
46 within the state; or a person supplying liquefied petroleum gas,
47 in either liquid or gaseous form, irrespective of the method of
48 distribution or delivery, or owning or operating facilities
49 beyond the outlet of a meter through which natural gas is
50 supplied for compression and delivery into motor vehicle fuel
51 tanks or other transportation containers, unless such person
52 also supplies electricity or manufactured or natural gas.

53 Section 2. For the purpose of incorporating the amendment
54 made by this act to section 366.02, Florida Statutes, in a
55 reference thereto, subsection (8) of section 290.007, Florida
56 Statutes, is reenacted to read:

57 290.007 State incentives available in enterprise zones.—The
58 following incentives are provided by the state to encourage the

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59 revitalization of enterprise zones:

60 (8) Notwithstanding any law to the contrary, the Public
61 Service Commission may allow public utilities and
62 telecommunications companies to grant discounts of up to 50
63 percent on tariffed rates for services to small businesses
64 located in an enterprise zone designated pursuant to s.
65 290.0065. Such discounts may be granted for a period not to
66 exceed 5 years. For purposes of this subsection, the term
67 "public utility" has the same meaning as in s. 366.02(1) and the
68 term "telecommunications company" has the same meaning as in s.
69 364.02(13).

70 Section 3. For the purpose of incorporating the amendment
71 made by this act to section 366.02, Florida Statutes, in a
72 reference thereto, section 350.111, Florida Statutes, is
73 reenacted to read:

74 350.111 "Regulated company" defined.—As used in ss.
75 350.111-350.117 and ss. 350.121-350.128, "regulated company"
76 means any public utility as defined in s. 366.02 or any person
77 holding a valid and current certificate from the commission
78 under chapter 351, chapter 364, chapter 365, or chapter 367.

79 Section 4. For the purpose of incorporating the amendment
80 made by this act to section 366.02, Florida Statutes, in a
81 reference thereto, subsection (2) of section 366.05, Florida
82 Statutes, is reenacted to read:

83 366.05 Powers.—

84 (2) Every public utility, as defined in s. 366.02, which in
85 addition to the production, transmission, delivery or furnishing
86 of heat, light, or power also sells appliances or other
87 merchandise shall keep separate and individual accounts for the

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88 sale and profit deriving from such sales. No profit or loss
89 shall be taken into consideration by the commission from the
90 sale of such items in arriving at any rate to be charged for
91 service by any public utility.

92 Section 5. For the purpose of incorporating the amendment
93 made by this act to section 366.02, Florida Statutes, in a
94 reference thereto, paragraph (a) of subsection (2) of section
95 366.96, Florida Statutes, is reenacted to read:

96 366.96 Storm protection plan cost recovery.—

97 (2) As used in this section, the term:

98 (a) "Public utility" or "utility" has the same meaning as
99 set forth in s. 366.02(1), except that it does not include a gas
100 utility.

101 Section 6. For the purpose of incorporating the amendment
102 made by this act to section 366.02, Florida Statutes, in a
103 reference thereto, subsection (3) of section 377.602, Florida
104 Statutes, is reenacted to read:

105 377.602 Definitions.—As used in ss. 377.601-377.608:

106 (3) "Person" means producer, refiner, wholesaler, marketer,
107 consignee, jobber, distributor, storage operator, importer,
108 exporter, firm, corporation, broker, cooperative, public utility
109 as defined in s. 366.02, rural electrification cooperative,
110 municipality engaged in the business of providing electricity or
111 other energy resources to the public, pipeline company, person
112 transporting any energy resources as defined in subsection (2),
113 and person holding energy reserves for further production;
114 however, "person" does not include persons exclusively engaged
115 in the retail sale of petroleum products.

116 Section 7. For the purpose of incorporating the amendment

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117 made by this act to section 366.02, Florida Statutes, in a
118 reference thereto, paragraph (d) of subsection (24) of section
119 440.02, Florida Statutes, is reenacted to read:

120 440.02 Definitions.—When used in this chapter, unless the
121 context clearly requires otherwise, the following terms shall
122 have the following meanings:

123 (24) "Self-insurer" means:

124 (d) A public utility as defined in s. 364.02 or s. 366.02
125 that has assumed by contract the liabilities of contractors or
126 subcontractors pursuant to s. 624.46225; or

127 Section 8. For the purpose of incorporating the amendment
128 made by this act to section 366.02, Florida Statutes, in a
129 reference thereto, subsection (12) of section 538.18, Florida
130 Statutes, is reenacted to read:

131 538.18 Definitions.—As used in this part, the term:

132 (12) "Utility" means a public utility or electric utility
133 as defined in s. 366.02 or a person, firm, corporation,
134 association, or political subdivision, whether private,
135 municipal, county, or cooperative, that is engaged in the sale,
136 generation, provision, or delivery of gas, electricity, heat,
137 water, oil, sewer service, or telephone, telegraph, radio,
138 telecommunications, or communications service.

139 Section 9. For the purpose of incorporating the amendment
140 made by this act to section 366.02, Florida Statutes, in a
141 reference thereto, paragraph (e) of subsection (1) of section
142 768.1382, Florida Statutes, is reenacted to read:

143 768.1382 Streetlights, security lights, and other similar
144 illumination; limitation on liability.—

145 (1) As used in this section, the term:

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146 (e) "Streetlight provider" means the state or any of the
147 state's officers, agencies, or instrumentalities, any political
148 subdivision as defined in s. 1.01, any public utility as defined
149 in s. 366.02(1), or any electric utility as defined in s.
150 366.02(2).

151 Section 10. For the purpose of incorporating the amendment
152 made by this act to section 366.02, Florida Statutes, in a
153 reference thereto, paragraph (e) of subsection (1) of section
154 812.145, Florida Statutes, is reenacted to read:

155 812.145 Theft of copper or other nonferrous metals.—

156 (1) As used in this section, the term:

157 (e) "Utility" means a public utility or electric utility as
158 defined in s. 366.02, or a person, firm, corporation,
159 association, or political subdivision, whether private,
160 municipal, county, or cooperative, which is engaged in the sale,
161 generation, provision, or delivery of gas, electricity, heat,
162 water, oil, sewer service, or telephone, telegraph, radio,
163 telecommunications, or communications service. The term includes
164 any person, firm, corporation, association, or political
165 subdivision, whether private, municipal, county, or cooperative,
166 which is engaged in the sale, generation, provision, or delivery
167 of gas or electricity services.

168 Section 11. For the purpose of incorporating the amendment
169 made by this act to section 366.02, Florida Statutes, in a
170 reference thereto, paragraph (a) of subsection (1) of section
171 815.061, Florida Statutes, is reenacted to read:

172 815.061 Offenses against public utilities.—

173 (1) As used in this section, the term "public utility"
174 includes:

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175 (a) A public utility or electric utility as defined in s.
176 366.02.

177 Section 12. For the purpose of incorporating the amendment
178 made by this act to section 366.02, Florida Statutes, in a
179 reference thereto, subsection (10) of section 893.13, Florida
180 Statutes, is reenacted to read:

181 893.13 Prohibited acts; penalties.—

182 (10) If a person violates any provision of this chapter and
183 the violation results in a serious injury to a state or local
184 law enforcement officer as defined in s. 943.10, firefighter as
185 defined in s. 633.102, emergency medical technician as defined
186 in s. 401.23, paramedic as defined in s. 401.23, employee of a
187 public utility or an electric utility as defined in s. 366.02,
188 animal control officer as defined in s. 828.27, volunteer
189 firefighter engaged by state or local government, law
190 enforcement officer employed by the Federal Government, or any
191 other local, state, or Federal Government employee injured
192 during the course and scope of his or her employment, the person
193 commits a felony of the third degree, punishable as provided in
194 s. 775.082, s. 775.083, or s. 775.084. If the injury sustained
195 results in death or great bodily harm, the person commits a
196 felony of the second degree, punishable as provided in s.
197 775.082, s. 775.083, or s. 775.084.

198 Section 13. For the purpose of incorporating the amendment
199 made by this act to section 366.02, Florida Statutes, in a
200 reference thereto, paragraph (g) of subsection (2) of section
201 934.03, Florida Statutes, is reenacted to read:

202 934.03 Interception and disclosure of wire, oral, or
203 electronic communications prohibited.—

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204 (2)

205 (g) It is lawful under this section and ss. 934.04-934.09
206 for an employee of:

207 1. An ambulance service licensed pursuant to s. 401.25, a
208 fire station employing firefighters as defined by s. 633.102, a
209 public utility, a law enforcement agency as defined by s.
210 934.02(10), or any other entity with published emergency
211 telephone numbers;

212 2. An agency operating an emergency telephone number "911"
213 system established pursuant to s. 365.171; or

214 3. The central abuse hotline operated pursuant to s. 39.201
215
216 to intercept and record incoming wire communications; however,
217 such employee may intercept and record incoming wire
218 communications on designated "911" telephone numbers and
219 published nonemergency telephone numbers staffed by trained
220 dispatchers at public safety answering points only. It is also
221 lawful for such employee to intercept and record outgoing wire
222 communications to the numbers from which such incoming wire
223 communications were placed when necessary to obtain information
224 required to provide the emergency services being requested. For
225 the purpose of this paragraph, the term "public utility" has the
226 same meaning as provided in s. 366.02 and includes a person,
227 partnership, association, or corporation now or hereafter owning
228 or operating equipment or facilities in the state for conveying
229 or transmitting messages or communications by telephone or
230 telegraph to the public for compensation.

231 Section 14. This act shall take effect July 1, 2020.