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# Energy & Utilities Subcommittee

Wednesday, January 24, 2018  
8:00 AM – 11:00 AM  
Webster Hall (212 Knott)

## MEETING PACKET



# The Florida House of Representatives

Commerce Committee

Energy & Utilities Subcommittee

Richard Corcoran  
Speaker

Jay Trumbull  
Chair

## AGENDA

Wednesday, January 24, 2018

Webster Hall (212 Knott)

8:00 AM – 11:00 AM

- I. Call to Order & Roll Call
- II. Welcoming Remarks
- III. Consideration of the following bills(s):
  - HB 647 by *Rep. Raburn*  
Natural Gas Fuel Taxes
  - CS/HB 755 by *Rep. Williamson*  
Pub. Rec. /Nationwide Public Safety Broadband Network
  - HB 1245 by *Rep. Brodeur*  
Taxation of Internet Video Services
  - HB 1267 by *Rep. Killebrew*  
Telephone Solicitation
- IV. Workshop on the following:
  - HB 971 by *Rep. Fine*  
Interruption of Service
- V. Adjournment

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Energy & Utilities Subcommittee

**Start Date and Time:** Wednesday, January 24, 2018 08:00 am  
**End Date and Time:** Wednesday, January 24, 2018 11:00 am  
**Location:** Webster Hall (212 Knott)  
**Duration:** 3.00 hrs

**Workshop on the following:**

HB 971 Interruption of Services by Fine

**Consideration of the following bill(s):**

HB 647 Natural Gas Fuel Taxes by Raburn  
CS/HB 755 Pub. Rec./Nationwide Public Safety Broadband Network by Oversight, Transparency & Administration Subcommittee, Williamson  
HB 1245 Taxation of Internet Video Services by Brodeur  
HB 1267 Telephone Solicitation by Killebrew

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Tuesday, January 22, 2018.

By request of Chair Trumbull, all Energy & Utilities Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, January 22, 2018.

**NOTICE FINALIZED on 01/22/2018 4:19PM by Rigas.Amanda**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 647 Natural Gas Fuel Taxes  
**SPONSOR(S):** Raburn  
**TIED BILLS:** IDEN./SIM. BILLS: SB 926

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Keating <i>OK</i>	Keating <i>OK</i>
2) Ways & Means Committee			
3) Commerce Committee			

### SUMMARY ANALYSIS

Prior to 2014, owners or operators of Florida-licensed motor vehicles powered by natural gas fuels were required to pay an annual decal fee for each such vehicle. In 2013, the Legislature passed CS/CS/HB 579 to "help reduce transportation costs in this state and encourage freight mobility investments that contribute to the economic growth of the state." To accomplish these goals, the bill created a 5-year rebate program for certain costs involved in the conversion, purchase, or lease of natural gas fuel fleet vehicles, eliminated the annual decal fees for natural gas vehicles, and created a new tax structure whereby natural gas fuels would be taxed on a per unit basis beginning January 1, 2019. Accordingly, natural gas fuels have not been subject to state fuel taxes since January 1, 2014.

The bill provides for a 5 year delay of the imposition of natural gas fuel taxes that would otherwise go into effect January 1, 2019. The bill changes the effective date of the imposition of these taxes to January 1, 2024. To conform to the delayed imposition of these taxes, the bill:

- Extends by 5 years (from December 31, 2018, to December 31, 2023) the expiration of the current flat penalty scheme that applies to any person who acts as a natural gas retailer without a valid natural gas fuel retailer license, and delays by 5 years (from January 1, 2019, to January 1, 2024) the effective date of a new penalty scheme that is based on a percentage of the tax assessed during the period of unlicensed operations.
- Delays by 5 years (from February 2019 to February 2024) the date by which natural gas fuel retailers must file monthly reports with DOR for the purpose of determining the amount of natural gas fuel taxes imposed.

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill. The bill delays by 5 years the imposition of natural gas fuel taxes until January 1, 2024, resulting in delayed collection of revenues from the taxes in an unknown amount, though preliminary staff estimates suggest the annual impact will be less than \$1 million to state government and less than \$0.5 million to local governments.

The bill provides an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Taxation of Natural Gas Fuel

##### *Pre-2014*

Prior to 2014, natural gas fuels such as compressed natural gas (CNG) and liquid petroleum gas (LPG) were defined in Florida law as “alternative fuels” when used to fuel motor vehicles.<sup>1</sup> In lieu of the excise tax imposed on diesel fuel under the law, owners or operators of Florida-licensed motor vehicles powered by alternative fuels were required to pay an annual decal fee for each such vehicle.<sup>2</sup> These annual fees ranged from \$199.10 to \$380.10 per vehicle, depending on the vehicle’s size and weight.<sup>3</sup> The sale of alternative fuels also was subject to sales tax imposed under ch. 212, F.S.<sup>4</sup>

With certain exceptions, Florida law prohibited a person from acting as a retailer of alternative fuel unless that person held a valid license as a retailer of alternative fuel issued by the Department of Revenue (DOR).<sup>5</sup> Any person acting as such without a license was subject to a penalty of 25 percent of the tax assessed on total purchases during the unlicensed period.<sup>6</sup> Every person who operated as a retailer of alternative fuel, with certain exceptions, was required to report monthly to DOR and pay tax on all fuel purchases.<sup>7</sup>

Revenues from the annual decal fees were deposited into the State Alternative Fuel User Fee Clearing Trust Fund.<sup>8</sup> After deducting a specified service charge, the proceeds in the trust fund were distributed as follows:

- One-half of the proceeds to the State Transportation Trust Fund (STTF).
- 50 percent of the remainder to the State Board of Administration for distribution in accordance with the Florida Constitution.
- 25 percent of the remainder to the Revenue Sharing Trust Fund for Municipalities.
- 25 percent of the remainder to the counties for specified public transportation purposes, distributed as provided by law.

##### *Current Law*

In 2013, the Legislature passed CS/CS/HB 579 to “help reduce transportation costs in this state and encourage freight mobility investments that contribute to the economic growth of the state.”<sup>9</sup> To accomplish these goals, the bill created a 5-year rebate program for natural gas fuel fleet vehicles and exempted natural gas fuels from state fuel taxes for 5 years. The Natural Gas Fuel Fleet Vehicle Rebate program provided \$6 million per fiscal year, from FY 2013-14 through FY 2017-18, to fund

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<sup>1</sup> s. 206.86(4), F.S. (2012).

<sup>2</sup> s. 206.877, F.S. (2012). The excise tax imposed on diesel fuel was applied to the purchase of alternative fuels by operators of vehicles licensed in other states.

<sup>3</sup> See *Use of Natural Gas Fuels to Operate Motor Vehicles is Increasing in Florida*, Office of Program Policy Analysis & Government Accountability, Report No. 17-10 (Oct. 2017) (OPPAGA Report), at p. 4.

<sup>4</sup> *Id.*

<sup>5</sup> s. 206.89, F.S. (2012).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> s. 206.879, F.S. (2012).

<sup>9</sup> Ch. 2013-198, Laws of Fla.



rebates for the purchase, conversion, or lease of natural gas fuel fleet vehicles. Further, effective January 1, 2014, the bill eliminated the annual decal fee for natural gas vehicles. The bill replaced it with a new tax structure that creates a “per motor fuel equivalent gallon” tax rate to become effective January 1, 2019.<sup>10</sup>

Pursuant to the new structure, the following taxes will be imposed on natural gas fuel<sup>11</sup> effective January 1, 2019:<sup>12</sup>

- An excise tax of 4 cents upon each motor fuel equivalent gallon<sup>13</sup> of natural gas fuel.
- An additional tax of 1 cent upon each motor fuel equivalent gallon of natural gas fuel, which is designated as the “ninth-cent fuel tax.”
- An additional tax of 1 cent on each motor fuel equivalent gallon of natural gas fuel by each county, which is designated as the “local option fuel tax.”
- An additional tax on each motor fuel equivalent gallon of natural gas fuel, designated as the “State Comprehensive Enhanced Transportation System (SCETS) Tax.” The tax rate must be determined by DOR each calendar year, rounded to the nearest tenth of a cent, for the following 12-month period beginning January 1. The rate is calculated by adjusting the “initially established tax rate of 5.8 cents per gallon” by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.
- An additional tax on each motor fuel equivalent gallon of natural gas fuel “for the privilege of selling natural gas fuel,” designated as the “fuel sales tax.” The tax rate must be determined by DOR each calendar year, rounded to the nearest tenth, for the following 12-month period beginning January 1. The rate is calculated by adjusting the “initially established tax rate of 9.2 cents per gallon” by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30.

In sum, prior to any of the required annual index-based adjustments by DOR, natural gas fuel will be taxed at a rate of \$0.21 cents per motor fuel equivalent gallon beginning January 1, 2019.<sup>14</sup>

Revenues from the natural gas fuel tax will be deposited into the State Alternative Fuel User Fee Clearing Trust Fund to be distributed as follows:<sup>15</sup>

- The revenues from the SCETS tax and fuel sales tax will be transferred to the STTF.
- The revenues from the excise tax will be distributed as follows:
  - 50% will be transferred to the State Board of Administration for distribution in accordance with the Florida Constitution.
  - 25% will be transferred to the Revenue Sharing Trust Fund for Municipalities.
  - 25% will be distributed to the counties for specified public transportation purposes, distributed as provided by law.

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<sup>10</sup> *Id.* The provisions of the bill related to taxation of natural gas fuel are codified as Part V of Ch. 206, F.S., consisting of ss. 206.9951 – 206.998, entitled “NATURAL GAS FUEL.”

<sup>11</sup> “Natural gas fuel” is defined as “any liquefied petroleum gas product, compressed natural gas product, or combination thereof used in a motor vehicle as defined in s. 206.01(23). This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as natural gasoline, butane gas, propane gas, or any other form of liquefied petroleum gas, compressed natural gas, or liquefied natural gas. This term does not include natural gas or liquefied petroleum placed in a separate tank of a motor vehicle for cooking, heating, water heating, or electric generation.” s. 206.9951(2), F.S.

<sup>12</sup> ss. 206.9955, F.S.

<sup>13</sup> “Motor fuel equivalent gallon” is defined as “the volume of natural gas fuel it takes to equal the energy content of 1 gallon of motor fuel.” s. 206.9951(1), F.S. The conversion rates for various types of natural gas fuels is provided in s. 206.9955, F.S.

<sup>14</sup> The law is unclear as to whether the index-based adjustments were to begin with the effective date of the law (January 1, 2014) or the effective date of the new tax rates (January 1, 2019).

<sup>15</sup> s. 206.997, F.S.

- The revenues from the ninth-cent fuel tax and the local option sales tax will be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund and returned monthly to the appropriate counties.

The law provides that until December 31, 2018, any person acting as a natural gas retailer without a valid license to do so must pay a penalty of \$200 for each month of operation without a license. Effective January 1, 2019, the penalty becomes 25 percent of the tax assessed on total purchases made during the unlicensed period.<sup>16</sup> In addition, the law requires natural gas fuel retailers to submit an electronic, monthly report to DOR, beginning with February 2019 and monthly thereafter, showing information on inventory, purchases, nontaxable disposals, table uses, and taxable sales in gallons of natural gas fuel for the preceding month, with certain exceptions and a specified deduction for services rendered and expenses incurred in complying with the reporting requirements.<sup>17</sup>

#### *OPPAGA Report on Use of Natural Gas to Fuel Motor Vehicles in Florida*

In 2017, the Office of Program Policy Analysis & Government Accountability (OPPAGA) released a report on the use of natural gas fuels to operate motor vehicles in Florida.<sup>18</sup> According to the report, Florida's consumption of natural gas as a motor vehicle fuel had increased by 326% between 2013 and 2016.<sup>19</sup> To gather information about factors that could affect the growth of the natural gas fuel industry, OPPAGA surveyed both natural gas fuel suppliers (license holders) and consumers (applicants to the fleet vehicle rebate program). Consumers and suppliers identified several factors that may have encouraged growth in natural gas fuel consumption, including the natural gas vehicle rebate program, the fuel tax exemption, cleaner emissions, and lower maintenance costs.<sup>20</sup> Eighty-nine percent of the consumer respondents indicated that their natural gas vehicle fleets had increased since 2012. Suppliers indicated that they expect their businesses to continue to grow in terms of the number of vehicles served and the gallons of natural gas fuel sold. Seventy-five percent of the consumer respondents said that they anticipate their natural gas vehicles fleets will continue to increase in size over the next 5 years. Thirteen percent of the consumer respondents said that they anticipate a decrease in their fleet size and identified the decreased price of diesel fuel, the lack of natural gas fuel refueling stations, and the end of the rebate program as the main reasons.<sup>21</sup>

In its report, OPPAGA found that, in addition to Florida, three states do not impose statewide taxes on natural gas fuels. Of the remaining 46 states, most (41) levy taxes at a rate of less than \$.30 per gallon, although direct comparison could not be made due to differences in how states define a gallon of natural gas fuel. OPPAGA found that some states offer the option of paying a flat annual decal fee.<sup>22</sup>

#### State Gasoline and Diesel Taxes

##### *Motor Fuel*<sup>23</sup>

Florida law provides for the following taxes on motor fuel:<sup>24</sup>

- An excise or license tax of 2 cents per net gallon of motor fuel, designated as the "constitutional fuel tax."

<sup>16</sup> s. 206.9952(3), F.S.

<sup>17</sup> s. 206.996, F.S.

<sup>18</sup> *Use of Natural Gas Fuels to Operate Motor Vehicles is Increasing in Florida*, Office of Program Policy Analysis & Government Accountability, Report No. 17-10 (Oct. 2017) (OPPAGA Report).

<sup>19</sup> *Id.* at 5.

<sup>20</sup> *Id.* at 6.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 6-7.

<sup>23</sup> "Motor fuel" is defined as "all gasoline products or any product blended with gasoline or any fuel placed in the storage supply tank of a gasoline-powered motor vehicle." s. 206.01(9), F.S.

<sup>24</sup> s. 206.41(1), F.S.



- An additional 1 cent per net gallon, designated as the “county fuel tax.”
- An additional 1 cent per net gallon, designated as the “municipal fuel tax.”
- An additional tax of 1 cent per net gallon may be imposed by each county, designated as the “ninth-cent fuel tax.”
- An additional tax of between 1 and 11 cents per net gallon may be imposed by each county, designated as the “local option fuel tax.”
- An additional tax per net gallon of motor fuel is imposed by each county, designated as the SCETS Tax, at a rate calculated by applying specified index-based adjustments to a rate specified in the law.
- An additional tax per net gallon is imposed “on the privilege of selling motor fuel”, designated as the “fuel sales tax,” at a rate calculated by applying specified index-based adjustments to an initial rate established in the law.
- An additional 0.125 cents per net gallon for defraying expenses incident to inspecting, testing, and analyzing motor fuel in this state.

Beginning January 1, 2018, the state tax rate on motor fuel is 17.7 cents per gallon, the SCETS tax rate on motor fuel is 7.6 cents, and the fuel sales tax rate on motor fuel is 13.7 cents. The local option rate varies by county, and the total state and county rates on motor fuel varies from 31.4 cents to 37.4 cents.<sup>25</sup>

#### *Diesel Fuel*<sup>26</sup>

Florida law provides for the following taxes on diesel fuel:<sup>27</sup>

- An excise tax of 4 cents per net gallon of diesel fuel.
- An additional 1 cent per net gallon is imposed by each county, designated as the “ninth-cent fuel tax.”
- An additional 6 cents per net gallon is imposed by each county, designated as the “local option fuel tax.”
- An additional tax per net gallon is imposed in each county, designated as the SCETS Tax, at a rate equal to the maximum SCETS Tax rate for motor fuel.
- An additional tax per net gallon “on the privilege of selling diesel fuel,” designated as the “fuel sales tax,” at a rate calculated by applying specified index-based adjustments to an initial rate established in the law.

Beginning January 1, 2018, the state tax rate on diesel fuel is 17.7 cents per gallon, the county tax rate (ninth cent, SCETS, and local option rates) is 14.6 cents statewide, and the fuel sales tax rate is 13.7 cents. The total state and county rates on diesel fuel is 32.3 cents.<sup>28</sup>

#### **Effect of Proposed Changes**

The bill provides for a 5 year delay of the imposition of natural gas fuel taxes that would otherwise go into effect January 1, 2019. The bill changes the effective date of the imposition of these taxes to January 1, 2024. Thus, state fuel taxes will not apply to natural gas fuels for an additional 5 years.

To conform to the delayed imposition of these taxes, the bill:

<sup>25</sup> Florida Department of Revenue, Tax Information Publication No. 17B05-03, *Fuel Tax Rates Adjusted Beginning January 1, 2018*, (Nov. 14, 2017), available at: [https://revenue.law.floridarevenue.com/LawLibraryDocuments/2017/11/TIP-121500\\_TIP%2017B05-03%20FINAL%20RLL.pdf](https://revenue.law.floridarevenue.com/LawLibraryDocuments/2017/11/TIP-121500_TIP%2017B05-03%20FINAL%20RLL.pdf).

<sup>26</sup> “Diesel fuel” is defined as “all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle.” s. 206.86(1), F.S.

<sup>27</sup> s. 206.87(1), F.S.

<sup>28</sup> *Supra* note 25.

- Extends by 5 years (from December 31, 2018, to December 31, 2023) the expiration of the current flat penalty scheme that applies to any person who acts as a natural gas retailer without a valid natural gas fuel retailer license, and delays by 5 years (from January 1, 2019, to January 1, 2024) the effective date of a new penalty scheme that is based on a percentage of the tax assessed during the period of unlicensed operations.
- Delays by 5 years (from February 2019 to February 2024) the date by which natural gas fuel retailers must file monthly reports with DOR for the purpose of determining the amount of natural gas fuel taxes imposed.

The bill provides an effective date of July 1, 2018.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 206.9952, F.S., relating to licensing of natural gas fuel retailers.

**Section 2.** Amends s. 206.9955, F.S., relating to the levy of natural gas fuel tax.

**Section 3.** Amends s. 206.996, F.S., relating to monthly reports by natural gas fuel retailers.

**Section 4.** Provides an effective date of July 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill. The bill delays by 5 years the imposition of natural gas fuel taxes until January 1, 2024, resulting in delayed collection of revenues from the taxes in an unknown amount, though preliminary staff estimates suggest the annual impact will be less than \$1 million. Under current law, portions of these revenues would be distributed to the State Transportation Trust Fund and the State Board of Administration beginning in 2019.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill. The bill delays by 5 years the imposition of natural gas fuel taxes until January 1, 2024, resulting in delayed collection of revenues from the taxes in an unknown amount, though preliminary staff estimates suggest the annual impact will be less than \$0.5 million. Under current law, portions of these revenues would be distributed to local governments beginning in 2019.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners or operators of natural gas vehicles will achieve cost savings, because the bill delays by 5 years the imposition of natural gas fuel taxes until January 1, 2024.

**D. FISCAL COMMENTS:**

Current law provides that the SCETS tax rate and the fuel sales tax rate for natural gas fuels must be calculated annually by DOR through index-based adjustments to an initial rate established in the law. The law is not clear as to when those index-based adjustments must begin and could be interpreted to require such adjustments either from the time the law became effective or from the time the taxes become effective. An estimate of the bill's fiscal impact will depend upon the interpretation of these provisions.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Current law provides that the SCETS tax rate and the fuel sales tax rate for natural gas fuels must be calculated annually by DOR through index-based adjustments to an initial rate established in the law. The law is not clear as to when these index-based adjustments must begin and could be interpreted to require such adjustments either from the time the law became effective or from the time the taxes become effective. The bill does not amend these provisions of the law. To ensure that the intended tax rate becomes effective at the intended time, this ambiguity could be clarified.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.



A bill to be entitled

An act relating to natural gas fuel taxes; amending s. 206.9952, F.S.; extending the expiration date for levying penalties on natural gas retailers that do not have licenses; conforming provisions to changes made by the act; amending s. 206.9955, F.S.; delaying the effective date of certain taxes on natural gas fuel; amending s. 206.996, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Subsections (3) and (8) of section 206.9952, Florida Statutes, are amended to read:

206.9952 Application for license as a natural gas fuel retailer.—

(3)(a) Any person who acts as a natural gas retailer and does not hold a valid natural gas fuel retailer license shall pay a penalty of \$200 for each month of operation without a license. This paragraph expires December 31, 2023 ~~2018~~.

(b) Effective January 1, 2024 ~~2019~~, any person who acts as a natural gas fuel retailer and does not hold a valid natural gas fuel retailer license shall pay a penalty of 25 percent of the tax assessed on the total purchases made during the unlicensed period.



26 (8) With the exception of a state or federal agency or a  
 27 political subdivision licensed under this chapter, each person,  
 28 as defined in this part, who operates as a natural gas fuel  
 29 retailer shall report monthly to the department and pay a tax on  
 30 all natural gas fuel purchases beginning January 1, 2024 ~~2019~~.

31 Section 2. Subsection (2) of section 206.9955, Florida  
 32 Statutes, is amended to read:

33 206.9955 Levy of natural gas fuel tax.—

34 (2) Effective January 1, 2024 ~~2019~~, the following taxes  
 35 shall be imposed:

36 (a) An excise tax of 4 cents upon each motor fuel  
 37 equivalent gallon of natural gas fuel.

38 (b) An additional tax of 1 cent upon each motor fuel  
 39 equivalent gallon of natural gas fuel, which is designated as  
 40 the "ninth-cent fuel tax."

41 (c) An additional tax of 1 cent on each motor fuel  
 42 equivalent gallon of natural gas fuel by each county, which is  
 43 designated as the "local option fuel tax."

44 (d) An additional tax on each motor fuel equivalent gallon  
 45 of natural gas fuel, which is designated as the "State  
 46 Comprehensive Enhanced Transportation System Tax," at a rate  
 47 determined pursuant to this paragraph. Each calendar year, the  
 48 department shall determine the tax rate applicable to the sale  
 49 of natural gas fuel for the following 12-month period beginning  
 50 January 1, rounded to the nearest tenth of a cent, by adjusting

51 the initially established tax rate of 5.8 cents per gallon by  
 52 the percentage change in the average of the Consumer Price Index  
 53 issued by the United States Department of Labor for the most  
 54 recent 12-month period ending September 30.

55 (e)1. An additional tax is imposed on each motor fuel  
 56 equivalent gallon of natural gas fuel for the privilege of  
 57 selling natural gas fuel. Each calendar year, the department  
 58 shall determine the tax rate applicable to the sale of natural  
 59 gas fuel, rounded to the nearest tenth of a cent, for the  
 60 following 12-month period beginning January 1. The tax rate is  
 61 calculated by adjusting the initially established tax rate of  
 62 9.2 cents per gallon by the percentage change in the average of  
 63 the Consumer Price Index issued by the United States Department  
 64 of Labor for the most recent 12-month period ending September  
 65 30.

66 2. The department is authorized to adopt rules and publish  
 67 forms to administer this paragraph.

68 Section 3. Subsection (1) of section 206.996, Florida  
 69 Statutes, is amended to read:

70 206.996 Monthly reports by natural gas fuel retailers;  
 71 deductions.—

72 (1) For the purpose of determining the amount of taxes  
 73 imposed by s. 206.9955, each natural gas fuel retailer shall  
 74 file beginning with February 2024 ~~2019~~, and each month  
 75 thereafter, no later than the 20th day of each month, monthly

76 reports electronically with the department showing information  
 77 on inventory, purchases, nontaxable disposals, taxable uses, and  
 78 taxable sales in gallons of natural gas fuel for the preceding  
 79 month. However, if the 20th day of the month falls on a  
 80 Saturday, Sunday, or federal or state legal holiday, a return  
 81 must be accepted if it is electronically filed on the next  
 82 succeeding business day. The reports must include, or be  
 83 verified by, a written declaration stating that such report is  
 84 made under the penalties of perjury. The natural gas fuel  
 85 retailer shall deduct from the amount of taxes shown by the  
 86 report to be payable an amount equivalent to 0.67 percent of the  
 87 taxes on natural gas fuel imposed by s. 206.9955(2)(a) and (e),  
 88 which deduction is allowed to the natural gas fuel retailer to  
 89 compensate it for services rendered and expenses incurred in  
 90 complying with the requirements of this part. This allowance is  
 91 not deductible unless payment of applicable taxes is made on or  
 92 before the 20th day of the month. This subsection may not be  
 93 construed as authorizing a deduction from the constitutional  
 94 fuel tax or the fuel sales tax.

95 Section 4. This act shall take effect July 1, 2018.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 755 Pub. Rec./Nationwide Public Safety Broadband Network  
**SPONSOR(S):** Oversight, Transparency & Administration Subcommittee, Williamson  
**TIED BILLS:** IDEN./SIM. BILLS: SB 988

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	14 Y, 0 N, As CS	Moore	Harrington
2) Energy & Utilities Subcommittee		Keating <i>CK</i>	Keating <i>CK</i>
3) Government Accountability Committee			

### SUMMARY ANALYSIS

The First Responder Network Authority (FirstNet) is an independent authority established by Congress within the Department of Commerce to deliver a nationwide broadband network dedicated to public safety (Network). FirstNet is the last remaining recommendation of the National Commission on Terrorist Attacks upon the United States (also known as the 9-11 Commission) to be addressed. The goal of the Network is to strengthen public safety users' communications capabilities, enabling them to respond more quickly and effectively to accidents, disasters, and emergencies.

The bill creates a public record exemption for information relating to the Network that is held by an agency if release of such information would reveal:

- The design, development, construction, deployment, and operation of Network facilities;
- Network coverage, including geographical maps indicating actual or proposed locations of Network infrastructure or facilities;
- The features, functions, and capabilities of Network infrastructure and facilities;
- The features, functions, and capabilities of Network services provided to first responders and other Network users;
- The design, features, functions, and capabilities of Network devices provided to first responders and other Network users; and
- Security, including cybersecurity, of the design, construction, and operation of the Network and associated services and products.

The bill provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a public necessity statement as required by the State Constitution.

The bill may have a minimal fiscal impact on the state and local governments. See Fiscal Comments section.

**Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### Public Records

Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, section 24(a) of the Florida Constitution.<sup>1</sup> The general law must state with specificity the public necessity justifying the exemption<sup>2</sup> and must be no more broad than necessary to accomplish its purpose.<sup>3</sup>

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>4</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no more broad than necessary to meet one of the following purposes:<sup>5</sup>

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.

The Act also requires the automatic repeal of a public record exemption on October 2nd of the fifth year after its creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>6</sup> Specified questions must be considered by the Legislature during the review process.<sup>7</sup>

##### First Responder Network Authority

The First Responder Network Authority (FirstNet) is an independent authority established by Congress within the Department of Commerce to deliver a nationwide broadband network dedicated to public safety (Network).<sup>8</sup> FirstNet is the last remaining recommendation of the National Commission on Terrorist Attacks upon the United States (also known as the 9/11 Commission) to be addressed. The goal of the Network is to strengthen public safety users' communications capabilities, enabling them to respond more quickly and effectively to accidents, disasters, and emergencies.<sup>9</sup>

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<sup>1</sup> FLA. CONST. art. I, s. 24(c).

<sup>2</sup> This portion of a public record exemption is commonly referred to as a "public necessity statement."

<sup>3</sup> FLA. CONST. art. I, s. 24(c).

<sup>4</sup> s. 119.15, F.S.

<sup>5</sup> s. 119.15(6)(b), F.S.

<sup>6</sup> s. 119.15(3), F.S.

<sup>7</sup> Section 119.15(6)(a), F.S., requires the Legislature to consider the following questions as part of the review process: 1) What specific records or meetings are affected by the exemption? 2) What specific parties does the exemption affect? 3) What is the public purpose of the exemption? 4) Can the information contained in the records or meetings be readily obtained by alternative means? If so, how? 5) Is the record or meeting protected by another exemption? 6) Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>8</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. Law No. 112-96 (2012).

<sup>9</sup> FirstNet Top 10 Frequently Asked Questions, [https://www.firstnet.gov/sites/default/files/TopTenFAQs\\_180107.pdf](https://www.firstnet.gov/sites/default/files/TopTenFAQs_180107.pdf) (last visited Jan. 19, 2018).

In January 2016, FirstNet issued a request for proposals for deployment of the Network. After evaluating all proposals, FirstNet and the Department of Interior awarded the 25-year contract for building, deploying, and operating the Network to AT&T. All 50 states and Washington, D.C., have “opted in,” to FirstNet, meaning each has accepted its individual State Plan detailing how the network will be deployed in their state/territory.<sup>10</sup>

### **Effect of the Bill**

The bill creates a public record exemption for information relating to the Network that is held by an agency if release of such information would reveal:

- The design, development, construction, deployment, and operation of Network facilities;
- Network coverage, including geographical maps indicating actual or proposed locations of Network infrastructure or facilities;
- The features, functions, and capabilities of Network infrastructure and facilities;
- The features, functions, and capabilities of Network services provided to first responders<sup>11</sup> and other Network users;
- The design, features, functions, and capabilities of Network devices provided to first responders and other Network users; and
- Security, including cybersecurity, of the design, construction, and operation of the Network and associated services and products.

The bill provides a public necessity statement as required by the State Constitution, specifying that disclosure of the above-described information would adversely affect the business interests of communications service providers and compromise the network security of such providers and their networks.

The bill provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 119.071, F.S., relating to general exemptions from inspection or copying of public records.

Section 2. Provides a public necessity statement.

Section 3. Provides an effective date of July 1, 2018.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The bill does not appear to impact state government revenues.

##### **2. Expenditures:**

See Fiscal Comments.

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<sup>10</sup> *Id.*

<sup>11</sup> The term “first responder” means a law enforcement officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., employed by state or local government. The term also includes a volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government. Section 112.1815(1), F.S.



**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

See Fiscal Comments.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The bill could have a minimal fiscal impact on agencies because agency staff responsible for complying with public record requests may require training related to creation of the public record exemption. In addition, agencies could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of agencies.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption and includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for information relating to the Network that is held by an agency if release of the information would reveal specified security or proprietary information. As such, the exemption does not appear to be in conflict with the constitutional requirement that it be no broader than necessary to accomplish its purpose.

**B. RULE-MAKING AUTHORITY:**

The bill does not appear to create a need for rulemaking or rulemaking authority.



C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 17, 2018, the Oversight, Transparency & Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarified that the bill applies to records held by an agency;
- Clarified that the bill applies to certain security and proprietary information relating to the Network, rather than "any" information relating to the Network; and
- Revised the public necessity statement to reflect the intent of the bill.

This analysis is drafted to the committee substitute as approved by the Oversight, Transparency & Administration Subcommittee

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A bill to be entitled  
 An act relating to public records; amending s.  
 119.071, F.S.; providing an exemption from public  
 records requirements for certain information relating  
 to the Nationwide Public Safety Broadband Network held  
 by an agency; providing for future legislative review  
 and repeal of the exemption; providing a statement of  
 public necessity; providing an effective date.

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

Section 1. Paragraph (d) is added to subsection (3) of  
 section 119.071, Florida Statutes, to read:

119.071 General exemptions from inspection or copying of  
 public records.—

(3) SECURITY.—

(d)1. Information relating to the Nationwide Public Safety  
 Broadband Network established pursuant to 47 U.S.C s. 1401 et  
 seq. held by an agency is confidential and exempt from s.  
 119.07(1) and s. 24(a), Art. I of the State Constitution if  
 release of such information would reveal:

a. The design, development, construction, deployment, and  
 operation of network facilities;

24        b. Network coverage, including geographical maps  
 25 indicating actual or proposed locations of network  
 26 infrastructure or facilities;

27        c. The features, functions, and capabilities of network  
 28 infrastructure and facilities;

29        d. The features, functions, and capabilities of network  
 30 services provided to first responders, as defined in s.  
 31 112.1815, and other network users;

32        e. The design, features, functions, and capabilities of  
 33 network devices provided to first responders and other network  
 34 users; or

35        f. Security, including cybersecurity, of the design,  
 36 construction, and operation of the network and associated  
 37 services and products.

38        2. This paragraph is subject to the Open Government Sunset  
 39 Review Act in accordance with s. 119.15 and shall stand repealed  
 40 on October 2, 2023, unless reviewed and saved from repeal  
 41 through reenactment by the Legislature.

42        Section 2. The Legislature finds that it is a public  
 43 necessity that any information relating to the Nationwide Public  
 44 Safety Broadband Network established pursuant to 47 U.S.C s.  
 45 1401 et seq. held by an agency be made confidential and exempt  
 46 from public records requirements. Such information contains  
 47 security information and proprietary business information of  
 48 communications services providers. The disclosure of sensitive

49 information relating to the Nationwide Public Safety Broadband  
50 Network could result in identification of vulnerabilities in  
51 such network and allow a security breach that could damage the  
52 network or disrupt the network's safe and reliable operation,  
53 adversely impacting the public health and safety of the state.  
54 Disclosure of such information would adversely affect the  
55 business interests and compromise the network security of such  
56 providers and their networks. Further, disclosure of such  
57 information would impair competition in the communications  
58 services industry because competitors could use such information  
59 to impede full and fair competition in the communications  
60 services industry to the disadvantage of its consumers.  
61 Therefore, the Legislature finds that any information relating  
62 to the Nationwide Public Safety Broadband Network established  
63 pursuant to 47 U.S.C s. 1401 et seq. held by an agency must be  
64 held confidential and exempt from disclosure under s. 119.07(1),  
65 Florida Statutes, and s. 24(a), Art. I of the State  
66 Constitution.

67       Section 3. This act shall take effect July 1, 2018.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1245 Taxation of Internet Video Services

**SPONSOR(S):** Brodeur

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1210

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Keating <i>CK</i>	Keating <i>CK</i>
2) Ways & Means Committee			
3) Commerce Committee			

### SUMMARY ANALYSIS

Under current law, Internet video services, like Netflix, Hulu, Sling TV, and other, fall within the definition of communications services and, accordingly, are subject to state and local communications services taxes (CST) and gross receipts tax.

The bill amends the CST law to define "Internet video services" and exclude such services from the definition of "communications services." Thus, the bill exempts Internet video services from the state and local CST and the gross receipts tax. Further, the bill prohibits all public bodies from imposing or collecting any tax or fee with respect to the provision or purchase of Internet video services.

The bill conforms cross-references to renumbered subsections of s. 202.11, F.S.

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill. The bill will reduce the base upon which the state and local CST and gross receipts taxes are levied and collected, thus it will have a negative fiscal impact on state and local governments.

The bill may be a Mandate requiring a 2/3 vote of the membership. See Mandates section of the analysis.

The bill provides an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Chapter 202, F.S., is the Communications Services Tax Simplification Law (CST law), which took effect in 2001. The law provides the following statement of legislative findings and intent:

It is declared to be a specific legislative finding that the creation of this chapter fulfills important state interests by reforming the tax laws to provide a fair, efficient, and uniform method for taxing communications services sold in this state. This chapter is essential to the continued economic vitality of this increasingly important industry because it restructures state and local taxes and fees to account for the impact of federal legislation, industry deregulation, and the multitude of providers offering functionally equivalent communications services in today's marketplace. This chapter promotes the increased competition that accompanies deregulation by embracing a competitively neutral tax policy that will free consumers to choose a provider based on tax-neutral considerations. This chapter further spurs new competition by simplifying an extremely complicated state and local tax and fee system. Simplification will lower the cost of collecting taxes and fees, increase service availability, and place downward pressure on price. Newfound administrative efficiency is demonstrated by a reduction in the number of returns that a provider must file each month. By restructuring separate taxes and fees into a revenue-neutral communications services tax centrally administered by the department, this chapter will ensure that the growth of the industry is unimpaired by excessive governmental regulation. The tax imposed pursuant to this chapter is a replacement for taxes and fees previously imposed and is not a new tax. The taxes imposed and administered pursuant to this chapter are of general application and are imposed in a uniform, consistent, and nondiscriminatory manner.<sup>1</sup>

For purposes of the CST law, the term "communications services" is defined to include the "transmission, conveyance, or routing of . . . video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance."<sup>2</sup> The term does not include Internet access service,<sup>3</sup> but does include video programming services provided via Internet.<sup>4</sup>

The state tax rate for communications services (state CST) is 4.92 percent applied to the sales price of communications service that originates and terminates in this state, or originates or terminates in this state and is charged to a service address in this state. The tax is calculated and collected on each retail sale of communications services.<sup>5</sup> In addition, a gross receipts tax of 2.52 percent is calculated and collected on the same taxable transactions and remitted with the communications services tax.<sup>6</sup> Local governments may also levy a communications service tax (local CST) at rates specified in Florida law.<sup>7</sup>

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<sup>1</sup> s. 202.105, F.S.

<sup>2</sup> s. 202.11(1), F.S.

<sup>3</sup> s. 202.11(1)(h), F.S.

<sup>4</sup> Florida Department of Revenue, Agency Analysis of 2017 House Bill 1377, p. 2 (Mar. 24, 2017).

<sup>5</sup> s. 202.12(1)(a), F.S.

<sup>6</sup> *Id.*; s. 203.01(2)(b), F.S.

<sup>7</sup> ss. 202.19-202.22, F.S.

The state CST is distributed by the same formula as the sales and use tax, as prescribed in s. 212.20(6), F.S. The gross receipts tax goes to the Public Education Capital Outlay and Debt Service Trust Fund (PECO).<sup>8</sup>

The CST law provides that taxes and fees on communications services are preempted by the state.<sup>9</sup> Except as otherwise provided by law, public bodies are prohibited from levying taxes or fees on such services, requiring dealers of communications services to enter into an agreement that requires the payment of such a tax or fee, and adopting or enforcing any ordinance or agreement that obligates a dealer of communications services to charge, collect, or pay such a tax or fee.<sup>10</sup>

### **Effect of Proposed Changes**

The bill amends the CST law to exclude "Internet video services" from the definition of "communications services." The bill defines Internet video services as "a subscription-based wired or wireless Internet video programming service." Thus, the bill exempts Internet video services, like Netflix, Hulu, Sling TV, and others, from the state and local CST and the gross receipts tax.

Further, the bill prohibits all public bodies from imposing or collecting any tax or fee with respect to the provision or purchase of Internet video services.

The bill conforms cross-references to renumbered subsections of s. 202.11, F.S.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 202.11, F.S., providing definitions for Ch. 202, F.S.

**Section 2.** Amends s. 202.24, F.S., relating to limitations on local taxes and fees imposed on dealers of communications services.

**Section 3.** Amends s. 202.26, F.S., to conform a cross-reference.

**Section 4.** Amends s. 212.05, F.S., to conform a cross-reference.

**Section 5.** Amends s. 610.118, F.S., to conform a cross-reference.

**Section 6.** Provides an effective date of July 1, 2018.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill. The bill will reduce the base upon which the state CST and gross receipts taxes are levied and collected, thus it will have a negative fiscal impact on distributions from the state CST and on gross receipts tax revenues deposited to PECO.

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<sup>8</sup> s. 202.18(1), F.S.

<sup>9</sup> s. 202.24(1), F.S.

<sup>10</sup> s. 202.24(2), F.S.

2. Expenditures:

The Department of Revenue (DOR) indicates that the bill will have an insignificant negative impact on its expenditures.<sup>11</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill. The bill will reduce the base upon which the local CST is levied and collected, thus it will have a negative fiscal impact on local governments.

2. Expenditures:

The bill may impact local government expenditures for purposes of implementation.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will eliminate state and local taxes on Internet video services, which may make such services more competitive in relation to cable and video services that remain subject to the taxes.

D. FISCAL COMMENTS:

At least one cable service provider has begun offering a streaming video service for its broadband service customers.<sup>12</sup> The fiscal impact of the bill will become more significant if cable and video service providers that do not currently provide "Internet video service" shift to a streaming service platform.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appear to apply because this bill may reduce the authority that counties and municipalities have to raise revenues in the aggregate, as such authority existed on February 1, 1989. While local CST taxing authority did not exist on February 1, 1989, the CST replaced several taxes and fees, some of which likely did exist on that date. The Revenue Estimating Conference has not yet estimated the fiscal impact of this bill, so it is unclear whether the bill may qualify for an exemption due to having an insignificant fiscal impact. If the bill qualifies as a mandate, it must have a 2/3 vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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<sup>11</sup> *Supra* note 4, at p. 3

<sup>12</sup> Chris Welch, *Comcast launches \$18 streaming TV service, but only for its own broadband customers*, THE VERGE, <https://www.theverge.com/2017/9/27/15095464/comcast-xfinity-instant-tv-stream-abc-cbs-fox-nbc> (last visited January 22, 2018).



#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1                                   A bill to be entitled  
 2       An act relating to taxation of Internet video  
 3       services; amending s. 202.11, F.S.; providing and  
 4       revising definitions to exclude Internet video  
 5       services from the definition of communications  
 6       services; amending s. 202.24, F.S.; prohibiting public  
 7       bodies from levying and collecting specified taxes,  
 8       fees, charges, or other impositions relating to  
 9       Internet video services; amending ss. 202.26, 212.05,  
 10      and 610.118, F.S.; conforming cross-references;  
 11      providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15       Section 1. Subsections (7) through (24) of section 202.11,  
 16 Florida Statutes, are renumbered as subsections (8) through  
 17 (25), respectively, present subsection (24) is amended,  
 18 paragraph (i) is added to subsection (1), and a new subsection  
 19 (7) is added to that section, to read:

20       202.11 Definitions.—As used in this chapter, the term:

21       (1) "Communications services" means the transmission,  
 22 conveyance, or routing of voice, data, audio, video, or any  
 23 other information or signals, including video services, to a  
 24 point, or between or among points, by or through any electronic,  
 25 radio, satellite, cable, optical, microwave, or other medium or

26 method now in existence or hereafter devised, regardless of the  
 27 protocol used for such transmission or conveyance. The term  
 28 includes such transmission, conveyance, or routing in which  
 29 computer processing applications are used to act on the form,  
 30 code, or protocol of the content for purposes of transmission,  
 31 conveyance, or routing without regard to whether such service is  
 32 referred to as voice-over-Internet-protocol services or is  
 33 classified by the Federal Communications Commission as enhanced  
 34 or value-added. The term does not include:

35       (i) Internet video services.

36       (7) "Internet video service" means a subscription-based  
 37 wired or wireless Internet video programming service.

38       ~~(25)~~~~(24)~~ "Video service" means the transmission of video,  
 39 audio, or other programming service to a purchaser, and the  
 40 purchaser interaction, if any, required for the selection or use  
 41 of a programming service, regardless of whether the programming  
 42 is transmitted over facilities owned or operated by the video  
 43 service provider or over facilities owned or operated by another  
 44 dealer of communications services. The term includes point-to-  
 45 point and point-to-multipoint distribution services through  
 46 which programming is transmitted or broadcast by microwave or  
 47 other equipment directly to the purchaser's premises, but does  
 48 not include direct-to-home satellite ~~service~~ or Internet video  
 49 services. The term includes basic, extended, premium, pay-per-  
 50 view, digital video, two-way cable, and music services.

51           Section 2. Paragraph (a) of subsection (2) of section  
52 202.24, Florida Statutes, is amended to read:

53           202.24 Limitations on local taxes and fees imposed on  
54 dealers of communications services.—

55           (2)(a) Except as provided in paragraph (c), each public  
56 body is prohibited from:

57           1. Levying on or collecting from dealers or purchasers of  
58 communications services any tax, charge, fee, or other  
59 imposition on or with respect to the provision or purchase of  
60 communications services.

61           2. Requiring any dealer of communications services to  
62 enter into or extend the term of a franchise or other agreement  
63 that requires the payment of a tax, charge, fee, or other  
64 imposition.

65           3. Adopting or enforcing any provision of any ordinance or  
66 agreement to the extent that such provision obligates a dealer  
67 of communications services to charge, collect, or pay to the  
68 public body a tax, charge, fee, or other imposition.

69           4. Levying on or collecting from dealers or purchasers of  
70 Internet video services any tax, charge, fee, or other  
71 imposition on or with respect to the provision or purchase of  
72 Internet video services.

73  
74 Municipalities and counties may not negotiate those terms and  
75 conditions related to franchise fees or the definition of gross

76 revenues or other definitions or methodologies related to the  
77 payment or assessment of franchise fees on providers of video  
78 services.

79 Section 3. Paragraph (j) of subsection (3) of section  
80 202.26, Florida Statutes, is amended to read:

81 202.26 Department powers.—

82 (3) To administer the tax imposed by this chapter, the  
83 department may adopt rules relating to:

84 (j) The types of books and records kept in the regular  
85 course of business which must be available during an audit of a  
86 dealer's books and records when the dealer has made an  
87 allocation or attribution pursuant to the definition of sales  
88 prices in s. 202.11(14)(b)8. ~~s. 202.11(13)(b)8.~~ and examples of  
89 methods for determining the reasonableness thereof. Books and  
90 records kept in the regular course of business include, but are  
91 not limited to, general ledgers, price lists, cost records,  
92 customer billings, billing system reports, tariffs, and other  
93 regulatory filings and rules of regulatory authorities. Such  
94 records may be required to be made available to the department  
95 in an electronic format when so kept by the dealer. The dealer  
96 may support the allocation of charges with books and records  
97 kept in the regular course of business covering the dealer's  
98 entire service area, including territories outside this state.  
99 During an audit, the department may reasonably require  
100 production of any additional books and records found necessary



101 | to assist in its determination.

102 |       Section 4. Paragraph (e) of subsection (1) of section  
103 | 212.05, Florida Statutes, is amended to read:

104 |       212.05 Sales, storage, use tax.—It is hereby declared to  
105 | be the legislative intent that every person is exercising a  
106 | taxable privilege who engages in the business of selling  
107 | tangible personal property at retail in this state, including  
108 | the business of making mail order sales, or who rents or  
109 | furnishes any of the things or services taxable under this  
110 | chapter, or who stores for use or consumption in this state any  
111 | item or article of tangible personal property as defined herein  
112 | and who leases or rents such property within the state.

113 |       (1) For the exercise of such privilege, a tax is levied on  
114 | each taxable transaction or incident, which tax is due and  
115 | payable as follows:

116 |       (e)1. At the rate of 6 percent on charges for:

117 |       a. Prepaid calling arrangements. The tax on charges for  
118 | prepaid calling arrangements shall be collected at the time of  
119 | sale and remitted by the selling dealer.

120 |       (I) "Prepaid calling arrangement" has the same meaning as  
121 | provided in s. 202.11.

122 |       (II) If the sale or recharge of the prepaid calling  
123 | arrangement does not take place at the dealer's place of  
124 | business, it shall be deemed to have taken place at the  
125 | customer's shipping address or, if no item is shipped, at the

126 customer's address or the location associated with the  
127 customer's mobile telephone number.

128 (III) The sale or recharge of a prepaid calling  
129 arrangement shall be treated as a sale of tangible personal  
130 property for purposes of this chapter, regardless of whether a  
131 tangible item evidencing such arrangement is furnished to the  
132 purchaser, and such sale within this state subjects the selling  
133 dealer to the jurisdiction of this state for purposes of this  
134 subsection.

135 (IV) No additional tax under this chapter or chapter 202  
136 is due or payable if a purchaser of a prepaid calling  
137 arrangement who has paid tax under this chapter on the sale or  
138 recharge of such arrangement applies one or more units of the  
139 prepaid calling arrangement to obtain communications services as  
140 described in s. 202.11(10)(b)3. ~~s. 202.11(9)(b)3.~~, other  
141 services that are not communications services, or products.

142 b. The installation of telecommunication and telegraphic  
143 equipment.

144 c. Electrical power or energy, except that the tax rate  
145 for charges for electrical power or energy is 4.35 percent.  
146 Charges for electrical power and energy do not include taxes  
147 imposed under ss. 166.231 and 203.01(1)(a)3.

148 2. Section 212.17(3), regarding credit for tax paid on  
149 charges subsequently found to be worthless, is equally  
150 applicable to any tax paid under this section on charges for

151 prepaid calling arrangements, telecommunication or telegraph  
 152 services, or electric power subsequently found to be  
 153 uncollectible. As used in this paragraph, the term "charges"  
 154 does not include any excise or similar tax levied by the Federal  
 155 Government, a political subdivision of this state, or a  
 156 municipality upon the purchase, sale, or recharge of prepaid  
 157 calling arrangements or upon the purchase or sale of  
 158 telecommunication, television system program, or telegraph  
 159 service or electric power, which tax is collected by the seller  
 160 from the purchaser.

161 Section 5. Paragraph (a) of subsection (1) of section  
 162 610.118, Florida Statutes, is amended to read:

163 610.118 Impairment; court-ordered operations.—

164 (1) If an incumbent cable or video service provider is  
 165 required to operate under its existing franchise and is legally  
 166 prevented by a lawfully issued order of a court of competent  
 167 jurisdiction from exercising its right to terminate its existing  
 168 franchise pursuant to the terms of s. 610.105, any  
 169 certificateholder providing cable service or video service in  
 170 whole or in part within the service area that is the subject of  
 171 the incumbent cable or video service provider's franchise shall,  
 172 for as long as the court order remains in effect, comply with  
 173 the following franchise terms and conditions as applicable to  
 174 the incumbent cable or video service provider in the service  
 175 area:

176 (a) The certificateholder shall pay to the municipality or  
 177 county:

178 1. Any prospective lump-sum or recurring per-subscriber  
 179 funding obligations to support public, educational, and  
 180 governmental access channels or other prospective franchise-  
 181 required monetary grants related to public, educational, or  
 182 governmental access facilities equipment and capital costs.  
 183 Prospective lump-sum payments shall be made on an equivalent  
 184 per-subscriber basis calculated as follows: the amount of the  
 185 prospective funding obligations divided by the number of  
 186 subscribers being served by the incumbent cable service provider  
 187 at the time of payment, divided by the number of months  
 188 remaining in the incumbent cable or video service provider's  
 189 franchise equals the monthly per subscriber amount to be paid by  
 190 the certificateholder until the expiration or termination of the  
 191 incumbent cable or video service provider's franchise; and

192 2. If the incumbent cable or video service provider is  
 193 required to make payments for the funding of an institutional  
 194 network, the certificateholder shall pay an amount equal to the  
 195 incumbent's funding obligations but not to exceed 1 percent of  
 196 the sales price, as defined in s. 202.11(14) ~~s. 202.11(13)~~, for  
 197 the taxable monthly retail sales of cable or video programming  
 198 services the certificateholder received from subscribers in the  
 199 affected municipality or county. All definitions and exemptions  
 200 under chapter 202 apply in the determination of taxable monthly



201 | retail sales of cable or video programming services.

202 |       Section 6. This act shall take effect July 1, 2018.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1267 Telephone Solicitation  
**SPONSOR(S):** Killebrew  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 962

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Keating <i>CK</i>	Keating <i>CK</i>
2) Commerce Committee			

### SUMMARY ANALYSIS

Unscrupulous persons are able to use current technology, such as auto dialers and Voice over Internet Protocol, to contact large volumes of consumers by phone and to misrepresent, or "spoof," the phone number from which they are calling, with the ultimate intent to defraud the consumer.

To reduce this activity, the Federal Communications Commission, in November 2017, adopted a rule that permits providers of voice communications services to block phone calls made from certain numbers – numbers that a consumer has requested to be blocked and numbers that have not been assigned under the North American Numbering Plan – before they reach consumers' phones.

Consistent with the FCC's rule, the bill authorizes telecommunications companies who provide voice communications services to customers in Florida to preemptively block certain phone calls from reaching a customer's phone, if authorized to do so by the customer. In particular, consistent with federal law and FCC rules, such service providers may block calls from the following:

- A specific number that a customer has requested be blocked, regardless of whether the call actually originated from that number;
- A number that is not a valid NANP phone number;
- A valid NANP phone number that has not been allocated to a telephone service provider by the NANP Administrator or pooling administrator; and
- A valid NANP phone number that has been allocated to a telephone service provider but has not been assigned to a customer.

The bill permits voice service providers to rely on a phone number as reflected on a caller identification service for purposes of blocking that number.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Unwanted telephone calls, including "robocalls," are consistently among the top problems consumers cite when filing complaints with the Federal Communications Commission (FCC) each year.<sup>1</sup> Further, the top complaint category at the Federal Trade Commission (FTC) is unwanted telephone calls, with 5.3 million complaints lodged by consumers in 2016.<sup>2</sup>

A robocall is a phone call that answers with a pre-recorded message, instead of a live person, or any auto dialed phone call.<sup>3</sup> Inexpensive technology, such as Voice over Internet Protocol (VoIP) and auto dialers,<sup>4</sup> has allowed robocallers to manipulate telephone technologies to contact a large volume of consumers and to misrepresent, or "spoof," the phone number from which they are calling.<sup>5</sup> These calls are often intended to trick the consumer into accepting a scam sales call and to give away valuable personal information.<sup>6</sup>

Federal law restricts the use of auto dialers, prerecorded sales messages, spoofing, and unsolicited sales calls, text messages, or faxes. In particular, the law prohibits unsolicited, prerecorded telemarketing calls to landline home telephones, and all autodialed or prerecorded calls or text messages to wireless numbers, emergency numbers, and patient rooms at health care facilities.<sup>7</sup> Further, federal law prohibits any person or entity from transmitting misleading or inaccurate caller ID information with the intent to defraud, cause harm, or wrongly obtain anything of value.<sup>8</sup>

The National Do Not Call Program (Program), administered by the FTC in concert with the FCC, prohibits telephone solicitors from contacting a consumer who registers to participate in the Program, unless the calls are made with a consumer's prior, express permission, are informational in nature, such as those made to convey a utility outage, school closing, or flight information, or are made by a tax-exempt organization.<sup>9</sup>

Florida law prohibits telemarketers from making telephone sales calls or sending text messages by using auto dialers with prerecorded messages. The law also prohibits telemarketers from making unsolicited sales calls to landline home telephones or wireless phones if the phone number is included on Florida's Do Not Call List, which is administered by the Florida Department of Agriculture and Consumer Services.<sup>10</sup> The law does not prohibit unsolicited calls from research or survey companies seeking opinions or from charitable organizations or political candidates or parties seeking donations.<sup>11</sup>

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<sup>1</sup> Federal Communications Commission, *Stop Unwanted Calls and Texts*, <https://www.fcc.gov/consumers/guides/stop-unwanted-calls-and-texts> (last visited January 21, 2018).

<sup>2</sup> Phoning It In: Unwanted Calls Are No. 1 Complaint with FTC, *The Wall Street Journal* (Sept. 8, 2017) <https://www.wsj.com/articles/phoning-it-in-unwanted-calls-are-no-1-complaint-with-ftc-1504879201> (last visited January 21, 2018).

<sup>3</sup> Federal Trade Commission, *Consumer Information: Robocalls*, <https://www.consumer.ftc.gov/features/feature-0025-robocalls> (last visited Jan. 21, 2018).

<sup>4</sup> An auto dialer is equipment that has the capacity to produce or store phone numbers using a random or sequential number generator, and to call those phone numbers. 47 U.S.C. § 227(a)(1).

<sup>5</sup> *Supra* notes 1 and 3. "Spoofing" occurs when a caller deliberately falsifies the information transmitted to a consumer's caller ID display to disguise the caller's identity.

<sup>6</sup> *Supra* notes 1 and 3.

<sup>7</sup> 47 U.S.C. § 227(b).

<sup>8</sup> 47 U.S.C. § 227(e).

<sup>9</sup> 47 C.F.R. § 64.1200 (2012).

<sup>10</sup> s. 501.059, F.S.; see also Florida Department of Agriculture and Consumer Services, *Florida Do Not Call*, <http://www.freshfromflorida.com/Consumer-Resources/Florida-Do-Not-Call> (last visited Jan. 21, 2018).

<sup>11</sup> *Id.*



Many robocalls and spoofed calls are made without regard to the laws in place to prevent them. As a result, the Chairman of the FCC called upon the telephone service industry (industry) to develop and implement responses that could more quickly react to this problem.<sup>12</sup> In response, the Robocall Strike Force (Strike Force) was created in 2016.<sup>13</sup> The Strike Force, which consists of representatives from the industry, issued a report on its efforts in October 2016, which included:<sup>14</sup>

- Steps the industry had taken to implement telephone service provider authentication of caller identification for calls made over VoIP networks;
- Methods for consumer education about robocalls and the solutions currently available to telephone subscribers on the market; and
- The industry's trial implementation of a "Do-Not-Originate" (DNO) list, a compilation of numbers known to be illegitimate, and therefore likely to be used by a robocaller, from which telephone service providers could pull numbers that it would block from being able to complete calls to subscribers.

On November 17, 2017, the FCC adopted a rule that implements the Strike Force's DNO list proposal.<sup>15</sup> The rule permits telephone service providers to block phone calls made from a number that appears on a DNO list before they reach customers' phones. The following types of phone numbers may be placed on the DNO list:

- An inbound services-only number that is assigned to a customer who requests that the number be blocked;
- A number that is invalid under the North American Number Plan<sup>16</sup> (NANP), such as a single digit repeated (000-000-0000), or one without the required number of digits;
- A number that has not yet been allocated to a telephone services provider by the NANP Administrator; and
- A number that is allocated to a telephone services provider, but has not yet been assigned to a telephone customer.

According to the FCC, the use of an invalid, unallocated, or unassigned number provides a strong indication that the calling party is spoofing the caller ID to potentially defraud and harm a telephone service customer.<sup>17</sup>

### Effect of Proposed Changes

The bill authorizes telecommunications companies who provide voice communications services to customers in Florida to preemptively block certain phone calls from reaching a customer's phone, if authorized to do so by the customer. In particular, consistent with federal law and FCC rules, such service providers may block calls from any of the following:

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<sup>12</sup> Tom Wheeler, Chairman of the Federal Communications Commission, *Cutting off Robocalls* (Jul. 22, 2016), <https://www.fcc.gov/news-events/blog/2016/07/22/cutting-robocalls> (last visited Jan. 21, 2018).

<sup>13</sup> Federal Communications Commission, *First Meeting of Industry-Led Robocall Strike Force*, <https://www.fcc.gov/news-events/events/2016/08/first-meeting-industry-led-robocall-strike-force> (last visited Jan. 21, 2018).

<sup>14</sup> *Robocall Strike Force Report* at p. 2 (Oct. 26, 2016), available at: <https://transition.fcc.gov/cgb/Robocall-Strike-Force-Final-Report.pdf> (last visited Jan. 21, 2018).

<sup>15</sup> Federal Communications Commission, *Advanced Methods to Target and Eliminate Unlawful Robocalls*, FCC Docket No. 17-59, Report and Order and Further Notice of Proposed Rulemaking, at para. 9 (Nov. 16, 2017), available at: <https://www.fcc.gov/document/fcc-adopts-rules-help-block-illegal-robocalls-0> (last visited Jan. 21, 2018).

<sup>16</sup> The NANP was created to organize the nationwide assignment of phone numbers in order to make direct dialing of long distance calls possible and to eliminate the need for operators. The NANP also pools numbers into numerical blocks of 1,000 numbers each and then allocates those numbers to service providers. See generally, North American Numbering Plan Administrator, *About the North American Numbering Plan*, [https://www.nationalnanpa.com/about\\_us/abt\\_nanp.html](https://www.nationalnanpa.com/about_us/abt_nanp.html) (last visited Jan. 21, 2018).

<sup>17</sup> *Supra* note 15, at p. 8.

- A specific number that a customer has requested be blocked, regardless of whether the call actually originated from that number;
- A number that is not a valid NANP phone number;
- A valid NANP phone number that has not been allocated to a telephone service provider by the NANP Administrator or pooling administrator; and
- A valid NANP phone number that has been allocated to a telephone service provider but has not been assigned to a customer.

The bill permits telephone service providers to rely on a phone number as reflected on a caller identification service for purposes of blocking that number.

**B. SECTION DIRECTORY:**

**Section 1.** Creates s. 364.246, F.S., to be cited as the "Florida Call-Blocking Act."

**Section 2.** Provides an effective date of July 1, 2018.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

According to the FCC, the use of an invalid, unallocated, or unassigned number provides a strong indication that the calling party is spoofing the caller ID to potentially defraud and harm a telephone service customer. By authorizing telephone service providers to block such calls, the bill may reduce economic harm to victims of fraudulent schemes effectuated through spoofed telephone calls.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

1                                   A bill to be entitled  
2           An act relating to telephone solicitation; creating s.  
3           364.246, F.S.; providing a short title; providing  
4           definitions; authorizing telecommunication providers,  
5           with authorization from a subscriber, to block certain  
6           calls from reaching the subscriber; authorizing  
7           telecommunication providers to rely solely upon caller  
8           identification service information to determine  
9           originating numbers for the purpose of blocking such  
10          calls; providing an effective date.

11  
12   Be It Enacted by the Legislature of the State of Florida:

13  
14          Section 1.   Section 364.246, Florida Statutes, is created  
15   to read:

16          364.246 Florida Call-Blocking Act.-

17          (1) This section may be cited as the "Florida Call-  
18 Blocking Act."

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

20          (a) "Caller identification service" means a service that  
21 allows a subscriber, contemporaneous with receiving a telephone  
22 call, to have the number and, if available, the name of the  
23 calling party, displayed on the subscriber's telephone or  
24 transmitted to a device connected to it.

25          (b) "North American Numbering Plan" or "NANP" means the



26 integrated telephone numbering plan serving the North American  
 27 countries that share its resources.

28 (c) "Pooling administrator" means the Thousands-Block  
 29 Pooling Administrator as identified in 47 C.F.R. s. 52.20.

30 (d) "Provider" means a telecommunications company that  
 31 provides voice communications services to customers in the  
 32 state.

33 (3) Consistent with authorization provided by federal law  
 34 and rules of the Federal Communications Commission or its  
 35 successors, a provider may, with subscriber authorization:

36 (a) Block calls from specific numbers identified by the  
 37 subscriber based on the originating number shown in the  
 38 subscriber's caller identification service. Such call may be  
 39 blocked without regard as to whether the call actually  
 40 originated from that number.

41 (b) Block calls originating from:

- 42 1. A number that is not a valid NANP number;
- 43 2. A valid NANP number that is not allocated to a provider  
 44 by the NANP Administrator or the pooling administrator; and
- 45 3. A valid NANP number that is allocated to a provider by  
 46 the NANP Administrator or pooling administrator but that is not  
 47 assigned to a subscriber.

48 (4) For purposes of blocking calls as authorized in this  
 49 section, a provider may rely on caller identification service  
 50 information to determine the originating number.

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51 Section 2. This act shall take effect July 1, 2018.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Energy & Utilities  
 2 Subcommittee

3 Representative Killebrew offered the following:

4  
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 365.176, Florida Statutes, is created  
 8 to read:

9 365.176 Florida Call-Blocking Act.—

10 (1) This section may be cited as the "Florida Call-  
 11 Blocking Act."

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

13 (a) "Caller identification service" means a service that  
 14 allows a telephone subscriber to have the telephone number and,  
 15 if available, the name of the calling party transmitted



Amendment No. 1

16 contemporaneously with the telephone call and displayed on a  
17 device in or connected to the subscriber's telephone.

18 (b) "Pooling administrator" means the Thousands-Block  
19 Pooling Administrator as identified in 47 C.F.R. s. 52.20.

20 (c) "Provider" means a telecommunications company that  
21 provides voice communications services to customers in this  
22 state.

23 (3) Consistent with authorization provided by federal law  
24 and rules of the Federal Communications Commission or its  
25 successors, providers operating in this state may block calls in  
26 the following manner:

27 (a) Providers may block a voice call when the subscriber  
28 to which the originating number is assigned has requested that  
29 calls purporting to originate from that number be blocked  
30 because the number is used for inbound calls only.

31 (b) Providers may block calls originating from the  
32 following numbers:

33 1. A number that is not a valid North American Numbering  
34 Plan number;

35 2. A valid North American Numbering Plan number that is  
36 not allocated to a provider by the North American Numbering Plan  
37 Administrator or the pooling administrator; and

38 3. A valid North American Numbering Plan number that is  
39 allocated to a provider by the North American Numbering Plan  
40 Administrator or pooling administrator, but is unused, so long

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Amendment No. 1

41 as the provider blocking the calls is the allocatee of the  
42 number and confirms that the number is unused or has obtained  
43 verification from the allocatee that the number is unused at the  
44 time of the blocking.

45  
46 Providers may not block a voice call pursuant to subparagraph 1.  
47 or subparagraph 2. if the call is an emergency call placed to  
48 911.

49 (4) For purposes of blocking calls from certain  
50 originating numbers as authorized in this section, a provider  
51 may rely on caller identification service information to  
52 determine the originating number.

53 Section 2. This act shall take effect July 1, 2018.

54  
55 -----

56 **T I T L E A M E N D M E N T**

57 Remove everything before the enacting clause and insert:

58 A bill to be entitled

59 An act relating to telephone solicitation; creating s. 365.176,  
60 F.S.; providing a short title; defining terms; authorizing  
61 telecommunication providers to block certain calls; prohibiting  
62 the blocking of certain calls; authorizing telecommunication  
63 providers to rely upon caller identification service information  
64 to determine originating numbers for the purpose of blocking  
65 such calls; providing an effective date.





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A bill to be entitled  
An act relating to interruption of services; amending  
s. 180.06, F.S.; prohibiting a municipality or private  
company from charging for garbage pick-up services  
that are not rendered within a specified period;  
requiring municipality or private company to issue  
credit or refund on monthly bill; requiring payment of  
fine if credit or refund is not issued within  
specified period; amending s. 364.04, F.S.;  
prohibiting a telecommunications company from charging  
for services that are interrupted for longer than a  
specified period; requiring a telecommunications  
company to issue a credit or refund; requiring the  
Public Service Commission to impose a fine in a  
specified amount if the telecommunications company  
fails to provide credit or refund within specified  
period; amending s. 610.108, F.S.; prohibiting a cable  
and video service provider from charging for services  
that are interrupted for longer than a specified  
period; requiring a cable or video service provider to  
issue a credit or refund; requiring the Department of  
Agriculture and Consumer Services to impose a fine in  
a specified amount if a provider fails to provide  
credit or refund within specified period; providing an

26           effective date.

27

28   Be It Enacted by the Legislature of the State of Florida:

29

30           Section 1. Section 180.06, Florida Statutes, is amended to  
31   read:

32           180.06 Activities authorized by municipalities and private  
33   companies; garbage pick-up services.—

34           (1) Any municipality or private company organized for the  
35   purposes contained in this chapter, is authorized:

36           (a)~~(1)~~ To clean and improve street channels or other  
37   bodies of water for sanitary purposes;

38           (b)~~(2)~~ To provide means for the regulation of the flow of  
39   streams for sanitary purposes;

40           (c)~~(3)~~ To provide water and alternative water supplies,  
41   including, but not limited to, reclaimed water, and water from  
42   aquifer storage and recovery and desalination systems for  
43   domestic, municipal or industrial uses;

44           (d)~~(4)~~ To provide for the collection and disposal of  
45   sewage, including wastewater reuse, and other liquid wastes;

46           (e)~~(5)~~ To provide for the collection and disposal of  
47   garbage;

48           (f)~~(6)~~ And incidental to such purposes and to enable the  
49   accomplishment of the same, to construct reservoirs, sewerage  
50   systems, trunk sewers, intercepting sewers, pumping stations,

51 wells, siphons, intakes, pipelines, distribution systems,  
 52 purification works, collection systems, treatment and disposal  
 53 works;

54 (g)~~(7)~~ To construct airports, hospitals, jails and golf  
 55 courses, to maintain, operate and repair the same, and to  
 56 construct and operate in addition thereto all machinery and  
 57 equipment;

58 (h)~~(8)~~ To construct, operate and maintain gas plants and  
 59 distribution systems for domestic, municipal and industrial  
 60 uses; and

61 (i)~~(9)~~ To construct such other buildings and facilities as  
 62 may be required to properly and economically operate and  
 63 maintain said works necessary for the fulfillment of the  
 64 purposes of this chapter.

65  
 66 However, a private company or municipality shall not construct  
 67 any system, work, project or utility authorized to be  
 68 constructed hereunder in the event that a system, work, project  
 69 or utility of a similar character is being actually operated by  
 70 a municipality or private company in the municipality or  
 71 territory immediately adjacent thereto, unless such municipality  
 72 or private company consents to such construction.

73 (2) A municipality or private company, as applicable, may  
 74 not charge a customer for garbage pick-up service that was not  
 75 provided on a normally scheduled pick-up date if the garbage



76 pick-up service is not provided within 3 business days after the  
 77 originally scheduled pick-up date. The municipality or private  
 78 company, as applicable, shall issue a credit or refund on the  
 79 customer's monthly bill to adjust on a prorated basis the number  
 80 of times the garbage was not picked up. A municipality or  
 81 private company, as applicable, that fails to provide a credit  
 82 or refund within 60 days shall pay a fine to each customer whose  
 83 garbage pick-up was not provided as set forth above, equal to 10  
 84 times the charge billed for the service that was not provided.

85 Section 2. Subsection (1) of section 364.04, Florida  
 86 Statutes, is amended to read:

87 364.04 Schedules of rates, tolls, rentals, and charges;  
 88 filing; service interruptions; public inspection.-

89 (1) (a) Every telecommunications company shall publish  
 90 through electronic or physical media schedules showing the  
 91 rates, tolls, rentals, and charges of that company for service  
 92 to be offered within the state. The commission shall have no  
 93 jurisdiction over the content or form or format of such  
 94 published schedules. A telecommunications company may, as an  
 95 option, file the published schedules with the commission or  
 96 publish its schedules through other reasonably publicly  
 97 accessible means, including on a website. A telecommunications  
 98 company that does not file its schedules with the commission  
 99 shall inform its customers where a customer may view the  
 100 telecommunications company's schedules.



101        (b) A telecommunications company may not charge a customer  
 102 for service that has been interrupted for longer than 24  
 103 consecutive hours unless the service interruption is caused by a  
 104 negligent or willful act by the customer or as a result of  
 105 damage on the customer's side of the service demarcation point  
 106 that prevents the receipt or use of service that is otherwise  
 107 available. Restoration of service for less than one hour during  
 108 the service interruption does not toll the time for purposes of  
 109 calculating the period of the service interruption. The credit  
 110 or refund shall be calculated by identifying the number of days  
 111 beyond the first 24 hours that service was interrupted, dividing  
 112 that number by the number of days in the billing period, and  
 113 multiplying the resulting fraction by the normal billing amount.  
 114 The credit or refund must be provided within 30 days after the  
 115 service is restored or the date of the customer's next bill  
 116 following service restoration, whichever is later.  
 117 Notwithstanding any other provision of law to the contrary, the  
 118 commission shall impose a fine equal to 10 times the credit or  
 119 refund amount upon any telecommunications company that fails to  
 120 provide a credit or refund as specified in this paragraph. The  
 121 commission may adopt rules to implement this paragraph.

122        Section 3. Subsection (1) of section 610.108, Florida  
 123 Statutes, is amended to read:

124        610.108 Customer service standards.—

125        (1) (a) All cable or video service providers shall comply

126 with customer service requirements in 47 C.F.R. s. 76.309(c).

127 (b) A cable or video service provider may not charge a  
128 customer for cable or video service that has been interrupted  
129 for longer than 24 consecutive hours unless the service  
130 interruption is caused by a negligent or willful act by the  
131 customer or as a result of damage on the customer's side of the  
132 service demarcation point that prevents the receipt or use of  
133 service that is otherwise available. Restoration of service for  
134 less than one hour during the service interruption does not toll  
135 the calculation of time for purposes of determining the length  
136 of the service interruption. The credit or refund shall be  
137 calculated by identifying the number of days beyond the first 24  
138 hours that service was interrupted, dividing that number by the  
139 number of days in the billing period, and multiplying the  
140 resulting fraction by the normal billing amount. The credit or  
141 refund must be provided within 30 days after the service is  
142 restored or the date of the customer's next bill following  
143 service restoration, whichever is later. Notwithstanding any  
144 other provision of law to the contrary, the Department of  
145 Agriculture and Consumer Services shall impose a fine equal to  
146 10 times the credit or refund amount upon any cable or video  
147 service provider that fails to provide a credit or refund as  
148 specified in this paragraph.

149 Section 4. This act shall take effect July 1, 2018.