

STORAGE NAME: hb2189z.uco
DATE: May 15, 2000

****FAILED TO PASS THE LEGISLATURE****
HOUSE OF REPRESENTATIVES

**COMMITTEE ON
COMMITTEE ON UTILITIES & COMMUNICATIONS
FINAL ANALYSIS**

BILL #: HB 2189, 1st ENG
RELATING TO: Underground facilities
SPONSOR(S): Representative Dockery
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) UTILITIES & COMMUNICATIONS YEAS 10 NAYS 0
 - (2) SENATE COMPREHENSIVE PLANNING, LOCAL AND MILITARY AFFAIRS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

Under current law, before they dig, excavators must call a toll-free hotline to notify Sunshine State One-Call of Florida, Inc. The corporation notifies any member operators that have underground facilities in the location, and the member operators mark the underground facilities. No excavation may begin unless the excavator is notified that no underground facilities exist at the location, the underground facilities are marked, or 48 hours pass. Once any of these conditions is satisfied, excavation may begin.

The bill requires excavators, before they begin mechanized excavation, to verify the location of underground facilities by hand digging, or using vacuum excavation techniques, at 25-foot intervals along the marked path of the underground facilities. However, excavators may use mechanized excavation to remove pavement or masonry, but only to the depth of such pavement or masonry. Member operators may, under the bill, use mechanized excavation up to 10 inches in order to extend underground facilities on single-family residential property. In addition, the bill makes violation of its provisions a noncriminal infraction.

The bill may create project delays or labor costs to the private sector, state, or local governments engaging in excavation or demolition projects.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Many utility services, such as water, sewer, communication, electric, or pipeline utility services are delivered by way of underground facilities like pipelines, pipes, sewers, conduits, cables, valves, or lines. In order to prevent personal injury, disruption of service, or destruction of property, the Legislature enacted the Underground Facility Damage Prevention and Safety Act ("Act"), ch. 556, F.S., creating a corporation consisting of every underground facilities operator in the state.

Pursuant to the Act, any person planning an excavation or demolition must, between 2 and 5 business days before such excavation or demolition, call a toll-free notification system and notify the member operators of the planned excavation or demolition. The system then notifies the affected member operators. If a member operator determines that the project is near its underground facility, that operator must mark the horizontal route of the facility to within 24 inches of its outer edge.

After making notification, an excavator may not begin excavation until all facilities have been marked, the excavator has been notified that the area is free of underground facilities, or has not received a response after 48 hours. In the case of demolition, no demolition may commence until facilities are marked or notice is given that none are present.

In addition, ch. 556, F.S., names specifically the provisions of the chapter for which violation constitutes a noncriminal infraction (s. 556.107(1)(a), F.S.), and provides various exemptions to the requirement of an excavator to notify the state-wide system (s. 556.108, F.S.).

C. EFFECT OF PROPOSED CHANGES:

The bill creates paragraph (c) in s. 556.105(6), F.S., prohibiting excavators from performing excavation or demolition using mechanized means¹ within a 2-foot tolerance zone² of a marked underground facility, unless the excavator first hand digs or vacuum excavates to verify the exact position³ of the underground facility. This verification digging must occur at least every 25 feet for the length of the excavation or demolition. For the purposes of verification, the bill allows mechanized digging to remove masonry or pavement but only to the depth of the masonry or pavement.

In addition, the bill amends s. 556.107(1)(a), F.S., to incorporate the newly created paragraph, described immediately above, among the provisions of ch. 556, F.S., for which violation constitutes a noncriminal infraction. The bill also creates a new exemption to the notification requirement for excavators. Under the bill, a member operator is allowed to excavate to a depth of no more than 10 inches for the purpose of extending a member operator's underground facilities on a single-family residential property without notifying the state-wide system.

D. SECTION-BY-SECTION ANALYSIS:

Please see "Effect of Proposed Changes" section.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to increase or decrease state revenues.

2. Expenditures:

The bill may create project delays or labor costs associated with hand digging for state agencies engaging in excavation or demolition projects.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

¹"Mechanized means" include, but are not limited to, boring, trenching with machinery, driving reinforcing rods, grading, or any other mechanized or powered means.

²The "2-foot tolerance zone" is a distance of 2 feet from the outer edge of any side of the marked or designated underground facility.

³"Exact position" consists of the location, type, size, direction of run, and depth of the underground facility.

2. Expenditures:

The bill may create project delays or labor costs associated with hand digging for local governments engaging in excavation or demolition projects.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may create project delays or labor costs associated with hand digging for some underground contractors, and could create delays in construction, according to bill opponents.

According to the bill proponents, by exempting certain member operators who extend their facilities onto single-family residential property from the notification requirements, the bill allows these member operators to provide immediate service to residential customers without having to arrange temporary facilities that need to be replaced later. Therefore, under the bill, the cost of installing duplicate facilities may be eliminated in some cases.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of municipalities or counties to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not raise constitutional issues.

B. RULE-MAKING AUTHORITY:

This bill does not create or restrict the rule-making authority of government agencies.

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C. OTHER COMMENTS:

HB 2189, 1st ENG died in the Senate Committee on Comprehensive Planning, Local and Military Affairs. Similar provisions passed the Legislature in CS/CS/SB 1334.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 10, 2000, the Committee on Utilities and Communications adopted an amendment to the bill. The amendment strikes the language of the bill and replaces it with language amending subsection (1) of s. 556.108, F.S. That statutory subsection permits an owner of single-family residential property to excavate or perform demolition on the property without adhering to notification requirements provided in s. 556.105 (1), F.S., as long as the project occurs entirely on the property and does not encroach on a member operator's use. The bill, as amended, permits another party to perform the excavation or demolition on behalf of the property owner.

The House adopted a substitute amendment to the committee amendment on April 27, 2000 that provides that the excavation or demolition performed on behalf of the owner of a single-family residential property, entirely on that property, by a member operator or the member's agent is exempt from the notification requirements of s. 556.105(1), F.S. The excavation or demolition may only be up to a depth of 10 inches and due care must be used.

VII. SIGNATURES:

COMMITTEE ON UTILITIES & COMMUNICATIONS:

Prepared by:

Staff Director:

William C. Garner

Patrick L. "Booter" Imhof

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON COMMITTEE ON UTILITIES & COMMUNICATIONS:

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