

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES

Senator Grimsley, Chair

Senator Hukill, Vice Chair

MEETING DATE: Tuesday, March 31, 2015

TIME: 4:00 —6:00 p.m.

PLACE: 301 Senate Office Building

MEMBERS: Senator Grimsley, Chair; Senator Hukill, Vice Chair; Senators Abruzzo, Bradley, Dean, Evers, Garcia, Gibson, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 192 Altman (Compare H 1, H 1313, S 246)	Wireless Communications Devices; Revising legislative intent to authorize law enforcement officers to issue citations as a primary offense to persons who are texting while driving; relating to the enforcement of the "Florida Ban on Texting While Driving Law" as a secondary action, etc. CU 03/31/2015 Favorable TR ATD AP	Favorable Yeas 5 Nays 3
2	SB 246 Sachs (Similar H 1, Compare H 1313, S 192)	Texting While Driving; Revising penalties for violations of the Florida Ban on Texting While Driving Law to include enhanced penalties for such violations when committed in a school zone or school crossing; removing the requirement that specified provisions be enforced as a secondary action by a law enforcement agency, etc. CU 03/31/2015 Favorable TR FP	Favorable Yeas 5 Nays 3
3	SB 270 Soto (Compare CS/H 9)	Use of Wireless Communications Devices While Operating a Motor Vehicle; Providing a criminal penalty if a person operating a motor vehicle while using a wireless communications device causes the death of a human being or an unborn child, etc. CU 03/31/2015 Unfavorable TR CJ FP	Unfavorable Yeas 3 Nays 5
4	SB 492 Thompson (Identical H 17)	Driving Safety; Prohibiting the use of cellular telephones and other electronic communications devices by drivers in a school zone or school crossing or on school district property; providing penalties, etc. CU 03/31/2015 Favorable TR FP	Favorable Yeas 5 Nays 3

COMMITTEE MEETING EXPANDED AGENDA

Communications, Energy, and Public Utilities

Tuesday, March 31, 2015, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	CS/SB 776 Environmental Preservation and Conservation / Hays (Similar CS/H 1173)	Water and Wastewater; Requiring the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds to determine the availability of additional allocation or reallocation of bonds for water and wastewater infrastructure projects; extending specified tax exemptions to certain investor-owned water and wastewater utilities; authorizing the creation of a utility reserve fund; authorizing the Department of Environmental Protection to require or request that the Florida Water Pollution Control Financing Corporation make loans, grants, and deposits to for- profit, privately owned or investor-owned water systems, etc. EP 03/18/2015 Fav/CS CU 03/31/2015 Favorable AP	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SB 192

INTRODUCER: Senator Altman

SUBJECT: Wireless Communications Devices

DATE: March 30, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.			TR	
3.			ATD	
4.			AP	

I. Summary:

SB 192 makes a violation of the Texting While Driving Law a primary offense, allowing state or local law enforcement agencies to enforce the prohibition on texting while driving without the necessity of another violation related to motor vehicles.

II. Present Situation:

Current Statute

Section 316.305, F.S., is the “Florida Ban on Texting While Driving Law.” It prohibits a person from operating a motor vehicle:

- While manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device; or
- While sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging.

The prohibition does not apply when a motor vehicle is stationary or is not being operated or to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle, a law enforcement or fire service professional, or an emergency medical services professional;
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities;
- Receiving messages that are:
 - Related to the operation or navigation of the motor vehicle;
 - Safety-related information, including emergency, traffic, or weather alerts;
 - Data used primarily by the motor vehicle; or
 - Radio broadcasts;
- Using a device or system for navigation purposes;

- Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function;
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function; or
- Operating an autonomous vehicle¹ in autonomous mode.

Enforcement of the prohibition by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of chapter 316, F.S., the “Florida Uniform Traffic Control Law”; chapter 320, F.S., relating to motor vehicle licenses; or chapter 322, F.S., relating to driver licenses.

Any person who violates the prohibition commits a noncriminal traffic infraction, punishable as a nonmoving violation. A second or subsequent violation within 5 years after the date of a prior conviction commits a noncriminal traffic infraction.

Only in the event of a crash resulting in death or personal injury may a user’s billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages be admissible as evidence in any proceeding to determine whether a violation occurred.

As used in this section, the term “wireless communications device” means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service² and that allows text communications.

Enforcement

Forty-four states and the District of Columbia currently have laws which ban texting while driving and list it as a primary offense³, meaning that a driver could be stopped by law enforcement officers solely on suspicion that the driver is texting while driving.

¹ The term “autonomous vehicle” is defined by cross-reference to s. 316.003(90), F.S., which defines the term to mean any vehicle equipped with autonomous technology. The term “autonomous technology” means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

² The term “communications service” is defined by cross-reference to s. 812.15(1)(d), F.S., which defines the term to mean any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

³ “Cellular Phone Use and Texting while Driving Laws,” updated June, 2014. Available online at, <http://www.ncsl.org/research/transportation/cellular-phone-use-and-texting-while-driving-laws.aspx>

As of January 12, 2015, Clerks of the Court had reported to the Department of Highway Safety and Motor Vehicles that a total of 2,061 citations related to texting while driving had been issued.

III. Effect of Proposed Changes:

The bill makes a violation of the Texting While Driving Law a primary offense, allowing state or local law enforcement agencies to enforce the prohibition on texting while driving without the necessity of another violation related to motor vehicles.

The bill takes effect October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An individual violating the prohibition of using wireless communications devices for texting purposes while operating a motor vehicle would be subject to civil penalties and points being assigned to his or her driver license depending on whether the violation is a first offense or a second or subsequent offense.

C. Government Sector Impact:

The bill may generate an indeterminate amount of revenue for both state and local law enforcement agencies, depending on the number of violations issued by law enforcement officials and the frequency with which violators commit subsequent violations, thereby incurring larger penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The statute provides exceptions to the prohibition, which may make it difficult for law enforcement officers to determine whether an individual is in violation of the prohibition. Additionally, the statute forbids the use of billing records except “in the event of a crash resulting in death or personal injury.” These factors may make it difficult to enforce and prosecute the prohibition, even with primary enforcement authority.

VIII. Statutes Affected:

This bill substantially amends section 316.305 of the Florida Statutes.

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

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

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/31/2015	.	
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	.	

The Committee on Communications, Energy, and Public Utilities
(Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 316.305, Florida Statutes, is amended to
read:

316.305 Wireless communications devices; prohibition.—

(1) This section may be cited as the "Florida Ban on
Handheld Wireless Communications ~~Texting~~ While Driving Law."

(2) It is the intent of the Legislature to:



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(a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.

(b) Prevent crashes related to the act of using a wireless communications device ~~text messaging~~ while driving a motor vehicle.

(c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.

(d) Authorize law enforcement officers to stop motor vehicles and issue citations as a primary ~~secondary~~ offense to persons who are using a wireless communications device ~~texting~~ while driving.

(3) (a) A person may not operate a motor vehicle while:

1. Dialing, talking on, or listening to, a wireless communications device for the purpose of interpersonal communication;

2. Manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging; or

3. Using a wireless communications device to view or post an electronic message or initiate a command to the Internet.

As used in this section, the term "wireless communications device" means any handheld device that is used or capable of being used in a handheld manner; ~~it~~ that is designed or intended



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to receive interpersonal communication, ~~or~~ transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15; and that allows text communications. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

~~5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.~~

~~6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate,~~



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~~deactivate, or initiate a feature or function.~~

~~5.7.~~ Operating an autonomous vehicle, as defined in s.
316.003, in autonomous mode.

6. Conducting wireless interpersonal communication through
the use of a hands-free electronic device. The term "hands-free
electronic device" means a mobile electronic device that has an
internal feature or function or that is equipped with an
attachment or addition, whether or not permanently part of such
mobile electronic device, by which a user engages in
conversation without the use of either hand.

(c) Only in the event of a crash resulting in death or
personal injury, a user's billing records for a wireless
communications device or the testimony of or written statements
from appropriate authorities receiving such communications
~~messages~~ may be admissible as evidence in any proceeding to
determine whether a violation of paragraph (a) has been
committed.

(4)(a) Any person who violates paragraph (3)(a) commits a
noncriminal traffic infraction, punishable as a nonmoving
violation as provided in chapter 318.

(b) Any person who commits a second or subsequent violation
of paragraph (3)(a) within 5 years after the date of a prior
conviction for a violation of paragraph (3)(a) commits a
noncriminal traffic infraction, punishable as a moving violation
as provided in chapter 318.

~~(5) Enforcement of this section by state or local law
enforcement agencies must be accomplished only as a secondary
action when an operator of a motor vehicle has been detained for
a suspected violation of another provision of this chapter,~~



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~~chapter 320, or chapter 322.~~

Section 2. This act shall take effect October 1, 2015.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to wireless communications devices;
amending s. 316.305, F.S.; renaming the act as the
"Florida Ban on Handheld Wireless Communications While
Driving Law"; prohibiting a person from operating a
motor vehicle while dialing, talking on, or listening
to, a wireless communications device for the purpose
of interpersonal communication or while using a
wireless communications device to view or post an
electronic message or initiate a command to the
Internet; revising exceptions; defining the term
"hands-free electronic device"; revising legislative
intent to authorize law enforcement officers to issue
citations as a primary offense to persons who are
using a wireless communications device while driving;
removing a provision that required enforcement of the
prohibitions only as a secondary action; providing an
effective date.

By Senator Altman

16-00414-15

2015192__

1 A bill to be entitled
2 An act relating to wireless communications devices;
3 amending s. 316.305, F.S.; revising legislative intent
4 to authorize law enforcement officers to issue
5 citations as a primary offense to persons who are
6 texting while driving; repealing s. 316.305(5), F.S.,
7 relating to the enforcement of the "Florida Ban on
8 Texting While Driving Law" as a secondary action;
9 providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Paragraph (d) of subsection (2) of section
14 316.305, Florida Statutes, is amended to read:

15 316.305 Wireless communications devices; prohibition.-

16 (2) It is the intent of the Legislature to:

17 (d) Authorize law enforcement officers to stop motor
18 vehicles and issue citations as a primary ~~secondary~~ offense to
19 persons who are texting while driving.

20 Section 2. Subsection (5) of section 316.305, Florida
21 Statutes, is repealed.

22 Section 3. This act shall take effect October 1, 2015.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SB 246

INTRODUCER: Senator Sachs

SUBJECT: Texting While Driving

DATE: March 30, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.			TR	
3.			FP	

I. Summary:

The bill makes a violation of the Texting While Driving Law a primary offense, allowing state or local law enforcement agencies to enforce the prohibition on texting while driving without the necessity of another violation related to motor vehicles. It also doubles the amount of the fine for a violation committed in a legally posted school zone or designated school crossing.

II. Present Situation:

Florida Ban on Texting While Driving Law

Section 316.305, F.S., is the “Florida Ban on Texting While Driving Law.” It prohibits a person from operating a motor vehicle:

- While manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device; or
- While sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging.

The prohibition does not apply when a motor vehicle is stationary or is not being operated or to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle, a law enforcement or fire service professional, or an emergency medical services professional;
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities;
- Receiving messages that are:
 - Related to the operation or navigation of the motor vehicle;
 - Safety-related information, including emergency, traffic, or weather alerts;
 - Data used primarily by the motor vehicle; or
 - Radio broadcasts;

- Using a device or system for navigation purposes;
- Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function;
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function; or
- Operating an autonomous vehicle¹ in autonomous mode.

Enforcement of the prohibition by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of chapter 316, F.S., the “Florida Uniform Traffic Control Law”; chapter 320, F.S., relating to motor vehicle licenses; or chapter 322, F.S., relating to driver licenses.

Any person who violates the prohibition commits a noncriminal traffic infraction, punishable as a nonmoving violation. A second or subsequent violation within 5 years after the date of a prior conviction commits a noncriminal traffic infraction.

Only in the event of a crash resulting in death or personal injury may a user’s billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages be admissible as evidence in any proceeding to determine whether a violation occurred.

As used in this section, the term “wireless communications device” means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service² and that allows text communications.

Forty-four states and the District of Columbia currently have laws which ban texting while driving and list it as a primary offense³, meaning that a driver could be stopped by law enforcement officers solely on suspicion that the driver is texting while driving.

¹ The term “autonomous vehicle” is defined by cross-reference to s. 316.003(90), F.S., which defines the term to mean any vehicle equipped with autonomous technology. The term “autonomous technology” means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

² The term “communications service” is defined by cross-reference to s. 812.15(1)(d), F.S., which defines the term to mean any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

³ “Cellular Phone Use and Texting while Driving Laws,” updated June, 2014. Available online at, <http://www.ncsl.org/research/transportation/cellular-phone-use-and-texting-while-driving-laws.aspx>

As of January 12, 2015, Clerks of the Court had reported to the Department of Highway Safety and Motor Vehicles that a total of 2,061 citations related to texting while driving had been issued.

Designation of School Zones

Section 316.1895, F.S., provides for the establishment and designation of school zones for purposes of establishing speed zones. It requires the Department of Transportation (DOT) to adopt a uniform system of traffic control devices and pedestrian control devices for use on the streets and highways in the state surrounding all schools, public and private. The DOT is also required to compile, publish, and transmit a manual containing all specifications and requirements with respect to the system of these devices to the governing body of each county and municipality in the state, and DOT and each county and municipality in the state must install and maintain such traffic and pedestrian control devices in conformity with such uniform system.

Permanent signs designating school zones and school zone speed limits must be uniform in size and color, and must have the times during which the restrictive speed limit is enforced clearly designated thereon. Flashing beacons activated by a time clock, or other automatic device, or manually activated may be used as an alternative to posting the times during which the restrictive school speed limit is enforced. Portable signs designating school zones and school zone speed limits also must be uniform in size and color and may be erected on the roadway only during those hours when pupils are arriving at and leaving regularly scheduled school sessions.

III. Effect of Proposed Changes:

The bill makes a violation of the Texting While Driving Law a primary offense, allowing state or local law enforcement agencies to enforce the prohibition on texting while driving without the necessity of another violation related to motor vehicles.

It also doubles the amount of the fine for a violation committed in a legally posted school zone or designated school crossing.

The bill takes effect October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

An individual violating the prohibition would be subject to civil penalties and points being assigned to his or her driver license and to increased fines, depending on whether the violation is a first offense or a second or subsequent offense.

C. Government Sector Impact:

The bill may generate an indeterminate amount of revenue for both state and local law enforcement agencies, depending on the number of violations issued by law enforcement officials and the frequency with which violators commit subsequent violations, thereby incurring larger penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The statute provides exceptions to the prohibition, which may make it difficult for law enforcement officers to determine whether an individual is in violation of the prohibition. Additionally, the statute forbids the use of billing records except “in the event of a crash resulting in death or personal injury.” These factors may make it difficult to enforce and prosecute the prohibition, even with primary enforcement authority.

VIII. Statutes Affected:

This bill substantially amends section 316.305 of the Florida Statutes.

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

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

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/31/2015	.	
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The Committee on Communications, Energy, and Public Utilities
(Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 17 - 74

and insert:

Handheld Wireless Communications Texting While Driving Law."

(2) It is the intent of the Legislature to:

(a) Improve roadway safety for all vehicle operators,
vehicle passengers, bicyclists, pedestrians, and other road
users.

(b) Prevent crashes related to the act of using a wireless



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11 communications device ~~text messaging~~ while driving a motor
12 vehicle.

13 (c) Reduce injuries, deaths, property damage, health care
14 costs, health insurance rates, and automobile insurance rates
15 related to motor vehicle crashes.

16 (d) Authorize law enforcement officers to stop motor
17 vehicles and issue citations ~~as a secondary offense~~ to persons
18 who are using a wireless communications device ~~texting~~ while
19 driving.

20 (3)(a) A person may not operate a motor vehicle while:

21 1. Dialing, or talking or listening on, a wireless
22 communications device for the purpose of interpersonal
23 communication;

24 2. Manually typing or entering multiple letters, numbers,
25 symbols, or other characters into a wireless communications
26 device or while sending or reading data on such a device for the
27 purpose of nonvoice interpersonal communication, including, but
28 not limited to, communication methods known as texting, e-
29 mailing, and instant messaging; or

30 3. Using a wireless communications device to view or post
31 an electronic message or initiate a command to the Internet.
32

33 As used in this section, the term "wireless communications
34 device" means a ~~any~~ handheld device that is used or capable of
35 being used in a handheld manner;~~7~~ that is designed or intended
36 to receive interpersonal communication, ~~or~~ transmit text or
37 character-based messages, access or store data, or connect to
38 the Internet or any communications service as defined in s.
39 812.15; and that allows text communications. For the purposes of



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this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

~~5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.~~

~~6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.~~

5.7. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.

6. Conducting wireless interpersonal communication through



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the use of a hands-free electronic device. The term "hands-free electronic device" means a mobile electronic device that has an internal feature or function or that is equipped with an attachment or addition, whether or not permanently part of such mobile electronic device, by which a user engages in conversation without the use of either hand.

(c) Only in the event of a crash resulting in death or personal injury, a user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such communications ~~messages~~ may be

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 2 - 4

and insert:

An act relating to wireless communications devices; amending s. 316.305, F.S.; revising the short title; prohibiting a person from operating a motor vehicle while dialing, or talking or listening on, a wireless communications device for the purpose of interpersonal communication or while using a wireless communications device to view or post an electronic message or initiate a command to the Internet; revising the exceptions to the prohibition; defining the term "hands-free electronic device"; revising the penalties for violations of the Florida Ban on Handheld Wireless Communications While Driving Law to

By Senator Sachs

34-00292-15

2015246__

A bill to be entitled
An act relating to texting while driving; amending s.
316.305, F.S.; revising penalties for violations of
the Florida Ban on Texting While Driving Law to
include enhanced penalties for such violations when
committed in a school zone or school crossing;
removing the requirement that specified provisions be
enforced as a secondary action by a law enforcement
agency; providing an effective date.

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

Section 1. Section 316.305, Florida Statutes, is amended to
read:

316.305 Wireless communications devices; prohibition.—

(1) This section may be cited as the "Florida Ban on
Texting While Driving Law."

(2) It is the intent of the Legislature to:

(a) Improve roadway safety for all vehicle operators,
vehicle passengers, bicyclists, pedestrians, and other road
users.

(b) Prevent crashes related to the act of text messaging
while driving a motor vehicle.

(c) Reduce injuries, deaths, property damage, health care
costs, health insurance rates, and automobile insurance rates
related to motor vehicle crashes.

(d) Authorize law enforcement officers to stop motor
vehicles and issue citations ~~as a secondary offense~~ to persons
who are texting while driving.

34-00292-15

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(3) (a) A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term "wireless communications device" means a ~~any~~ handheld device used or capable of being used in a handheld manner, which ~~that~~ is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15 and which ~~that~~ allows text communications. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;

34-00292-15

2015246__

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.

6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.

7. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.

(c) Only in the event of a crash resulting in death or personal injury, a user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence in any proceeding to determine whether a violation of paragraph (a) has been committed.

(4)(a) A ~~Any~~ person who violates paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318. For a violation committed in a legally posted school zone or designated school crossing, the amount of the fine prescribed for the violation shall be doubled.

(b) A ~~Any~~ person who commits a second or subsequent violation of paragraph (3)(a) within 5 years after the date of a prior conviction for a violation of paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318. For a violation committed in a

34-00292-15

2015246__

88 legally posted school zone or designated school crossing,
89 regardless of where the violation with respect to a prior
90 conviction was committed, the amount of the fine prescribed for
91 the violation shall be doubled.

92 ~~(5) Enforcement of this section by state or local law~~
93 ~~enforcement agencies must be accomplished only as a secondary~~
94 ~~action when an operator of a motor vehicle has been detained for~~
95 ~~a suspected violation of another provision of this chapter,~~
96 ~~chapter 320, or chapter 322.~~

97 Section 2. This act shall take effect October 1, 2015.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SB 270

INTRODUCER: Senator Soto

SUBJECT: Use of Wireless Communications Devices While Operating a Motor Vehicle

DATE: March 30, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Unfavorable
2.			TR	
3.			CJ	
4.			FP	

I. Summary:

The bill makes it a felony to cause the death of a human being or an unborn child¹ while operating a motor vehicle and using a wireless communications device in violation of the Florida Ban on Texting While Driving Law. It generally is a felony of the third degree but is a felony of the second degree if:

- At the time of the accident, the person knew, or should have known, that the accident occurred; and
- The person failed to give information and render aid.

II. Present Situation:

Florida Ban on Texting While Driving Law

Section 316.305, F.S., is the “Florida Ban on Texting While Driving Law.” It prohibits a person from operating a motor vehicle:

- While manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device; or
- While sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging.

The prohibition does not apply to motor vehicle that is stationary is not being operated or to a motor vehicle operator who is:

¹ The term “unborn child” is defined by cross-references to mean a member of the species Homo sapiens, at any stage of development, who is carried in the womb.

- Performing official duties as an operator of an authorized emergency vehicle, a law enforcement or fire service professional, or an emergency medical services professional;
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities;
- Receiving messages that are:
 - Related to the operation or navigation of the motor vehicle;
 - Safety-related information, including emergency, traffic, or weather alerts;
 - Data used primarily by the motor vehicle; or
 - Radio broadcasts;
- Using a device or system for navigation purposes;
- Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function;
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function; or
- Operating an autonomous vehicle² as defined in, in autonomous mode.

Enforcement of the prohibition by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of chapter 316, F.S., the “Florida Uniform Traffic Control Law”; chapter 320, F.S., relating to motor vehicle licenses; or chapter 322, F.S., relating to driver licenses.

Any person who violates the prohibition commits a noncriminal traffic infraction, punishable as a nonmoving violation. A second or subsequent violation within 5 years after the date of a prior conviction commits a noncriminal traffic infraction.

Only in the event of a crash resulting in death or personal injury may a user’s billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages be admissible as evidence in any proceeding to determine whether a violation.

As used in this section, the term “wireless communications device” means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service³ and that allows text communications.

² The term “autonomous vehicle” is defined by cross-reference to s. 316.003(90), F.S., which defines the term to mean any vehicle equipped with autonomous technology. The term “autonomous technology” means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

³ The term “communications service” is defined by cross-reference to s. 812.15(1)(d), F.S., which defines the term to mean any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services

Forty-four states and the District of Columbia currently have laws which ban texting while driving and list it as a primary offense⁴, meaning that a driver could be stopped by law enforcement officers solely on suspicion of texting while driving.

As of January 12, 2015 Clerks of the Court had reported to the Department of Highway Safety and Motor Vehicles that a total of 2,061 citations related to texting while driving had been issued.

Vehicular homicide

Section 782.071, F.S., defines the term “vehicular homicide” as the killing of a human being, or the killing of an unborn child⁵ by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vehicular homicide is a felony of the second degree or a felony of the first degree if:

- At the time of the accident, the person knew, or should have known, that the accident occurred; and
- The person failed to give information and render aid.

The person is not required to know that the accident resulted in injury or death.

The driver of a vehicle involved in a crash resulting in injury to or death of a person or damage to a vehicle or other property which is driven or attended by a person must give their name, address, and the registration number of the vehicle they are driving, and upon request and if available, exhibit their license or permit to drive, to a person injured in such crash or to the driver or occupant of or person attending a vehicle or other property damaged in the crash. The driver must also give this information to a police officer at the scene of the crash or investigating the crash. The driver must render to a person injured in the crash reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.

Killing of unborn child by injury to mother⁶

The unlawful killing of an unborn child by any injury to the mother which would be murder if it resulted in the death of such mother is deemed murder in the same degree as that which would have been committed against the mother.

lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

⁴“Cellular Phone Use and Texting while Driving Laws,” updated June, 2014. Available online at, <http://www.ncsl.org/research/transportation/cellular-phone-use-and-texting-while-driving-laws.aspx>

⁵ The statute defines the term “unborn child” by cross-reference to section 775.021(5)(e), F.S., which defines the term to mean a member of the species Homo sapiens, at any stage of development, who is carried in the womb.

⁶ Section 782.09, F.S.

III. Effect of Proposed Changes:

The bill makes it a felony to cause the death of a human being or an unborn child⁷ while operating a motor vehicle and using a wireless communications device in violation of the Florida Ban on Texting While Driving Law. It generally is a felony of the third degree but is a felony of the second degree if:

- At the time of the accident, the person knew, or should have known, that the accident occurred; and
- The person failed to give information and render aid.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An individual violating the prohibition would be subject to civil penalties and points being assigned to his or her driver license and to increased fines, depending on whether the violation is a first offense or a second or subsequent offense.

C. Government Sector Impact:

The bill may generate an indeterminate amount of revenue for both state and local law enforcement agencies, depending on the number of violations issued by law enforcement officials and the frequency with which violators commit subsequent violations, thereby incurring larger penalties.

⁷ The term “unborn child” is defined by cross-references to mean a member of the species *Homo sapiens*, at any stage of development, who is carried in the womb.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 316.3051 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Soto

14-00030A-15

2015270__

1 A bill to be entitled
2 An act relating to the use of wireless communications
3 devices while operating a motor vehicle; creating s.
4 316.3051, F.S.; defining the term "wireless
5 communications device"; providing a criminal penalty
6 if a person operating a motor vehicle while using a
7 wireless communications device causes the death of a
8 human being or an unborn child; providing an effective
9 date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Section 316.3051, Florida Statutes, is created
14 to read:

15 316.3051 Death caused by motor vehicle operator using a
16 wireless communications device; criminal penalty.—

17 (1) As used in this section, the term "wireless
18 communications device" has the same meaning as provided in s.
19 316.305.

20 (2) A person who causes the death of a human being or an
21 unborn child as provided in s. 782.071 while operating a motor
22 vehicle and using a wireless communications device in violation
23 of s. 316.305 commits:

24 (a) A felony of the third degree, punishable as provided in
25 s. 775.082, s. 775.083, or s. 775.084; or

26 (b) A felony of the second degree, punishable as provided
27 in s. 775.082, s. 775.083, or s. 775.084, if:

28 1. At the time of the accident, the person knew, or should
29 have known, that the accident occurred; and

14-00030A-15

2015270__

30 2. The person failed to give information and render aid as
31 required by s. 316.062.

32 Section 2. This act shall take effect July 1, 2015.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: SB 492

INTRODUCER: Senator Thompson

SUBJECT: Driving Safety

DATE: March 30, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Wiehle	Caldwell	CU	Favorable
2. _____	_____	TR	_____
3. _____	_____	FP	_____

I. Summary:

SB 492 makes it a noncriminal traffic infraction to operate a motor vehicle in a legally posted school zone or designated school crossing or on school district property while using any type of cellular telephone or electronic communications device or while sending or reading data on such a device for the purpose of communication, including, but not limited to, texting, e-mailing, and instant messaging. The term “electronic communications device” is defined to mean a device that is designed or intended to receive or transmit voice, text, or character-based messages; access or store data; or connect to the Internet or a communications service.

II. Present Situation:

Florida Ban on Texting While Driving Law

Section 316.305, F.S., is the “Florida Ban on Texting While Driving Law.” It prohibits a person from operating a motor vehicle:

- While manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device; or
- While sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging.

The prohibition does not apply when a motor vehicle is stationary or is not being operated or to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle, a law enforcement or fire service professional, or an emergency medical services professional;
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities;
- Receiving messages that are:
 - Related to the operation or navigation of the motor vehicle;

- Safety-related information, including emergency, traffic, or weather alerts;
- Data used primarily by the motor vehicle; or
- Radio broadcasts;
- Using a device or system for navigation purposes;
- Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function;
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function; or
- Operating an autonomous vehicle¹ in autonomous mode.

Enforcement of the prohibition by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of chapter 316, F.S., the “Florida Uniform Traffic Control Law”; chapter 320, F.S., relating to motor vehicle licenses; or chapter 322, F.S., relating to driver licenses.

Any person who violates the prohibition commits a noncriminal traffic infraction, punishable as a nonmoving violation. A second or subsequent violation within 5 years after the date of a prior conviction commits a noncriminal traffic infraction.

Only in the event of a crash resulting in death or personal injury may a user’s billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages be admissible as evidence in any proceeding to determine whether a violation occurred.

As used in this section, the term “wireless communications device” means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service² and that allows text communications.

¹ The term “autonomous vehicle” is defined by cross-reference to s. 316.003(90), F.S., which defines the term to mean any vehicle equipped with autonomous technology. The term “autonomous technology” means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

² The term “communications service” is defined by cross-reference to s. 812.15(1)(d), F.S., which defines the term to mean any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

Forty-four states and the District of Columbia currently have laws which ban texting while driving and list it as a primary offense³, meaning that a driver could be stopped by law enforcement officers solely on suspicion that the driver is texting while driving.

As of January 12, 2015, Clerks of the Court had reported to the Department of Highway Safety and Motor Vehicles that a total of 2,061 citations related to texting while driving had been issued.

Designation of School Zones

Section 316.1895, F.S., provides for the establishment and designation of school zones for purposes of establishing speed zones. It requires the Department of Transportation (DOT) to adopt a uniform system of traffic control devices and pedestrian control devices for use on the streets and highways in the state surrounding all schools, public and private. The DOT is also required to compile, publish, and transmit a manual containing all specifications and requirements with respect to the system of these devices to the governing body of each county and municipality in the state, and DOT and each county and municipality in the state must install and maintain such traffic and pedestrian control devices in conformity with such uniform system.

Permanent signs designating school zones and school zone speed limits must be uniform in size and color, and must have the times during which the restrictive speed limit is enforced clearly designated thereon. Flashing beacons activated by a time clock, or other automatic device, or manually activated may be used as an alternative to posting the times during which the restrictive school speed limit is enforced. Portable signs designating school zones and school zone speed limits also must be uniform in size and color and may be erected on the roadway only during those hours when pupils are arriving at and leaving regularly scheduled school sessions.

III. Effect of Proposed Changes:

The bill makes it a noncriminal traffic infraction to operate a motor vehicle in a legally posted school zone or designated school crossing or on school district property while using any type of cellular telephone or electronic communications device or while sending or reading data on such a device for the purpose of communication, including, but not limited to, texting, e-mailing, and instant messaging. As used in this section, the term “electronic communications device” means a device that is designed or intended to receive or transmit voice, text, or character-based messages; access or store data; or connect to the Internet or a communications service.⁴

The bill takes effect October 1, 2015.

³“Cellular Phone Use and Texting while Driving Laws,” updated June, 2014. Available online at, <http://www.ncsl.org/research/transportation/cellular-phone-use-and-texting-while-driving-laws.aspx>

⁴ The term “communications service” is defined by cross-reference to s. 812.15(1)(d), F.S., which defines the term to mean any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

An individual violating the texting while driving prohibition in a legally posted school zone or designated school crossing, or on school district property would be subject to civil penalties and points being assigned to his or her driver license depending on whether the violation is a first offense or a second or subsequent offense.

C. Government Sector Impact:

The bill may generate an indeterminate amount of revenue for both state and local law enforcement agencies, depending on the number of violations issued by law enforcement officials and the frequency with which violators commit subsequent violations, thereby incurring larger penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 316.306 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Thompson

12-00352-15

2015492__

1 A bill to be entitled
2 An act relating to driving safety; creating s.
3 316.306, F.S.; prohibiting the use of cellular
4 telephones and other electronic communications devices
5 by drivers in a school zone or school crossing or on
6 school district property; providing penalties;
7 providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 316.306, Florida Statutes, is created to
12 read:

13 316.306 Use of cellular telephone or electronic
14 communications device in school zone; prohibition.-

15 (1) A person may not operate a motor vehicle in a legally
16 posted school zone or designated school crossing or on school
17 district property while using any type of cellular telephone or
18 electronic communications device or while sending or reading
19 data on such a device for the purpose of communication,
20 including, but not limited to, texting, e-mailing, and instant
21 messaging. As used in this section, the term "electronic
22 communications device" means a device that is designed or
23 intended to receive or transmit voice, text, or character-based
24 messages; access or store data; or connect to the Internet or a
25 communications service as defined in s. 812.15.

26 (2) A person who violates this section commits a
27 noncriminal traffic infraction, punishable as a moving violation
28 as provided in chapter 318.

29 Section 2. This act shall take effect October 1, 2015.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Communications, Energy, and Public Utilities

BILL: CS/SB 776

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Hays

SUBJECT: Water and Wastewater

DATE: March 30, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	Fav/CS
2.	Caldwell	Caldwell	CU	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 776:

- Directs the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds for water and wastewater projects;
- Provides a sales tax exemption to certain water and wastewater investor-owned utilities (IOUs);
- Provides an exemption for entities who resell water service to allow recovery of certain costs;
- Authorizes the Public Service Commission (PSC) to create an IOU reserve fund and requires the PSC to adopt rules;
- Identifies specific types of expenses eligible for an automatic rate increase or decrease outside of a rate case (also known as pass-through treatment) and requires the PSC to adopt rules;
- Creates a limit that can be recovered for rate case expenses by water and wastewater IOUs;
- Limits the ability of the PSC to award rate case expenses;
- Eliminates the accumulation of rate case expenses by specifying a utility may not recover approved rate case expenses for more than one rate case at a time;
- Allows the PSC to review secondary drinking water standards and to review wastewater service as it pertains to odor, noise, aerosol drift, or lighting; and
- Expands the availability of low-interest loans through the Drinking Water State Revolving Loan Fund (DWSRF) to all for-profit water utilities.

II. Present Situation:

Sales Tax Exemptions

Chapter 212, F.S., concerning sales taxes, contains the state's statutory provisions authorizing the levying and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. The statutes currently provide more than 200 different exemptions. Florida imposes a six percent tax on tangible personal property sold, used, consumed, distributed, stored for use or consumption, rented, or leased in Florida.

Investor-owned Water and Wastewater Utility Systems Overview

Water and wastewater services can be provided through privately-owned and operated water and wastewater companies, which are referred to as "investor-owned utilities." The term "utility" is defined as, "a water or wastewater utility and, except as provided in s. 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide water or wastewater service to the public for compensation."¹ An IOU can range in size from very small systems, owned by an individual as a sole proprietorship and serving only a few dozen customers, to systems owned by large interstate corporations serving tens of thousands of customers in multiple counties.² The remaining water and wastewater customers are served by IOUs in non-jurisdictional counties, by statutorily exempt utilities (such as municipal utilities, cooperatives, and non-profits), by wells and septic tanks, or by systems owned, operated, managed, or controlled by governmental authorities.³

Chapter 367, F.S., concerning water and wastewater systems, grants the PSC exclusive jurisdiction over each utility with respect to its authority, service, and rates. A Florida county has the option to regulate the rates and services of water and wastewater IOUs that operate within their jurisdictions or allow the PSC to regulate those rates and services.⁴ Water and wastewater IOUs whose service areas cross county boundaries are regulated by the PSC, unless regulated by an intergovernmental authority.⁵ The PSC currently has jurisdiction over 145 water and wastewater IOUs in 37 counties in Florida.⁶

For regulatory purposes, the PSC classifies IOUs into one of three categories based on annual operating revenues:⁷

- Class A has operating revenues of \$1,000,000 or more;

¹ Section 367.021(12), F.S.

² Florida Public Service Commission, *Report of the Study Committee on Investor-Owned Water and Wastewater Utility Systems*, 17 (Feb. 2013), available at <http://www.floridapsc.com/utilities/waterwastewater/Water-Wastewater%20Sub%20Committee%20Report.pdf> (last visited Mar. 16, 2014).

³ Section 367.022(2), F.S.

⁴ Section 367.171, F.S.

⁵ Section 367.171(7), F.S.

⁶ Florida Public Service Commission, *Facts and Figures of the Florida Utility Industry*, 28 (Mar. 2014), available at <http://www.psc.state.fl.us/publications/pdf/general/factsandfigures2014.pdf> (last visited Mar. 16, 2015).

⁷ Rules 25-30.110(4) and 25-30.115, F.A.C. As noted in these rules, this classification system is used by the National Association of Regulatory Utility Commissioners for publishing its system of accounts.

- Class B has operating revenues of \$200,000 or more but less than \$1,000,000; and
- Class C has operating revenues less than \$200,000.

As of 2012, there were 14 Class A utilities, 33 Class B utilities, and 93 Class C utilities under the PSC's jurisdiction.⁸

Study Committee on Investor-owned Water and Wastewater Utility Systems

Chapter 2012-187, Laws of Florida, created the Study Committee on Investor-Owned Water and Wastewater Utility Systems (study committee) to, "identify issues of concern of investor-owned water and wastewater utility systems, particularly small systems, and their customers," and to research possible solutions.⁹ The study committee was comprised of 18 members, including 15 voting members and three non-voting members.¹⁰ The study committee was required to consider:

- The ability of small IOUs to achieve economies of scale when purchasing equipment, commodities, or services;
- The availability of low-interest loans to small water or wastewater IOUs;
- Any tax incentives or exemptions, temporary or permanent, which are available to small water or wastewater IOUs;
- The impact on customer rates if a utility purchases an existing water or wastewater utility system;
- The impact of a utility providing service through the use of a reseller on customer rates; and
- Other issues that the study committee identifies during its investigation.¹¹

The study committee submitted a report with recommendations to the Governor, President of the Senate, and the Speaker of the House of Representatives on February 15, 2013. The report made the following recommendations for consideration by the Legislature:

- Increase the availability of low-interest loans to small water and wastewater IOUs by:
 - Expanding availability of low-interest loans through the DWSRF to all for-profit water utilities;
 - Allowing IOUs to apply pass through treatment for loan service fees or loan origination fees for eligible projects identified by the PSC; and
 - Reviewing the allocation of private activity bonds to determine how much is currently allocated to water and wastewater projects, how much of the allocation is unused or reallocated, and whether any additional amount of private activity bonds should be used for water and wastewater infrastructure;
- Provide ad valorem tax exemptions for real property that is dedicated to providing potable water;
- Provide an ad valorem tax exemption for the property of an IOU owned or operated by a Florida corporation if the rates are established by the governing board of the county or the PSC and the property remains dedicated to providing public utility services;

⁸ *Supra* note 2.

⁹ *Supra* note 2, at 7.

¹⁰ Chapter 2012-187, s. 2, Laws of Fla.

¹¹ *Id.*

- Provide a sales tax exemption for sales or leases to a sewer or water IOU owned or operated by a Florida corporation if the primary function of the corporation is to construct, maintain, or operate a water or sewer system in Florida;
- Create an exemption from PSC regulation for persons who resell service to individually-metered end-users at a price that does not exceed actual purchase price of water plus actual costs of meter reading and billing not to exceed nine percent;
- Authorize the PSC, during a rate case, to create individual utility reserve funds to be used for projects identified in an IOU's capital improvement plan, with disbursement subject to approval by the PSC;
- Reduce the impact of rate case expense on customer rates by:
 - Prohibiting the recovery of a rate case expense for attorney or outside consultant fees if the utility receives staff assistance in changing rates and charges;
 - Requiring the utility to recover the four-year amortized rate case expense for only one rate case at a time; and
 - Prohibiting the PSC from awarding rate case expenses that exceed the total rate increase approved by the PSC;
- Provide a mechanism for the resolution of issues involving secondary water and wastewater operational requirements; and
- Identify specific types of expenses eligible for pass through treatment in utility rates, or authorize the PSC to adopt rules identifying such expenses provided the expenses are beyond the utility's control.¹²

Private Activity Bonds

Qualified private activity bonds are tax-exempt bonds issued by a state or local government, the proceeds of which are used for a defined, qualified purpose by an entity other than the government issuing the bonds. For a private activity bond to be tax-exempt, 95 percent or more of the net bond proceeds must be used for one of the qualified purposes listed in sections 142-145, and 1394 of the Internal Revenue Code, which includes facilities used to furnish water or sewer services.¹³ The Internal Revenue Code limits an issuing authority, such as a state, to a maximum amount of tax-exempt bonds that can be issued to finance a particular qualified purpose during a calendar year. Facilities used to furnish water or sewer services are subject to this volume cap limit.¹⁴

Private activity bonds are administered in Florida by the Division of Bond Finance of the State Board of Administration (division) pursuant to ss. 159.801-159.816, F.S. Each year, the division determines the amount of private activity bonds that can be issued in Florida under the Internal Revenue Code. This amount is allocated yearly on January 1 as follows:

- An initial amount is allocated to manufacturing facility projects;
- Fifty percent of the amount remaining after the initial allocation is allocated to individual counties and groups of counties identified in s. 159.804(2)(b), F.S., on a per capita basis for any permitted purpose, which may include water and sewer projects;

¹² *Supra* note 2, at 155-161.

¹³ IRS, *Tax-Exempt Private Activity Bonds, Compliance Guide, Publication 4708*, 2 (Sept. 2005), available at <http://www.irs.gov/pub/irs-pdf/p4078.pdf> (last visited Mar. 16, 2015).

¹⁴ *Id.* at 3.

- Twenty-five percent of the amount remaining after the initial allocation is allocated to the Florida Housing Finance Corporation for use in connection with the issuance of housing bonds;
- Five percent of the amount remaining after the initial allocation is allocated to the state allocation pool and applied to priority projects, which may include water and sewer projects; and
- Twenty percent of the amount remaining after the initial allocation is allocated to the Florida First Business allocation pool for projects certified by the Department of Economic Opportunity.¹⁵

The study committee was unable to determine the amount of private activity bonds that are allocated to water and wastewater projects, or how the private activity bonds can be fairly distributed.¹⁶

Resellers of Water Service

Certain entities that meet the definition of “utility” are exempt from PSC regulation as utilities, including entities who resell water or wastewater service at a rate or charge that does not exceed the actual purchase price of the water or wastewater.¹⁷ If the reseller includes any additional costs in the rate or charge to the retail customer, the reseller is considered a utility subject to PSC regulation.¹⁸

Reseller utilities, such as mobile home parks and subdivisions, are regulated by the PSC and generally have significant investment in distribution and collection lines and other utility equipment. In a rate proceeding, the PSC determines the utility’s investment and expenses related to the facilities it owns and operates, then sets rates accordingly. The cost of the water and wastewater services purchased from a wholesale provider, which are often a significant portion of the customers’ bills, are allowed to be passed through to the customers pursuant to s. 367.081(4)(b), F.S. Resellers that choose not to pass along costs beyond their costs to purchase water or wastewater (and therefore remain exempt from PSC regulation) generally have very little investment in equipment or lines needed to provide the service. These types of resellers include apartment complexes, condominium buildings, and small master-metered shopping centers.¹⁹

A metered charge for water sends an appropriate price signal to end users and is a means of discouraging indiscriminate use of water. However, if a reseller wishes to install sub-meters and bill those users for their actual water use, the reseller will be unable to recover the metering and billing costs being regulated and incurring regulatory costs.²⁰

¹⁵ Section 159.804, F.S.

¹⁶ *Supra* note 2, at 43.

¹⁷ Section 367.022(8), F.S.

¹⁸ *Supra* note 2, at 61.

¹⁹ *Id.*

²⁰ *Supra* note 2, at 61-62.

Reserve Funds for Water and Wastewater Utilities

The study committee considered the availability of low interest loans to small IOUs. The report noted that affordable and accessible financing is problematic for smaller IOUs because of the risk associated with smaller utilities, insufficient cash reserves, and the limitations of current regulatory policy. During a critical system failure, the smaller IOUs may be unable to address that failure because of limited available funds. In addition, loans typically do not provide sufficient cash flow to fully address the financial needs over the life of the loan. The study committee reports that the establishment of individual utility reserve funding and/or the creation of a statewide reserve fund could reduce borrowing costs and make funding more readily available.²¹

Section 367.081, F.S., establishes the rate-setting procedures for water and wastewater IOUs regulated by the PSC. However, these procedures do not provide explicit statutory authority for the PSC to establish reserve funds for water and wastewater IOUs during the rate-setting process.

Public Service Commission Ratemaking

Pursuant to s. 367.081, F.S., the PSC establishes rates that are just, reasonable, compensatory, and not unfairly discriminatory. The PSC must consider the value and quality of the service and the cost of providing the service, including:

- Debt interest;
- A utility's working capital requirements;
- Maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service; and
- A fair return on the investment of the utility in property used and useful in the public service.

In order for an IOU to increase rates, the utility must file an application for a rate increase with the PSC. The application includes schedules and reports containing the operational, financial, economic, and rate information in order for the PSC staff to evaluate the request. The utility is also required to forecast how much funding is necessary to cover expenses for the next year and the potential return on investment from assets used to provide services.²²

In setting rates, the PSC staff reviews the utility's records, conducts site inspections, and evaluates the value and quality of service based on customer input at a rate case hearing or in writing. Following the rate case hearing, the PSC staff issues a written order with the commissioners' decision on the rate increase. The utility is required to notify the customers of the revised rates.²³

²¹ *Supra* note 2, at 67.

²² Florida Public Service Commission, *Utility Ratemaking in Florida* (Oct. 2012), available at <http://www.floridapsc.com/publications/consumer/brochure/Ratemaking.pdf#search=ratemaking> (last visited Mar. 16, 2014).

²³ *Id.*

Pass Through Rate Adjustment

A pass through rate adjustment allows a utility to increase or decrease its rates to reflect an increase or decrease in certain expenses without the requirement of the PSC approval.²⁴ This mechanism provides quick rate relief to a utility when it experiences an increase in one of these types of costs and may help defer the need for a full rate case. Currently, the types of expenses eligible for pass through treatment are limited by statute to:

- Purchased water or wastewater service;
- Electric power;
- Ad valorem taxes;
- Regulatory assessment fees;
- The Department of Environmental Protection (DEP) fees for the National Pollutant Discharge Elimination System Program; and
- Water or wastewater quality testing required by the DEP.²⁵

Prior to changing rates using this mechanism, the IOU must file, under oath, an affirmation as to the accuracy of the figures and calculations upon which rate changes are based and a statement that the change will not cause the utility to exceed the rate of return on equity last approved by the PSC.²⁶

Secondary Water Standards and Quality of Service

The DEP has the primary authority to implement and enforce federal and state drinking water and wastewater standards. The focus of the DEP's permitting, monitoring, and enforcement of water and wastewater systems is to ensure compliance with primary drinking water standards and wastewater operational requirements to protect the health and safety of the public and the environment.²⁷

The DEP has adopted secondary drinking water standards for aluminum, chloride, copper, fluoride, iron, manganese, silver, sulfate, zinc, color, odor, pH, total dissolved solids, and foaming agents.²⁸ Testing for the secondary standards is required on a regular basis, though the DEP generally requires corrective action only if users voice significant complaints or if a primary contaminant level has also been exceeded.²⁹

The DEP has not adopted secondary wastewater standards. The DEP requires that new wastewater treatment plants and modifications to existing plants be designed to minimize odors, noise, aerosol drift, and lighting, which may have an adverse effect on neighboring residential and commercial areas.³⁰ The utilities must provide reasonable assurance that such effects will not be potentially harmful to human health or welfare or unreasonably interfere with the enjoyment

²⁴ Section 367.081(4)(b), F.S.

²⁵ *Id.*

²⁶ Section 367.081(4)(c), F.S.

²⁷ See ch. 403, F.S., and Rules 62-550, 62-555, 62-602, and 62-699, F.A.C., for drinking water regulations, and Rules 62-600, 62-604, 62-610, 62-620, 62-621, and 62-640, F.A.C., for wastewater regulations.

²⁸ Rule 62-550.320, F.A.C.

²⁹ *Supra* note 2, at 113.

³⁰ Rule 62-600.400(2)(a), F.A.C.

of life or property.³¹ If the existing facilities fail to function as intended and create such adverse effects, the permittee must take corrective action.³² The DEP may also require corrective action if there are significant complaints or if a primary contaminant level has been exceeded.³³ The PSC considers an IOU's quality of service in rate cases by evaluating the quality of the product, the operating condition of the IOU's plant and facilities, and the IOU's efforts to address customer satisfaction.³⁴ Sanitary surveys, outstanding citations, violations, and consent orders on file with the DEP and county health departments are also considered. In addition, the DEP and county health department officials' testimony and customer testimony concerning quality of service is considered.³⁵ In most cases, the emphasis of this evaluation is on compliance with standards related to the health and safety of the public and the environment.³⁶

Chapter 2014-68, Laws of Florida, created s. 367.072, F.S., to provide a process for customers to petition the PSC to require compliance with secondary water quality standards. If a utility fails to comply with PSC orders, the process could result in revocation of the utility's certificate of authority. The law provides petition criteria and factors the PSC must consider in its review of the petition and the action it may take to dispose of the petition. The PSC is authorized to adopt rules to administer the provisions. Once a petition has been filed in compliance with the section, a utility is prohibited from filing a rate case until the PSC has issued a final order.

Chapter 2014-68, Laws of Florida, also created s. 367.0812, F.S., to add secondary water quality standards to the criteria that the PSC must consider when setting rates for water service. The law authorizes the PSC to reduce the utility's return on equity up to 100 basis points or deny all or part of a rate increase for a utility's system or part of a system if it determines that the quality of water service is less than satisfactory for the time the system remains unsatisfactory. The law requires a utility to provide an estimate of the costs and benefits of plausible solutions for each concern that the PSC finds, meet with the customers to discuss the costs and benefits of the solution, and periodically report on the progress of implementation. The PSC may require the utility to resolve certain problems and require benchmarks and periodic progress reporting. The law authorizes the PSC to adopt rules to assess and enforce compliance with the secondary water standards and prescribe penalties for a utility's failure to adequately address each concern.

Section 376.11, F.S., requires each utility to provide service to its service area within a reasonable time. It authorizes the commission to amend the service territory or rescind the certificate of authorization of a utility that has failed to provide service as required or it is more feasible for another utility to provide such service. The section also requires each utility to provide safe, efficient, and sufficient service as prescribed by Part VI of ch. 403, F.S., and Parts I and II of ch. 373, F.S. If the PSC determines that an IOU has failed to provide its customers with water or wastewater service that meets the standards set by the DEP or the water management districts, the PSC may reduce the IOU's return on equity until the standards are met.³⁷

³¹ *Id.*

³² Rule 62-600.410, F.A.C.

³³ *Supra* note 2, at 113.

³⁴ Rule 25-30.433(1), F.A.C.

³⁵ *Id.*

³⁶ *Supra* note 2, at 106.

³⁷ Section 367.111(2), F.S.

Drinking Water State Revolving Loan Fund

Sections 403.8532 and 403.8533, F.S., establish the DWSRF, which is administered by the DEP. The fund provides low-interest loans to eligible entities for planning, designing, and constructing public water facilities. An investor-owned public water system that is legally responsible for public water services and serves no more than 1,500 connections is eligible for a loan. An investor-owned public water system that serves more than 1,500 connections may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems.³⁸ Loan funding is based on a priority system that takes into account public health considerations, compliance, and affordability.³⁹

Based on data gathered by the study committee, it was determined that all Class C water IOUs and 28 out of 33 Class B water IOUs serve no more than 1,500 connections and are eligible for the DWSRF program. The remaining PSC-regulated Class A and B water IOUs are not eligible to use the DWSRF program. The report notes that this data does not include water IOUs that are regulated by counties.⁴⁰

III. Effect of Proposed Changes:

Section 1 amends s. 159.8105, F.S., to require the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds to determine the availability of additional allocations or reallocation of private activity bonds for water and wastewater infrastructure projects.

Section 2 amends s. 212.08, F.S., to provide a sales tax exemption to an IOU owned or operated by Florida corporation if the primary function of the corporation is to construct, maintain, or operate a water or wastewater system in the state. The bill requires the goods and services purchased or leased by the corporation to be used in the state.

Section 3 amends s. 367.022, F.S., to allow a water reseller currently exempt from PSC regulation to add up to a nine percent surcharge and still remain exempt. The surcharge may not exceed the actual cost of the meter reading and billing for water and wastewater bills. The bill does not require the resellers to add a surcharge to the actual purchase price of the water or wastewater service.

Section 4 amends s. 367.081, F.S., to authorize the PSC to allow the creation of a utility reserve fund for infrastructure repair and replacement for an investor-owned water or wastewater utility. The reserve fund is funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit. The PSC is required to adopt rules to govern the implementation, management, and use of the fund that include:

- Provisions related to the expenses for which the fund may be used;
- Segregation of the reserve account funds;
- Requirements for the IOU to maintain a capital improvement plan; and
- Requirements for PSC authorization prior to disbursements from the fund.

³⁸ Section 403.8532(3), F.S.

³⁹ Section 403.8532(9)(a), F.S.

⁴⁰ *Supra* note 2, at 36-37.

The bill also expands the types of expenses eligible for pass through treatment in IOU rates by adding the following expense items:

- Rates charged by a governmental authority or other regulated water or wastewater utility that provides utility service to the utility;
- Rates or fees the utility is charged for electric power;
- Ad valorem taxes assessed against the utility's used and useful property;
- Fees charged by the DEP in connection with the National Pollutant Discharge Elimination System permit program;
- Regulatory assessment fees imposed by the PSC;
- Costs for water quality or wastewater quality testing required by the DEP;
- Fees charged for wastewater biosolids disposal;
- Costs incurred for a tank inspection required by the DEP or a local government authority;
- Operator and distribution license fees required by the DEP or a local government authority;
- Water or wastewater operating permit fees charged by the DEP or a local government authority; and
- Consumptive or water use permit fees charged by a water management district.

The bill specifies an IOU may not increase or decrease its rates as a result of an increase or decrease in a specific expense item which occurred more than 12 months before the filing by the IOU.

The bill authorizes the PSC to adopt rules establishing additional specific expense items eligible for pass through treatment. To be eligible for such treatment, an additional expense item must be imposed by a federal, state, or local law, rule, order, or notice and must be outside the control of the utility. If the PSC uses this authority, it must review its rule at least once every five years to determine if each specific expense item should remain eligible for pass through treatment or if any additional expense items should become eligible.

The bill limits the amount a water and wastewater IOUs can recover from a rate case to 50 percent of the expenses that are determined to be reasonable.

Section 5 amends s. 367.0814, F.S., to limit the ability of the PSC to award certain rate case expenses. The PSC may not award rate case expenses to a water or wastewater IOU in a staff assisted rate case from the date of filing an application until the PSC staff issues the report on the recommended rates, unless the Office of Public Counsel or interested parties intervened. The PSC is authorized to award expenses if the utility is charged fees for consultant or legal services after the initial PSC staff report is made available to customers and the utility. The PSC may also award expenses for attorney or consultant fees incurred as the result of a protest or appeal. The PSC is required to adopt rules to administer this section by December 31, 2015.

Section 6 amends s. 367.0816, F.S., to eliminate the accumulation of rate case expenses. The bill specifies that a utility may not recover approved rate case expenses for more than one rate case at a time. At the end of the rate case, the PSC may issue an order authorizing the utility to collect approved rate case expenses over four years. If a utility files a new rate case before the end of the

four-year period and the utility has not recovered all the rate case expenses for the previous case, the utility cannot collect the outstanding rate case expenses.

Section 7 amends s. 367.111, F.S., to allow the PSC to review secondary drinking water standards established by the DEP. The PSC is also authorized to review wastewater service as it pertains to odor, noise, aerosol drift, or lighting.

Section 8 amends s. 403.8532, F.S., to increase the number of entities that are eligible for DWSRF loans by allowing the DEP to make loans to for-profit, privately owned or investor-owned water systems. The bill also deletes the restriction that a project for a water system that serves 1,500 service connections or more within a single certified or franchised area must result in the consolidation of two or more water systems in order to qualify for a loan.

Sections 9 and 10 amend ss. 367.084 and 367.171, F.S., respectively, to make conforming and technical changes.

Section 11 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

According to the PSC, it is unknown if the provision limiting rate case expense recovery would violate Amendments V and XIV of the U.S. Constitution; article 1, sections 2 and 9 of the Florida Constitution; and article X, section 6 of the Florida Constitution. The bill may generate litigation by the water and wastewater IOUs concerning the constitutionality of limiting reasonable rate case expenses.⁴¹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The state will experience decreased revenues as a result of the sales tax exemption provided to qualifying IOUs.

⁴¹ PSC, *Senate Bill 776 Agency Analysis*, 5 (Mar. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

B. Private Sector Impact:

The water and wastewater IOUs that qualify for the sales tax exemption in s. 212.08, F.S., will realize a positive fiscal impact.

The bill may encourage resellers to use individual metering more often for their tenants. Water users can be charged more accurately for the water they consume; therefore, they may experience a positive or negative fiscal impact, depending on their water use.

The establishment of individual utility reserve funds may reduce borrowing costs and make funding more readily available for PSC-regulated water and wastewater IOUs to make needed improvements and repairs. In some instances, the availability of these reserve funds may allow IOUs to avoid or defer the need for a rate case, providing a cost savings to the ratepayers for this expense.

The expanded availability of pass-through treatment for new expense items may, in some instances, allows IOUs to avoid or defer the need for a rate case, providing a cost savings to the ratepayer.

The limitation of rate case expenses for staff assisted rate cases may benefit the rate payer; however, the utilities' rates may increase to ensure compliance with the additional secondary water and wastewater standards. Limiting the amount of recovery by 50 percent of rate case expense has the potential to harm and possibly put some companies out of business in instances where a company has slim profit margins from which to absorb those expenses.

If the utility has to petition for new rates within four years, it will be forced to forfeit the unamortized rate case expense, increasing costs to the utility and decreasing costs to the ratepayer.

Depending on the PSC's application of the mechanism established to identify and potentially resolve secondary water quality issues and wastewater operational issues, IOUs may be compelled to incur additional costs to resolve these issues. To the extent that an IOU is compelled to incur additional costs, these costs will likely be recovered from ratepayers.⁴²

The expanded availability of low-interest financing through the DWSRF to additional water and wastewater IOUs may encourage more of these utilities to make investments in water infrastructure at a lower cost to ratepayers. Lending institutions that have the ability to evaluate the credit worthiness of the large private systems may experience an increase in revenue.

⁴² *Id.*

C. Government Sector Impact:

The PSC has not identified an impact on agency expenditures; however, it may be required to expend resources to complete rulemaking as required by the bill.⁴³

The DEP estimates the cost to outsource the financial review of the large for-profit, privately owned or investor-owned systems that request DWSRF funding to be between \$10,000 and \$100,000 annually. The service fees collected through the DWSRF repayments would be used as the source of funding for the contract; however, the actual costs would depend on the number of large private systems that request funding.⁴⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the PSC, the bill does not address how the provision exempting resellers from PSC regulation will be enforced. A seller may not know at the time of the sale where the items being sold will be used. The PSC recommends requiring the purchaser to provide the seller with a written statement certifying the purchaser's entitlement to the exemption in order to provide the seller with clarity as to when sales tax should or should not be collected. The provision may require the PSC to promulgate rules to implement the section and it is unclear if specific rulemaking authority is provided for this section.⁴⁵

The bill assumes intervention by parties other than the Office of Public Counsel prior to the issuance of the proposed agency action. This assumption is not consistent with how staff-assisted rate cases are currently processed.⁴⁶

Subsections 367.111(1) and (2), F.S., require an investor-owned water or wastewater utility to provide service that meets a prescribed criteria and authorizes the PSC to take certain actions against the utility if the standards are not met. Subsections (1) and (2) may conflict with proposed subsection (3) as it authorizes the PSC on its own motion or upon a request by a customer to review whether secondary water or wastewater standards are met, but does not require the PSC to make a finding or provide for consequences if the secondary water or wastewater standards are not met.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.08, 367.022, 367.081, 367.0814, 367.0816, 367.111, and 403.8532.

This bill creates section 159.8105 of the Florida Statutes.

⁴³ *Id.* at 3.

⁴⁴ DEP, *Senate Bill 776 Agency Analysis*, 4 (Feb. 18, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁴⁵ *Supra* note 41, at 3.

⁴⁶ *Supra* note 41.

This bill repeals the following sections of the Florida Statutes:

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Environmental Preservation and Conservation on March 18, 2015:

The CS makes technical changes and provides clarifying language.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation;
and Senator Hays

592-02524-15

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A bill to be entitled

An act relating to water and wastewater; creating s. 159.8105, F.S.; requiring the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds to determine the availability of additional allocation or reallocation of bonds for water and wastewater infrastructure projects; amending s. 212.08, F.S.; extending specified tax exemptions to certain investor-owned water and wastewater utilities; amending s. 367.022, F.S.; exempting from regulation by the Florida Public Service Commission a person who resells water service to certain tenants or residents up to a specified percentage or cost; amending s. 367.081, F.S.; authorizing the creation of a utility reserve fund; requiring the commission to adopt rules to govern the implementation and management of the fund; establishing criteria for adjusted rates; specifying expense items that may be automatically increased or decreased; authorizing the commission to establish, by rule, additional specified expense items that cause an automatic increase or decrease of utility rates; requiring, rather than authorizing, the commission to establish a leverage formula under certain circumstances; restricting a utility from recovering more than a certain percentage of reasonable rate case expenses; amending s. 367.0814, F.S.; prohibiting the commission from awarding rate case expense to recover attorney fees or fees of other outside consultants in

592-02524-15

2015776c1

certain circumstances; requiring the commission to adopt rules; amending s. 367.0816, F.S.; prohibiting a utility from recovering certain expenses for more than one rate case at a time; amending s. 367.111, F.S.; authorizing the commission to review water quality and wastewater service under certain circumstances; amending s. 403.8532, F.S.; authorizing the Department of Environmental Protection to require or request that the Florida Water Pollution Control Financing Corporation make loans, grants, and deposits to for-profit, privately owned, or investor-owned water systems; deleting current restrictions on such activities; amending ss. 367.084 and 367.171, F.S.; conforming cross-references; making technical changes; providing an effective date.

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

Section 1. Section 159.8105, Florida Statutes, is created to read:

159.8105 Allocation of bonds for water and wastewater infrastructure projects.—The division shall review the allocation of private activity bonds to determine the availability of additional allocation and reallocation of bonds for water and wastewater infrastructure projects.

Section 2. Paragraph (nnn) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the

592-02524-15

2015776c1

rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(nnn) Investor-owned water and wastewater utilities.—Sales or leases to an investor-owned water or wastewater utility owned or operated by a Florida corporation are exempt from the tax imposed by this chapter if the sole or primary function of the corporation is to construct, maintain, or operate a water or wastewater system in this state and if the goods or services purchased or leased are used in this state.

592-02524-15

2015776c1

Section 3. Present subsections (9) through (12) of section 367.022, Florida Statutes, are redesignated as subsections (10) through (13), respectively, and a new subsection (9) is added to that section, to read:

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

(9) Any person who resells water service to his or her tenants or to individually metered residents for a fee that does not exceed the actual purchase price plus the actual cost of meter reading and billing, not to exceed 9 percent of the actual cost of service.

Section 4. Paragraph (c) is added to subsection (2) of section 367.081, Florida Statutes, and paragraph (b) of subsection (4) and subsection (7) of that section are amended, to read:

367.081 Rates; procedure for fixing and changing.—

(2)

(c) In establishing rates for a utility, the commission may create a utility reserve fund for infrastructure repair and replacement for a utility for existing distribution and collection infrastructure that is nearing the end of its useful life or is negatively impacting water quality or reliability of service, to be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit. The commission shall adopt rules to govern the implementation, management, and utilization of the fund, including, but not limited to, rules related to expenses for which the fund may be used, segregation of reserve account

592-02524-15

2015776c1

117 funds, requirements for a capital improvement plan, and
118 requirements for commission authorization before disbursements
119 are made from the fund.

120 (4)

121 (b) The approved rates of any utility ~~which receives all or~~
122 ~~any portion of its utility service from a governmental authority~~
123 ~~or from a water or wastewater utility regulated by the~~
124 ~~commission and which redistributes that service to its utility~~
125 ~~customers~~ shall be automatically increased or decreased without
126 hearing, upon verified notice to the commission 45 days prior to
127 its implementation of the increase or decrease that its costs
128 for any specified expense item ~~the rates charged by the~~
129 ~~governmental authority or other utility~~ have changed. The
130 ~~approved rates of any utility which is subject to an increase or~~
131 ~~decrease in the rates or fees that it is charged for electric~~
132 ~~power, the amount of ad valorem taxes assessed against its used~~
133 ~~and useful property, the fees charged by the Department of~~
134 ~~Environmental Protection in connection with the National~~
135 ~~Pollutant Discharge Elimination System Program, or the~~
136 ~~regulatory assessment fees imposed upon it by the commission~~
137 ~~shall be increased or decreased by the utility, without action~~
138 ~~by the commission, upon verified notice to the commission 45~~
139 ~~days prior to its implementation of the increase or decrease~~
140 ~~that the rates charged by the supplier of the electric power or~~
141 ~~the taxes imposed by the governmental authority, or the~~
142 ~~regulatory assessment fees imposed upon it by the commission~~
143 ~~have changed. The new rates authorized shall reflect the amount~~
144 ~~of the change of the ad valorem taxes or rates imposed upon the~~
145 ~~utility by the governmental authority, other utility, or~~

592-02524-15

2015776c1

supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection.

1. The new rates authorized shall reflect, on an amortized or annual basis, as appropriate, the cost of, or the amount of change in the cost of, the specified expense item, ~~required water quality or wastewater quality testing performed by laboratories approved by the Department of Environmental Protection for that purpose.~~ The new rates, however, shall not reflect the costs of any specified expense item ~~any required water quality or wastewater quality testing~~ already included in a utility's rates. Specified expense items that are eligible for automatic increase or decrease of a utility's rates include, but are not limited to:

a. The rates charged by a governmental authority or other water or wastewater utility regulated by the commission which provides utility service to the utility.

b. The rates or fees that the utility is charged for electric power.

c. The amount of ad valorem taxes assessed against the utility's used and useful property.

d. The fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program.

e. The regulatory assessment fees imposed upon the utility

592-02524-15

2015776c1

175 by the commission.

176 f. Costs incurred for water quality or wastewater quality
177 testing required by the Department of Environmental Protection.

178 g. The fees charged for wastewater biosolids disposal.

179 h. Costs incurred for any tank inspection required by the
180 Department of Environmental Protection or a local governmental
181 authority.

182 i. Operator and distribution license fees required by the
183 Department of Environmental Protection or a local governmental
184 authority.

185 j. Water or wastewater operating permit fees charged by the
186 Department of Environmental Protection or a local governmental
187 authority.

188 k. Consumptive or water use permit fees charged by a water
189 management district.

190 2. A utility may not use this procedure to increase its
191 rates as a result of an increase in a specific expense item
192 which occurred ~~water quality or wastewater quality testing or an~~
193 ~~increase in the cost of purchased water services, sewer~~
194 ~~services, or electric power or in assessed ad valorem taxes,~~
195 ~~which increase was initiated~~ more than 12 months before the
196 filing by the utility.

197 3. The commission may establish by rule additional specific
198 expense items that are outside the control of the utility and
199 have been imposed upon the utility by a federal, state, or local
200 law, rule, order, or notice. If the commission establishes such
201 rule, the commission shall, at least once every 5 years, review
202 the rule and determine if each expense item should continue to
203 be cause for an automatic increase or decrease and whether

592-02524-15

2015776c1

additional items should be included.

~~4. The provisions of~~ This subsection does ~~de~~ not prevent a utility from seeking a change in rates pursuant to ~~the provisions of~~ subsection (2).

(7) The commission shall determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable. No rate case expense determined to be unreasonable shall be paid by a consumer. In determining the reasonable level of rate case expense, the commission shall consider the extent to which a utility has utilized or failed to utilize the provisions of paragraph (4) (a) or paragraph (4) (b) and such other criteria as it may establish by rule. A utility may recover only up to 50 percent of rate case expenses that are determined to be reasonable.

Section 5. Subsection (3) of section 367.0814, Florida Statutes, is amended to read:

367.0814 Staff assistance in changing rates and charges; interim rates.—

(3) The provisions of s. 367.081(1), (2) (a), and (3) shall apply in determining the utility's rates and charges. However, the commission shall not award rate case expenses to recover attorney fees or fees of other outside consultants who are engaged for purposes of preparing or filing the case if a utility receives staff assistance in changing rates and charges pursuant to this section, unless the Office of Public Counsel or interested parties have intervened. The commission may award rate case expenses for attorney fees or other outside consultant fees if the fees are incurred for the purpose of providing consulting or legal services to the utility after the initial

592-02524-15

2015776c1

staff report is made available to customers and the utility. If there is a protest or appeal by a party other than the utility, the commission may award rate case expense to the utility for attorney fees or other outside consultant fees for costs incurred after the protest or appeal. By December 31, 2015, the commission must adopt rules to administer this subsection.

Section 6. Section 367.0816, Florida Statutes, is amended to read:

367.0816 Recovery of rate case expenses.—

(1) The amount of rate case expense determined by the commission pursuant to the provisions of this chapter to be recovered through a public utilities rate shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates.

(2) A utility may not recover the 4-year amortized rate case expense for more than one rate case at any given time. If the commission approves and a utility implements a rate change from a subsequent rate case pursuant to this section, any unamortized rate case expense for a prior rate case shall be discontinued. The unamortized portion of rate case expense for a prior case must be removed from rates before the implementation of an additional amortized rate case expense for the most recent rate proceeding.

Section 7. Subsection (3) is added to section 367.111, Florida Statutes, to read:

367.111 Service.—

(3) The commission may, on its own motion or based on

592-02524-15

2015776c1

complaints of customers of a water utility subject to its jurisdiction, review water quality as it pertains to secondary drinking water standards established by the Department of Environmental Protection. The commission may, on its own motion or based on complaints of customers of a wastewater utility subject to its jurisdiction, review wastewater service as it pertains to odor, noise, aerosol drift, or lighting.

Section 8. Subsection (3) of section 403.8532, Florida Statutes, is amended to read:

403.8532 Drinking water state revolving loan fund; use; rules.—

(3) The department may make, or request that the corporation make, loans, grants, and deposits to community water systems; for-profit, privately owned, or investor-owned water systems; ~~nonprofit, transient, noncommunity water systems;~~ and nonprofit, nontransient, noncommunity water systems to assist them in planning, designing, and constructing public water systems, ~~unless such public water systems are for-profit privately owned or investor-owned systems that regularly serve 1,500 service connections or more within a single certified or franchised area. However, a for-profit privately owned or investor-owned public water system that regularly serves 1,500 service connections or more within a single certified or franchised area may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems.~~ The department may provide loan guarantees, purchase loan insurance, and refinance local debt through the issue of new loans for projects approved by the department. Public water systems may borrow funds made available pursuant to

592-02524-15

2015776c1

291 this section and may pledge any revenues or other adequate
292 security available to them to repay any funds borrowed.

293 (a) The department shall administer loans so that amounts
294 credited to the Drinking Water Revolving Loan Trust Fund in any
295 fiscal year are reserved for the following purposes:

296 1. At least 15 percent for qualifying small public water
297 systems.

298 2. Up to 15 percent for qualifying financially
299 disadvantaged communities.

300 (b) If an insufficient number of the projects for which
301 funds are reserved under this subsection have been submitted to
302 the department at the time the funding priority list authorized
303 under this section is adopted, the reservation of these funds no
304 longer applies. The department may award the unreserved funds as
305 otherwise provided in this section.

306 Section 9. Section 367.084, Florida Statutes, is amended to
307 read:

308 367.084 Rate adjustment orders.—~~An~~ Any order issued by the
309 commission adjusting general increases or reductions of the
310 rates and charges of a ~~any~~ utility or regulated company must be
311 reduced to writing, including any dissenting or concurring
312 opinions, within 20 days after the official vote of the
313 commission. Within such 20-day period, the commission shall also
314 mail a copy to the clerk of the circuit court of each county in
315 which customers of the utility or regulated company are served
316 who are affected by the rate adjustment, which copy must be kept
317 on file and made available to the public. The commission shall
318 notify all parties of record in the proceeding of the date of
319 such mailing. Such an order is not considered rendered for

592-02524-15

2015776c1

purposes of appeal, rehearing, or judicial review until the date the copies are mailed as required by this section. This provision does not delay the effective date of the order. Such an order is considered rendered on the date of the official vote for the purposes of s. 367.081(7) ~~s. 367.081(6)~~.

Section 10. Subsection (8) of section 367.171, Florida Statutes, is amended to read:

367.171 Effectiveness of this chapter.—

(8) Each county that ~~which~~ is not subject to ~~excluded from the provisions of~~ this chapter shall regulate the rates of all utilities in that county which would otherwise be subject to regulation by the commission pursuant to s. 367.081(1), (2), (3), and (7) and s. 367.165 ~~(6)~~. The county shall not regulate the rates or charges of any system or facility that ~~which~~ would otherwise be exempt from commission regulation pursuant to s. 367.022(2). For this purpose the county or its agency shall proceed as though the county or agency is the commission.

Section 11. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Children, Families, and Elder Affairs, *Vice-Chair*
Appropriations
Appropriations Subcommittee on General Government
Environmental Preservation and Conservation
Finance and Tax

SENATOR THAD ALTMAN

16th District

January 20, 2015

The Honorable Denise Grimsley
Senate Committee on Communications, Energy, and Public Utilities, Chair
337 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Grimsley:

I respectfully request that SB 192, related to *Wireless Communications Devices*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

CC: Diane Caldwell, Staff Director, 337 Knott Building
Kim Bonn, Committee Administrative Assistant

TA/svb

REPLY TO:

- ☐ 8910 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 868-2132
- ☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Rules, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Environmental Preservation and Conservation
Finance and Tax
Judiciary

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DARREN SOTO

Democratic Caucus Rules Chair
14th District

February 3, 2015

The Honorable Denise Grimsley
Committee on Communications, Energy, and Public Utilities
337 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Grimsley,

I respectfully request that Senate Bill 270, Use of Wireless Communications Devices While Operating a Motor Vehicle, be placed on the agenda as soon as possible. Senate Bill 270 creates a criminal penalty if a person operating a motor vehicle while using a wireless communications devices causes a death.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

A handwritten signature in black ink that reads "Darren M. Soto".

Darren M. Soto
State Senator, District 14

Cc: Diana Caldwell, Staff Director
Kim Bonn, Committee Administrative Assistant

REPLY TO:

- ☐ Kissimmee City Hall, 101 North Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (407) 846-5188
- ☐ 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



The Florida Senate

Committee Agenda Request


To: Senator Denise Grimsley, Chair
Committee on Communications, Energy, and Public Utilities

Subject: Committee Agenda Request

Date: February 13, 2015

I respectfully request that **Senate Bill # 492**, relating to Driving Safety, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.



Senator Geraldine F. Thompson
Florida Senate, District 12



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on General Government, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining, *Alternating Chair*

SENATOR ALAN HAYS

11th District

MEMORANDUM

To: Senator Denise Grimsley, Chair
Communications, Energy, and Public Utilities Committee
CC: Diana Caldwell, Staff Director
Kim Bonn, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda 776 – Water and Wastewater

Date: March 23, 2015

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in dark ink that reads "D. Alan Hays" followed by a stylized "DMD".

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

- ☐ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- ☐ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- ☐ 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- ☐ 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
State Senator René García
38th District

Please reply to:

☐ **District Office:**

1490 West 68 Street
Suite # 201
Hialeah, FL 33014
Phone# (305) 364-3100

March 31, 2015

The Honorable Senator Denise Grimsley
Chair, Committee on Communities, Energy, and Utilities
337 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Grimsley:

Please excuse my absence from the Communications, Energy, and Utilities Committee today, I had an unexpected traveling arrangement arise.

Sincerely,



State Senator René García
District 38
RG:JT

CC: Diana Caldwell, Staff Director

THE FLORIDA SENATE

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15
Meeting Date

192

Bill Number (if applicable)

Topic Wireless Communication Devices

Amendment Barcode (if applicable)

Name Laura Cantwell

Job Title Associate State Director Advocacy

Address 400 Canlon Pkwy, Suite 100 0

Phone 850-570-2110

Street

St Petersburg FL 33716

Email lcantwell@aarp.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing AARP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15

Meeting Date

192

Bill Number (if applicable)

Topic Wireless Communication Devices

Amendment Barcode (if applicable)

Name H. Lee Moffitt

Job Title Attorney at Law

Address 3227 NW Perimeter Road

Phone 813 760-5712

Street

Palm City

FL

34990

Email MrSpeaker@aol.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing AAA Auto Clubs

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-31-15

Meeting Date

192

Bill Number (if applicable)

Topic WIRELESS COMMUNICATION DEVICE

Amendment Barcode (if applicable)

Name MIKE FEWLESS

Job Title CAPTAIN

Address 2520 W COLONIAL DRIVE
Street

Phone _____

ORLANDO
City

FL
State

32804
Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing ORANGE COUNTY SHERIFF'S OFFICE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15

Meeting Date

SB 246 SB 492
SB 192
SB 270
Bill Number (if applicable)

Topic Texting While Driving

Amendment Barcode (if applicable)

Name Patricia Viccaro

Job Title Flight Attendant

Address 1008 Ashley Ave

Street

Phone 321 243-4930

Indian Harbour Beach, FL 32937

City

State

Zip

Email R+4Lyf@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.31.15

Meeting Date

246

Bill Number (if applicable)

Topic TEXTING WHILE DRIVING

Amendment Barcode (if applicable)

Name RONALD L. BOOK

Job Title F

Address 104 W JEFFERSON ST

Street

TALLAHASSEE FL 32301

City

State

Zip

Phone 3059351866

Email RON@RLBOOKPA.COM

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing AUTONATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15
Meeting Date

SB 0240
Bill Number (if applicable)

Topic TEXTING WHILE DRIVING

Amendment Barcode (if applicable)

Name ERIC DIETRICH

Job Title CAPTAIN - VOLUSIA COUNTY SHERIFF'S OFFICE

Address 951 SINGAPORE DR.

Phone 386-806-8537

Street

DANES
City

FL
State

32720
Zip

Email edietrich@vcsol.us

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA SHERIFF'S ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15

Meeting Date

SB 246

Bill Number (if applicable)

Topic BAN ON TEXTING WHILE DRIVING

Amendment Barcode (if applicable)

Name KEYNA CORY

Job Title LOBBYIST

Address 110 EAST COLUMBIA AVE

Phone 850-681-1065

Street

TAMPAH AVE

City

FL

State

32301

Zip

Email keynacory@paconsultants.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL DNT TXT + DRIVE COALITION

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2015
Meeting Date

246
Bill Number (if applicable)

Topic Florida Ban on Texting while driving
Name Chuck K. Dees

Amendment Barcode (if applicable)

Job Title Chairman

Address 5221 State Road 776
Street

Phone (941) 497-8029

Venice FL 34293
City State Zip

Email cdees@wm.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing National Waste & Recycling Assoc - Florida Chapter

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15

Meeting Date

246

Bill Number (if applicable)

Topic Texting While Driving

Amendment Barcode (if applicable)

Name Laura Cantwell

Job Title Associate State Director Advocacy

Address 400 Canillon Plwy, Suite 100

Phone 850-570-2110

Street

St. Petersburg

City

FL

State

33716

Zip

Email lcantwell@aarpp.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing AARP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15
Meeting Date

246
Bill Number (if applicable)

Topic Texting While Driving

Amendment Barcode (if applicable)

Name Laura Fellman

Job Title Florida Parent Teachers Association Legislative Committee Member

Address 7154 Solomon Cir.
Street

Phone _____

Boca Raton FL 33433
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida PTA (Parent Teacher Association)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15

Meeting Date

246

Bill Number (if applicable)

Topic Texting While Driving

Amendment Barcode (if applicable)

Name H. Lee Moffitt

Job Title Attorney at Law

Address 3227 NW Perimeter Road

Street

Palm City

City

FL

State

34990

Zip

Phone 813 760-5712

Email MrSpeaker@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing AutoNation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-31-15

Meeting Date

246

Bill Number (if applicable)

Topic TEXTING WHILE DRIVING

Amendment Barcode (if applicable)

Name MIKE FOWLESS

Job Title CAPTAIN

Address 2500 W. COLONIAL DR
Street

Phone _____

ORLANDO
City

FL

State

32804
Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing ORANGE COUNTY SHERIFF'S OFFICE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2015

Meeting Date

246

Bill Number (if applicable)

Topic Texting While Driving

Amendment Barcode (if applicable)

Name Frank Fabrizio

Job Title Police Chief

Address 4301 S. Peninsula Drive

Phone #386-275-9377

Street

Ponce Inlet FL 32127

City

State

Zip

Email ffabrizio@ponce-inlet.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-31-15

Meeting Date

270

Bill Number (if applicable)

Topic USE OF WIRELESS COMMUNICATIONS

Amendment Barcode (if applicable)

Name MIKE FEWLESS

Job Title CAPTAIN

Address 2500 W. COLONIAL DR

Street

Phone _____

ORLANDO

City

FL

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing ORANGE COUNTY SHERIFF'S OFFICE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-31-15

Meeting Date

492

Bill Number (if applicable)

Topic DRIVING SAFETY

Amendment Barcode (if applicable)

Name MIKE FEWLESS

Job Title CAPTAIN

Address 2500 W. COLONIAL DRIVE

Phone _____

Street

ORLANDO

City

FL

State

32804

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing ORANGE COUNTY SHERIFF'S OFFICE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15

Meeting Date

492

Bill Number (if applicable)

Topic Driving Safety

Amendment Barcode (if applicable)

Name H. Lee Moffitt

Job Title Attorney at Law

Address 3227 NW Perimeter Road

Phone 813 760-5712

Street

Palm City

FL

34990

Email MrSpeaker@aol.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing AAA Auto Clubs

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31

Meeting Date

776

Bill Number (if applicable)

Topic Water & Wastewater - Support Hays Bill

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Ballard Partners

Address _____

Phone 577-0444

Street

Tallahassee FL

Email Chansen@ballardfl.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL Rural Water Assoc. (FRWA)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/15

Meeting Date

Bill Number (if applicable)

Topic Wireless Communication Devices

Amendment Barcode (if applicable)

Name Laura Fellman

Job Title Florida PTA Legislative Committee Member

Address 7654 Solimar Cir.

Phone _____

Street

Boca Raton FL 33433

Email _____

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

CourtSmart Tag Report

Room: SB 301

Case:

Caption: Senate Communications, Energy, and Public Utilities Committee

Type:

Judge:

Started: 3/31/2015 4:03:51 PM

Ends: 3/31/2015 4:54:00 PM

Length: 00:50:10

4:05:49 PM Meeting Called to Order by Senator Grimsley
4:05:55 PM Roll Call
4:06:21 PM Tab 5 CSSB 776
4:06:25 PM Senator Hays on the Bill
4:07:42 PM Chris Hansen Waives in Support
4:07:52 PM waive close
4:07:55 PM roll call
4:08:01 PM CSSB 776 reported favorably
4:08:13 PM Tab 1 SB 192
4:08:18 PM Senator Altman on the Bill
4:09:27 PM LF Amendment Barcode 461142
4:09:36 PM Senator Gibson on the Amendment
4:11:16 PM objection to introduction by Senator Evers
4:11:50 PM Amendment Introduced
4:11:56 PM Question from Senator Altman
4:12:44 PM Senator Gibson on the Amendment
4:13:00 PM Amendment 461142 withdrawn
4:13:20 PM Comment from Senator Evers
4:14:12 PM Laura Cantwell waives in support
4:14:25 PM Patricia Viccaro waives in support
4:15:34 PM Patricia Viccaro representing herself
4:17:35 PM Mike Fewless waives in support
4:17:54 PM Comment from Senator Gibson
4:19:42 PM Comment from Senator Sachs
4:21:35 PM Comment from Senator Abruzzo
4:23:01 PM Comment from Senator Bradley
4:25:41 PM Closing from Senator Altman
4:25:54 PM Roll Call on SB 192
4:26:16 PM SB 192 Reported favorably
4:26:23 PM Tab 3 SB 270
4:26:30 PM Senator Soto on the bill
4:27:26 PM Mike Fewless waives in support
4:27:32 PM AAA waives in support
4:27:41 PM Question from Senator Bradley
4:28:52 PM Question from Senator Sachs
4:29:28 PM Response from Senator Soto
4:29:35 PM Followup from Senator Sachs
4:31:08 PM Response from Senator Soto
4:31:29 PM Comment from Senator Bradley
4:32:47 PM Closing from Senator Soto
4:34:17 PM Roll Call on SB 270
4:34:39 PM Bill reported unfavorably
4:34:55 PM Motion from Senator Hukill
4:35:03 PM Tab 4 SB 492
4:35:15 PM Senator Thompson on the bill
4:36:05 PM Mike Fewless Waives in Support
4:36:09 PM AAA waives in support
4:36:22 PM closing comments from Senator Thompson
4:36:57 PM Question from Senator Bradley
4:37:30 PM Response from Senator Thompson
4:37:36 PM Followup from Senator Bradley
4:38:16 PM Response from Senator Thompson

4:38:24 PM	Question from Senator Evers
4:38:32 PM	Response from Senator Evers
4:38:42 PM	Roll Call on SB 492
4:39:06 PM	SB 492 is reported favorably
4:39:14 PM	Tab 2 SB 246
4:39:19 PM	Senator Sachs on the bill
4:43:21 PM	LF Amendment Barcode 919764
4:43:29 PM	Objection to the introduction
4:43:37 PM	Amendment introduced
4:44:06 PM	Senator Gibson on Amendment 919764
4:44:32 PM	Amendment Withdrawn
4:44:48 PM	Ron Book waives in support
4:44:56 PM	Eric Detrich waives in support
4:45:21 PM	Kenya Cory representing FL Don't Text and Drive Coalition
4:46:49 PM	Chuck Dees representing National waste and Recycling Assoc
4:47:59 PM	AARP waives in support
4:48:05 PM	Florida PTA waives in support
4:48:32 PM	Lee Moffett representing Auto Nation and AAA
4:50:42 PM	Mike Fewless representing Orange County Sherriff's Office
4:52:31 PM	Frank Fabrizio waives in support
4:52:48 PM	Closing from Senator Sachs
4:53:34 PM	Roll Cal on SB 246
4:53:46 PM	SB 246 reported favorably
4:53:55 PM	Meeting Adjourned