

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
COMMUNICATIONS, ENERGY, AND PUBLIC UTILITIES
Senator Flores, Chair
Senator Garcia, Vice Chair

MEETING DATE: Tuesday, February 5, 2013
TIME: 3:00 —5:00 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Flores, Chair; Senator Garcia, Vice Chair; Senators Abruzzo, Bean, Evers, Gibson, Hukill, Simpson, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 290 Galvano (Identical H 435)	Taxes on Prepaid Calling Arrangements; Revising the definition of "prepaid calling arrangement" to clarify and update which services are included under that definition; providing for retroactive application, etc. CU 02/05/2013 Favorable CA AFT AP	Favorable Yeas 8 Nays 0
2	SB 338 Simpson (Identical H 191)	Theft of Utility Services; Providing additional criminal penalties for utility services wrongfully taken; providing that the person who unlawfully took utility services is liable to the utility for an increased civil penalty subject to the amount of the utility services unlawfully obtained, etc. CU 02/05/2013 Favorable CJ ACJ AP	Favorable Yeas 8 Nays 0
3	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 290

INTRODUCER: Senator Galvano

SUBJECT: Taxes on Prepaid Calling Arrangements

DATE: February 6, 2013

REVISED: 2/6/2013

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.				
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 290 appears to modernize the communications services tax and sales tax statutes as they relate to prepaid calling arrangements to conform to current practices of selling prepaid cell phones and prepaid calling cards. Additionally, by substituting “access to communications services” for “communications services that consist exclusively of telephone calls,” the new language also appears to include services such as text messaging. The effect on overall tax revenue is uncertain; see the discussion below.

The bill also provides, in section 3, that these amendments are intended to be remedial in nature and apply retroactively, but do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date of this act.

Except as otherwise expressly provided in section 3, the bill takes effect July 1, 2013.

This bill substantially amends sections 212.05 and 202.11 of the Florida Statutes.

II. Present Situation:

Chapter 202, F.S., is the Communications Services Tax Simplification Law. The state communications services tax (CST) of 6.65 percent is applied to the sales price of each communications service which originates and terminates in this state, or originates or terminates in this state and is charged to a service address in this state.¹ The tax is to be charged when the service is sold at retail, computed on each taxable sale for the purpose of remitting the tax due.

¹ Section 202.12, F.S.

However, the definition of the term “sales price” expressly excludes the “sale or recharge of a prepaid calling arrangement,”² so communications service tax is not collected on the sale of a prepaid calling arrangement. The term “prepaid calling arrangement” is defined to mean “the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars of which the number declines with use in a known amount.”³

Additionally, the governing authority of each county and municipality may, by ordinance, levy a discretionary communications services tax.⁴ The local tax may be up to 7.12 percent, depending on the location of the customer.

Chapter 212, F.S., provides for sales tax, including, a requirement that a sales tax at the rate of 6 percent on charges for prepaid calling arrangements be collected at the time of sale and remitted by the selling dealer.⁵ The definition of the term “prepaid calling arrangement” is almost identical; it is defined to mean “the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.”⁶

Section 203.01, F.S., provides for a gross receipts tax on communications services delivered to a retail consumer in this state. The tax on communications services is applied to the same services and transactions as are subject to the CST and to communications services sold to residential households. The tax is applied to the sales price of communications services when sold at retail, as the terms are defined in section 202.11, F.S., and is due and payable at the same time as the CST. The rate applied to communications services is 2.37 percent. An additional rate of 0.15 percent is applied to communication services subject to the CST. With such sales, a communication services dealer may collect a combined rate of 6.8 percent comprised of the 6.65 percent for the CST and the 0.15 percent additional gross receipts tax.⁷

III. Effect of Proposed Changes:

The bill appears to modernize the communications services tax and sales tax statutes as they relate to prepaid calling arrangements to conform to current practices of selling prepaid phones and prepaid calling cards. The bill does so by amending the existing definitions of the term “prepaid calling arrangement” in both chapters, including deleting the language in both that refers to: “communications services that consist exclusively of telephone calls” and use of “an access number, authorization code, or other means.” Additionally, by substituting “access to communications services” for “communications services that consist exclusively of telephone

² Section 202.11(13)(b)4., F.S.

³ Section 202.11(9), F.S.

⁴ Section 202.19, F.S.

⁵ Section 212.05 (1)(e)1., F.S.

⁶ *Id.*

⁷ Section 202.12001, F.S.

calls,” the new language also appears to include text messaging and other communications services.

More specifically, section 1 amends section 202.11, F.S., to define the term “prepaid calling arrangement” to mean “access to communications services which must be paid for in advance of using such services and which is sold in predetermined units or dollars that expire on a predetermined schedule or that are decremented on a predetermined basis in exchange for such access.”

Section 2 amends section 212.05, F.S., to define the term prepaid calling arrangement to have the same meaning as provided in section 202.11, F.S.

Section 3 provides that these amendments are intended to be remedial in nature and apply retroactively, but do not provide a basis for an assessment of any tax not paid or create a right to a refund or credit of any tax paid before the effective date of this act.

Section 4 provides that except as otherwise expressly provided in section 3, the bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

As is discussed below, the bill’s effect on CST revenues, including those of cities and counties, is uncertain. To the extent the bill does reduce CST revenues, it will reduce the amount of CST paid to local governments.

B. Public Records/Open Meetings Issues:

Not applicable; this bill does not appear to have any effect on public records or open meetings.

C. Trust Funds Restrictions:

Not applicable; this bill does not appear to have any effect on trust funds.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill’s effect on tax revenues is uncertain. Under current law, for a plan to qualify as a legitimate prepaid calling arrangement, it must have the following characteristics.

- It must require prepayment for services.
- The services or plans must be “sold in predetermined units or dollars whose number declines with use in a known amount,” and thus cannot include unlimited plans, which do not decline with usage, or plans that are otherwise not sold in terms of a predetermined amount of dollars or units, such as minutes.

- The services must “consist exclusively of telephone calls,” and thus cannot include any service other than voice communications, no text messaging, multimedia messaging, webmail, or similar services.
- The telephone calls must be “originated by using an access number, authorization code, or other means.”

Any arrangement that does not have all these characteristics is not a prepaid calling arrangement as defined by these statutes. It is, therefore, subject to the communications services tax statutes.⁸ The application of these statutes in these circumstances is a matter of disagreement. The Department of Revenue (DOR) concludes that the sale is subject to the CST; providers argue that such a sale may not fit within the remainder of the CST statutes and requirements either and, as such, it would not be subject to the CST.

Under the bill, a plan *can* offer texting and still qualify as a prepaid calling arrangement such that the sales tax would be applicable, not the CST.

The disagreement appears to be important, however, in attempting to determine the bill’s impact on state and local CST revenues and state gross receipts tax. Sales tax on a prepaid calling arrangement is 6 percent. The total CST can be as much as 16.29 percent, consisting of the state CST of 6.65 percent, state gross receipts tax of 2.52 percent, and a local CST of up to 7.12 percent. So in simply comparing the two rates, it appears that the bill will result in a reduction of tax revenues. However, this assumes that tax payments have been made in the past based on the DOR interpretation; if, in fact, all or most sellers have used the conflicting interpretation and paid sales tax, not the CST, the actual difference in past revenue and projected revenue under the bill will be little to nothing as there would be no change in payments under such circumstances. The fact that at least some sellers have paid sales tax, not CST, is acknowledged in DOR’s TIP, which encourages such sellers to contact DOR and voluntarily compromise on tax liability.⁹

B. Private Sector Impact:

Communications service providers can continue to offer a prepaid plan consisting of a flat-rate charge for a predetermined number of minutes of access to communications services, including services such as texting, without being subject to the increased complexity and slightly higher rate of the CST. Customers will continue to have this choice.

C. Government Sector Impact:

It does not appear that the bill will result in additional expenses for the Department of Revenue.

VI. Technical Deficiencies:

None.

⁸ For the Department of Revenue’s discussion of these characteristics, and for a history of the communications services tax and prepaid calling arrangements, see <http://dor.myflorida.com/dor/tips/tip12adm-02.html>.

⁹ *Id.*

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

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 Galvano

26-00383A-13

2013290__

1 A bill to be entitled
2 An act relating to taxes on prepaid calling
3 arrangements; amending ss. 202.11 and 212.05, F.S.;
4 revising the definition of "prepaid calling
5 arrangement" to clarify and update which services are
6 included under that definition; providing for
7 retroactive application; providing an effective date.
8

9 WHEREAS, it is the intent of the Legislature to clarify
10 that certain communication services that are paid for in advance
11 are considered prepaid calling arrangements, subject to the
12 state retail sales tax and are, therefore, excluded from a
13 communications services tax, and

14 WHEREAS, it is further the intent of the Legislature that
15 the provisions of this act are remedial in nature, should be
16 interpreted broadly, as appropriate for a tax exclusion
17 provision that defines the tax base, and not strictly, as would
18 be appropriate for a tax exemption provision, NOW, THEREFORE,
19

20 Be It Enacted by the Legislature of the State of Florida:
21

22 Section 1. Subsection (9) of section 202.11, Florida
23 Statutes, is amended to read:

24 202.11 Definitions.—As used in this chapter, the term:

25 (9) "Prepaid calling arrangement" means access to the
26 ~~separately stated retail sale by advance payment of~~
27 communications services which must be paid for in advance of
28 using such services and which is that consist exclusively of
29 ~~telephone calls originated by using an access number,~~

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30 ~~authorization code, or other means that may be manually,~~
31 ~~electronically, or otherwise entered and that are sold in~~
32 ~~predetermined units or dollars~~ that expire on a predetermined
33 schedule or that are decremented on a predetermined basis in
34 exchange for such access ~~of which the number declines with use~~
35 ~~in a known amount.~~

36 Section 2. Paragraph (e) of subsection (1) of section
37 212.05, Florida Statutes, is amended to read:

38 212.05 Sales, storage, use tax.—It is hereby declared to be
39 the legislative intent that every person is exercising a taxable
40 privilege who engages in the business of selling tangible
41 personal property at retail in this state, including the
42 business of making mail order sales, or who rents or furnishes
43 any of the things or services taxable under this chapter, or who
44 stores for use or consumption in this state any item or article
45 of tangible personal property as defined herein and who leases
46 or rents such property within the state.

47 (1) For the exercise of such privilege, a tax is levied on
48 each taxable transaction or incident, which tax is due and
49 payable as follows:

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

51 a. Prepaid calling arrangements. The tax on charges for
52 prepaid calling arrangements shall be collected at the time of
53 sale and remitted by the selling dealer.

54 (I) “Prepaid calling arrangement” has the same meaning as
55 provided in s. 202.11 ~~means the separately stated retail sale by~~
56 ~~advance payment of communications services that consist~~
57 ~~exclusively of telephone calls originated by using an access~~
58 ~~number, authorization code, or other means that may be manually,~~

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59 ~~electronically, or otherwise entered and that are sold in~~
60 ~~predetermined units or dollars whose number declines with use in~~
61 ~~a known amount.~~

62 (II) If the sale or recharge of the prepaid calling
63 arrangement does not take place at the dealer's place of
64 business, it shall be deemed to have taken ~~take~~ place at the
65 customer's shipping address or, if no item is shipped, at the
66 customer's address or the location associated with the
67 customer's mobile telephone number.

68 (III) The sale or recharge of a prepaid calling arrangement
69 shall be treated as a sale of tangible personal property for
70 purposes of this chapter, whether or not a tangible item
71 evidencing such arrangement is furnished to the purchaser, and
72 such sale within this state subjects the selling dealer to the
73 jurisdiction of this state for purposes of this subsection.

74 b. The installation of telecommunication and telegraphic
75 equipment.

76 c. Electrical power or energy, except that the tax rate for
77 charges for electrical power or energy is 7 percent.

78 2. The provisions of s. 212.17(3), regarding credit for tax
79 paid on charges subsequently found to be worthless, is ~~shall be~~
80 equally applicable to any tax paid under ~~the provisions of this~~
81 section on charges for prepaid calling arrangements,
82 telecommunication or telegraph services, or electric power
83 subsequently found to be uncollectible. The term ~~word~~ "charges"
84 under ~~in~~ this paragraph does not include any excise or similar
85 tax levied by the Federal Government, any political subdivision
86 of this ~~the~~ state, or any municipality upon the purchase, sale,
87 or recharge of prepaid calling arrangements or upon the purchase

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88 or sale of telecommunication, television system program, or
89 telegraph service or electric power, which tax is collected by
90 the seller from the purchaser.

91 Section 3. The amendments made by this act are intended to
92 be remedial in nature and apply retroactively, but do not
93 provide a basis for an assessment of any tax not paid or create
94 a right to a refund or credit of any tax paid before the
95 effective date of this act.

96 Section 4. Except as otherwise expressly provided in
97 section 3 of this act, this act shall take effect July 1, 2013.

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 338

INTRODUCER: Senator Simpson

SUBJECT: Theft of Utility Services

DATE: February 1, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.			CJ	
3.			ACJ	
4.			AP	
5.				
6.				

I. Summary:

Senate Bill 338 amends section 812.14, F.S., to make all thefts of utility services subject to prosecution under section 812.014, F.S. This will change the penalty from the current consistent first-degree misdemeanor regardless of the amount of utility services stolen to a penalty varying dependent upon the amount stolen and potentially other factors as well, such as whether the theft is a first offense.

The bill also increases the civil penalty for a person found in a civil action to have violated the statute on utility theft from the current 3 times the amount of services stolen or \$1,000, whichever is greater, to 3 times the amount stolen or \$3,000, whichever is greater.

The bill takes effect October 1, 2013.

This bill substantially amends section 812.14 of the Florida Statutes.

II. Present Situation:

Section 812.14, F.S., provides for theft of utility services. The term “utility” is defined to include any person, firm, corporation, association, or political subdivision, whether private, municipal, county, or cooperative, which is engaged in the sale, generation, provision, or delivery of gas, electricity, heat, water, oil, sewer service, telephone service, telegraph service, radio service, or telecommunication service.

Subsection (2) of this section makes it unlawful to:

- willfully alter, tamper with, injure, or knowingly suffer to be injured any meter, meter seal, pipe, conduit, wire, line, cable, transformer, amplifier, or other apparatus or device belonging to a utility line service in such a manner as to cause loss or damage or to prevent any meter installed for registering electricity, gas, or water from registering the quantity which otherwise would pass through the same; to alter the index or break the seal of any such meter; in any way hinder or interfere with the proper action or just registration of any such meter or device; or knowingly use, waste, or suffer the waste, by any means, of electricity or gas or water passing through any such meter, wire, pipe, or fitting, or other appliance or appurtenance connected with or belonging to any such utility, after such meter, wire, pipe or fitting, or other appliance or appurtenance has been tampered with, injured, or altered;
- make or cause to be made any connection with any wire, main, service pipe or other pipes, appliance, or appurtenance in such manner as to use, without the consent of the utility, any service or any electricity, gas, or water, or to cause to be supplied any service or electricity, gas, or water from a utility to any person, firm, or corporation or any lamp, burner, orifice, faucet, or other outlet whatsoever, without such service being reported for payment or such electricity, gas, or water passing through a meter provided by the utility and used for measuring and registering the quantity of electricity, gas, or water passing through the same; or
- use or receive the direct benefit from the use of a utility knowing, or under such circumstances as would induce a reasonable person to believe, that such direct benefits have resulted from any tampering with, altering of, or injury to any connection, wire, conductor, meter, pipe, conduit, line, cable, transformer, amplifier, or other apparatus or device owned, operated, or controlled by such utility, for the purpose of avoiding payment.

Subsection (4) states that any person who willfully violates paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Subsection (5) makes it unlawful for a person or entity that owns, leases, or subleases a property to permit a tenant or occupant to use utility services knowing, or under such circumstances as would induce a reasonable person to believe, that such utility services have been connected in violation of paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c).

Subsection (7) states that a person who willfully violates subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Prosecution for a violation of subsection (5) does not preclude prosecution for theft under subsection (8) or s. 812.014.

Subsection (8) states that theft of utility services for the purpose of facilitating the manufacture of a controlled substance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Subsection (10) states that whoever is found in a civil action to have violated the provisions of this section is liable to the utility involved in an amount equal to 3 times the amount of services unlawfully obtained or \$1,000, whichever is greater.

Section 812.014, F.S., provides various levels of charges for theft, with accompanying varied levels of penalties, depending on the amount or type of property stolen. In general:

- If the property stolen is valued at \$100,000 or more; or if the offender commits any grand theft and in the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another or in the course of committing the offense the offender causes damage to the real or personal property of another in excess of \$1,000, the offender commits grand theft in the first degree, punishable as a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.
- If the property stolen is valued at \$20,000 or more, but less than \$100,000 or is of specified types of property, the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084.
- If the property stolen is valued at \$300 or more, but less than \$20,000, or is of specified types of property, it is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- If the property stolen is valued at \$100 or more, but less than \$300, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling, it is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- Except as provided in immediately above, if the property stolen is valued at \$100 or more, but less than \$300, the offender commits petit theft of the first degree, punishable as a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.
- Theft of any other property is petit theft of the second degree and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
- A person who commits petit theft and who has previously been convicted of any theft commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- A person who commits petit theft and who has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.
- A person who individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing theft under this section where the stolen property has a value in excess of \$3,000 commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

III. Effect of Proposed Changes:

The bill amends section 812.14, F.S., to make all thefts of utility services subject to prosecution under section 812.014, F.S. Under section 812.14, F.S., all thefts are a first-degree misdemeanor, regardless of the amount of utility services stolen. Subjecting these thefts to prosecution under section 812.014, F.S., means that the penalty will vary dependent upon the amount stolen, and potentially other factors as well, such as whether the theft is a first offense.

The bill also increases the civil penalty for a person found in a civil action to have violated the statute on utility theft from the current 3 times the amount of services stolen or \$1,000, whichever is greater, to 3 times the amount stolen or \$3,000, whichever is greater.

The bill takes effect October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

Not applicable; this bill does not appear to have any effect on public records or open meetings.

C. Trust Funds Restrictions:

Not applicable; this bill does not appear to have any effect on trust funds.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None; the bill does not appear to affect taxes or fees.

B. Private Sector Impact:

The enhanced penalties should better dissuade theft of utility services, thus better protecting providers of those services. Also, the increased civil penalty should better compensate these providers, and their customers, for the losses to theft.

C. Government Sector Impact:

The enhanced penalties should better dissuade theft of utility services, including those of government-owned utilities, thus better protecting providers of those services. Also, the increased civil penalty should better compensate these providers, and their customers, for the losses to theft.

If the enhanced penalties do better dissuade theft, there should be no increase in costs associated with prosecution or incarceration. However, if thefts are not dissuaded, these costs may rise.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

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 Simpson

18-00219-13

2013338

1 A bill to be entitled
2 An act relating to theft of utility services; amending
3 s. 812.14, F.S.; providing additional criminal
4 penalties for utility services wrongfully taken;
5 providing that the person who unlawfully took utility
6 services is liable to the utility for an increased
7 civil penalty subject to the amount of the utility
8 services unlawfully obtained; providing an effective
9 date.

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

12
13 Section 1. Subsections (4), (7), (8), and (10) of section
14 812.14, Florida Statutes, are amended to read:

15 812.14 Trespass and larceny with relation to utility
16 fixtures; theft of utility services.—

17 (4) A ~~Any~~ person who willfully violates paragraph (2) (a),
18 paragraph (2) (b), or paragraph (2) (c) commits theft ~~a~~
19 ~~misdemeanor of the first degree~~, punishable as provided in s.
20 812.014 ~~s. 775.082 or s. 775.083~~.

21 (7) A person who willfully violates subsection (5) commits
22 a misdemeanor of the first degree, punishable as provided in s.
23 775.082 or s. 775.083. Prosecution for a violation of subsection
24 (5) does not preclude prosecution for theft pursuant to ~~under~~
25 subsection (8) or s. 812.014.

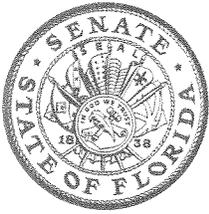
26 (8) Theft of utility services for the purpose of
27 facilitating the manufacture of a controlled substance is theft
28 ~~a misdemeanor of the first degree~~, punishable as provided in s.
29 812.014 ~~s. 775.082 or s. 775.083~~.

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30 (10) Whoever is found in a civil action to have violated
31 ~~the provisions of~~ this section is liable to the utility involved
32 in an amount equal to 3 times the amount of services unlawfully
33 obtained or \$3,000 ~~\$1,000~~, whichever is greater.

34 Section 2. This act shall take effect October 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GREG EVERS
2nd District

COMMITTEES:
Criminal Justice, *Chair*
Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Communications, Energy, and Public Utilities
Military Affairs, Space, and Domestic Security
Transportation

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

February 4, 2013

The Honorable Anitere Flores, Chair
Committee on Communications, Energy, and Public Utilities
413 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Chair Flores,

I would like to request that I be excused from the Committee on Communications, Energy, and Public Utilities on Tuesday February 5, 2013, so that I may attend to urgent family matters.

Sincerely,

A handwritten signature in cursive script that reads "Greg Evers".

Greg Evers

Handwritten initials "OK" in a simple, bold, sans-serif style.

REPLY TO:

- 598 North Ferdon Boulevard, Crestview, Florida 32536 (850) 689-0556
- 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- 24 North Tarragona, Pensacola, Florida 32502 (850) 595-0213

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

JAB 1

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/13

Meeting Date

Topic Prepaid Calling Arrangements

Bill Number SB 290

(if applicable)

Name Brewster Bevis

Amendment Barcode _____

(if applicable)

Job Title Senior VP-State and Federal Affairs

Address 526 N. Adams St

Phone 85-521-2913

Street

Tallahassee

FL

32301

E-mail bbevis@aif.com

City

State

Zip

Speaking: For Against Information

Representing Associated Industries of Florida

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.

TAB 1

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic CST

Bill Number SB 290
(if applicable)

Name Melissa Joiner

Amendment Barcode _____
(if applicable)

Job Title Dir. Gov't Affairs

Address _____
Street

Phone 850-570-0269

City _____ State _____ Zip _____

E-mail Melissa@frf.org

Speaking: For Against Information

Representing Florida Retail Federation

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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THE FLORIDA SENATE
APPEARANCE RECORD

TAB 1

2-5-13

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

Meeting Date

Topic Taxes on Prepaid Calling Arrangements

Bill Number 290
(if applicable)

Name Chris Scoonover

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 101 E. College Ave

Phone 222-9075

Street

TLH

FL

32708

City

State

Zip

E-mail cscoonover@capacityconsult.com

Speaking: For Against Information

Representing Metro PCS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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TAB 1

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/13
Meeting Date

Topic Prepaid Calling Arrangements

Bill Number 290
(if applicable)

Name Diana Ferguson

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 119 S Monroe St Ste 202

Phone 850-681-6788

Tall FL 32308
City State Zip

E-mail dferguson@reynlaw.com

Speaking: For Against Information

Representing T-Mobile

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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TAB 1

THE FLORIDA SENATE
APPEARANCE RECORD

2/5/2013
Meeting Date

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

Topic Prepaid Wireless

Bill Number 290
(if applicable)

Name Jorge Chamizo

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 108 South Monroe Street

Phone (850) 681-0024

Tallahassee FL 32301
City State Zip

E-mail jorge@flapartners.com

Speaking: For Against Information

Representing Tracfone Wireless

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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TAB 1

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/13

Meeting Date

Topic SB 290

Bill Number SB 290
(if applicable)

Name David Christian

Amendment Barcode _____
(if applicable)

Job Title VP - Gov't Affairs

Address 136 S. Bronough
Street

Phone 850/521-1211

Tallahassee FL 32307
City State Zip

E-mail dchristian@flchamber.com

Speaking: For Against Information

Representing Florida Chamber of Commerce

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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THE FLORIDA SENATE
APPEARANCE RECORD

TAB 1

2/5/13
Meeting Date

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

Topic prepaid communication

Bill Number SB 290
(if applicable)

Name Doug Mannheimer

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S. Monroe St.
Street

Phone 850 681-6810

Suite 400
City Tallahassee State FL Zip 32304

E-mail dmannheimer@broadandcassel.com

Speaking: For Against Information

Representing Sprint Waive in Support!

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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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/5/2013

Meeting Date

Topic CST on Prepaid

Bill Number SB 290 (if applicable)

Name Woody Simmons

Amendment Barcode (if applicable)

Job Title VP Govt. Affairs Verizon Communication

Address 106 East Colton Street

Phone 224-0700

Tallahassee City State Zip

E-mail Woodrow.Simmons@verizon.com

Speaking: [X] For [] Against [] Information

Representing Verizon

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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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TAB 2

THE FLORIDA SENATE

APPEARANCE RECORD

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

5 FEB 2013

Meeting Date

Topic THEFT OF UTIL. SERVICES

Bill Number 338

(if applicable)

Name MIKE BJORKLUND

Amendment Barcode

(if applicable)

Job Title DIR. OF LEG. AFFAIRS

Address 2914 APALACHEE PKWY

Phone 877-6164

Street

TALL

City

FL

State

32301

Zip

E-mail

Speaking: [X] For [] Against [] Information

Representing FECA

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] 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 (10/20/11)

TAIS 2

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-5-13

Meeting Date

Topic Theft of Utility Services

Bill Number 338
(if applicable)

Name Lee Killinger

Amendment Barcode _____
(if applicable)

Job Title _____

Address 324 E. Virginia St
Street

Phone 850-322-8907

Tallahassee FL 32308
City State Zip

E-mail lec@antfieldflorida.com

Speaking: For Against Information Will Waive in Support

Representing FLA SECTION, AWWA (American Water Works 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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TAB 2

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/5/13

Meeting Date

Topic Theft of Utility Services

Bill Number SB 338

(if applicable)

Name Cameron Cooper

Amendment Barcode _____

(if applicable)

Job Title Director of External Affairs

Address 106 E. College Avenue, Suite 800

Phone 850-222-8738

Street

Tallahassee, Florida 32301

E-mail Cameron.cooper@pgnmail.com

City

State

Zip

Speaking: For Against Information

Representing Progress Energy Florida, a subsidiary of Duke Energy

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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TAB 2

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/2013

Meeting Date

Topic Electricity Theft

Bill Number SB 338
(if applicable)

Name Donna Simmons

Amendment Barcode _____
(if applicable)

Job Title Director, Tampa Electric

Address 106 E College Ave

Phone 681-6785

Street

Tall FL 32301

City

State

Zip

E-mail _____

Speaking: For Against Information

Wave IN Support

Representing Tampa Electric

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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TAB 2

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/13
Meeting Date

Topic Theft of Utility Services

Bill Number SB 338
(if applicable)

Name Amy Zubaly

Amendment Barcode _____
(if applicable)

Job Title Director of Public Affairs

Address 417 E. College Ave
Street

Phone 850-224-3314

Tallahassee FL 32302
City State Zip

E-mail azubaly@publicpower.com

Speaking: For Against Information

Representing Florida Municipal Electric 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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TAB 2

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-5-13
Meeting Date

WAIVE IN SUPPORT

Topic UTILITY SERVICE THEFT

Bill Number SB 338
(if applicable)

Name CARL PUNYKO

Amendment Barcode _____
(if applicable)

Job Title GOV AFFAIRS MGR GULF POWER

Address ONE ENERGY PLACE
Street
PENSACOLA FL 32520
City State Zip

Phone 850-712-0692

E-mail CAPUNYKO@SOUTHERNCO.COM

Speaking: For Against Information

Representing GULF POWER CO.

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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TAB 2

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/5/13

Meeting Date

Topic _____

Bill Number 338

(if applicable)

Name John Holley

Amendment Barcode _____

(if applicable)

Job Title _____

Address _____

Street

Phone _____

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Florida Power & Light

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

TAB 2

2/15/13
Meeting Date

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

Topic Theft of Utilities

Bill Number SR338
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title Senior VP

Address 516 W Adams St
Street
Tallahassee FL 32301
City State Zip

Phone 571-2913

E-mail bbevis@ait.com

Speaking: For Against Information

Representing Associated Industries

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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CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Communications, Energy, and Public Utilities Committee

Judge:

Started: 2/5/2013 3:04:23 PM

Ends: 2/5/2013 3:13:01 PM **Length:** 00:08:39

3:04:29 PM Senator Flores calls the meeting to order
3:04:32 PM CAA calls roll
3:04:55 PM Senator Flores states that Senator Evers is excused
3:05:02 PM Tab 1- SB 290 by Senator Galvano
3:05:25 PM Senator Galvano presentation of SB 290 - Taxes on Prepaid Calling Arrangements
3:06:20 PM Diana Ferguson waives in support
3:06:26 PM Brewster Bevis waives in support
3:06:31 PM Chris Scoonover waives in support
3:06:36 PM Melissa Joyner waives in support
3:06:39 PM Jorge Chamizo, TracFone Wireless
3:06:46 PM David Christian waives in support
3:06:54 PM Doug Mannheimer waives in support
3:07:01 PM Woody Simmons waives in support
3:07:18 PM CAA calls roll
3:07:36 PM SB 290 passed favorably
3:07:58 PM Senator Simpson presentation of SB 338 - Theft of Utilities
3:08:50 PM Senator Garcia with question
3:09:15 PM Response from Senator Simpson
3:09:56 PM Senator Bean with question
3:10:16 PM Response from Senator Simpson
3:11:04 PM Mike Bjorklund waives in support
3:11:09 PM Lee Killinger waives in support
3:11:15 PM Cameron Cooper waives in support
3:11:21 PM Donna Simmons waives in support
3:11:25 PM Amy Zubaly - waives in support
3:11:28 PM Carl Punyko- Gulf Power - waives in support
3:11:34 PM John Holley waives in support
3:11:43 PM Brewster Bevis waives in support
3:11:54 PM Comments from Senator Smith
3:12:30 PM Senator Simpson closes
3:12:33 PM CAA calls roll
3:12:49 PM SB 338 passes favorably
3:12:55 PM Senator Abruzzo moves to rise