

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

**MEETING DATE:** Tuesday, February 4, 2014  
**TIME:** 10:00 a.m.—12:00 noon  
**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	<b>SB 364</b> Brandes (Identical H 641, Compare H 643, Link S 366)	Computer Crimes; Providing that a person who willfully, knowingly, and without authorization accesses a computer network or electronic device, disrupts the ability to transmit data to or from a computer network or electronic device, damages a computer network or electronic device, or engages in the audio or video surveillance of an individual without the individual's knowledge by accessing a computer network or electronic device commits an offense against the users of computer networks and electronic devices, etc.  CU      02/04/2014 Fav/CS CJ ACJ AP	Fav/CS Yeas 8 Nays 0
2	<b>SB 366</b> Brandes (Identical H 643, Compare H 641, Link S 366)	Public Records/Trade Secrets/Computers; Amending an exemption from public records requirements for data, programs, and supporting documentation that are trade secrets residing or existing internal or external to a computer, computer system, or computer network; expanding the exemption to include such trade secret information residing or existing internal or external to an electronic device; providing for legislative review and repeal of the exemption; providing a statement of public necessity, etc.  CU      02/04/2014 Favorable CJ GO RC	Favorable Yeas 8 Nays 0
3	<b>SB 266</b> Hukill	Communications Services Taxes; Reducing the tax rate applied to the sale of communications services; reducing the tax rate applied to the retail sale of direct-to-home satellite services; conforming rates to the reduction of the communications services tax, etc.  CU      02/04/2014 Fav/CS AFT AP	Fav/CS Yeas 8 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Communications, Energy, and Public Utilities

Tuesday, February 4, 2014, 10:00 a.m.—12:00 noon

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	Other related meeting documents		

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SUMMARY OF AMENDMENTS  
TO  
SB 266

<p><b>Amendment # 1</b> By Senator Hukill Barcode 852234 Between lines 57 &amp; 58</p>	<p>The amendment decreases the percentage of the direct-to-home satellite portion of the communications services tax revenues to be distributed to counties from the current sixty three percent to fifty-four and one-half percent.</p>
<p><b>Amendment # 2</b> By Senator Hukill Barcode 522720 Line 69</p>	<p>The amendment applies the act to bills for communications services that are dated on or after January 1, 2015.</p>

**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.)

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

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BILL: CS/SB 266

INTRODUCER: Communications, Energy, and Public Utilities and Senator Hukill

SUBJECT: Communications Services Taxes

DATE: February 4, 2014      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	<b>Fav/CS</b>
2.			AFT	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 266 reduces the state portion of the communications services tax (CST) rates by 2 percent, reducing the general rate from 6.65 percent to 4.65 percent and the rate on direct-to-home satellite from 10.8 percent to 8.8 percent. The bill also makes conforming changes to the statutes that authorize a communications services dealer to collect a combined rate that includes both the CST and the gross receipts tax to reflect this 2 percent reduction in the communications services tax. The bill changes the distribution of direct-to-home satellite CST revenue to ensure that local governments continue to receive the same amount of revenue.

**II. Present Situation:**

Chapter 202, F.S., provides for a simplified CST. The term “communications services” is defined to include all three traditional types of communication: voice, video, and data.<sup>1</sup> The general CST rate is 6.65 percent of the retail price for any communication which originates and terminates in this state or which originates or terminates in this state and is charged to a service address in this state.<sup>2</sup> The CST rate on direct-to-home satellite service received in this state is 10.8 percent of the retail sales price.<sup>3</sup>

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<sup>1</sup> Section 202.11(1), F.S. Communications services does not include internet or information services.

<sup>2</sup> Section 202.12(1), F.S.

<sup>3</sup> *Id.*

Chapter 203, F.S., provides for gross receipts tax and imposes a tax on communications services of 0.15 percent.<sup>4</sup>

Both chapters allow a communications services dealer to collect both taxes in a combined rate of 6.8 percent, comprised of these two rates of 6.65 percent and 0.15 percent.<sup>5</sup>

### III. Effect of Proposed Changes:

**Section 1** reduces the CST rates by 2 percent, reducing the general rate from 6.65 percent to 4.65 percent and the rate on direct-to-home satellite from 10.8 percent to 8.8 percent.

**Sections 2 and 4** make conforming changes to the statutes which authorize a communications services dealer to collect a combined rate that includes both the CST and the gross receipts tax to reflect this 2 percent reduction in the communications services tax.

**Section 3** amends section 202.18, F.S., on allocation and disposition of tax proceeds, to reduce the percentage of direct-to-home satellite CST tax revenues allocated to the state from 63 percent to 54.5 percent, ensuring that the local governments receive approximately the same amount of revenue from this source.

**Section 5** provides that the act applies to taxable transactions included on bills for communications services that are dated on or after January 1, 2015.

**Section 6** provides that the bill takes effect January 1, 2015.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

While the bill will result in reductions to local government funding from CST revenues, it does not reduce the percentage share of these revenues, and so does not appear to result in a mandate.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>4</sup> Section 203.01(1)(a)3., F.S.

<sup>5</sup> Sections 202.12001 and 203.001, F.S.

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

The Revenue Estimating Conference estimates that the bill will decrease General Revenue by \$90.8 million in the 2014-15 fiscal year, with a negative \$242.1 million recurring impact on General Revenue. The bill will also reduce local governments' revenues by \$11.6 million in Fiscal Year 14-15, with a negative \$31.0 million recurring impact on local governments.

**B. Private Sector Impact:**

Communications services customers will pay a reduced amount of state communications services tax.

**C. Government Sector Impact:**

The Department of Revenue stated that the bill will have an insignificant impact on its operations.

The bill will result in the General Revenue and local revenue reductions discussed above.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 202.12, 202.12001, 202.18, and 203.001.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Communications, Energy, and Public Utilities on February 4, 2014:**

The CS:

- reduces the percentage of direct-to-home satellite CST tax revenues allocated to the state from 63 percent to 54.5 percent, ensuring that the local governments receive approximately the same amount of revenue from this source; and
- provides that the act applies to taxable transactions included on bills for communications services that are dated on or after January 1, 2015.

B. Amendments:

None.

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

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852234

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/04/2014	.	
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The Committee on Communications, Energy, and Public Utilities  
(Hukill) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 57 and 58

insert:

Section 3. Subsection (2) of section 202.18, Florida  
Statutes, is amended to read:

202.18 Allocation and disposition of tax proceeds.—The  
proceeds of the communications services taxes remitted under



852234

10 this chapter shall be treated as follows:

11 (2) The proceeds of the taxes remitted under s.  
12 202.12(1)(b) shall be allocated ~~divided~~ as follows:

13 (a) The portion of such proceeds that constitute ~~which~~  
14 ~~constitutes~~ gross receipts taxes, imposed at the rate prescribed  
15 in chapter 203, shall be deposited as provided by law and in  
16 accordance with s. 9, Art. XII of the State Constitution.

17 (b) Fifty-four and one-half ~~Sixty-three~~ percent of the  
18 remainder shall be allocated to the state and distributed  
19 pursuant to s. 212.20(6), except that the proceeds allocated  
20 pursuant to s. 212.20(6)(d)2. shall be prorated to the  
21 participating counties in the same proportion as that month's  
22 collection of the taxes and fees imposed pursuant to chapter 212  
23 and paragraph (1)(b).

24 (c)1. During each calendar year, the remaining portion of  
25 such proceeds shall be transferred to the Local Government Half-  
26 cent Sales Tax Clearing Trust Fund. Seventy percent of such  
27 proceeds shall be allocated in the same proportion as the  
28 allocation of total receipts of the half-cent sales tax under s.  
29 218.61 and the emergency distribution under s. 218.65 in the  
30 prior state fiscal year. Thirty percent of such proceeds shall  
31 be distributed pursuant to s. 218.67.

32 2. The proportion of the proceeds allocated based on the  
33 emergency distribution under s. 218.65 shall be distributed  
34 pursuant to s. 218.65.

35 3. In each calendar year, the proportion of the proceeds  
36 allocated based on the half-cent sales tax under s. 218.61 shall  
37 be allocated to each county in the same proportion as the  
38 county's percentage of total sales tax allocation for the prior



852234

39 state fiscal year and distributed pursuant to s. 218.62.  
40 4. The department shall distribute the appropriate amount to  
41 each municipality and county each month at the same time that  
42 local communications services taxes are distributed pursuant to  
43 subsection (3).

44  
45 ===== T I T L E A M E N D M E N T =====

46 And the title is amended as follows:

47 Delete lines 6 - 7

48 and insert:

49 direct-to-home satellite services; amending s.  
50 202.12001, F.S.; conforming rates to the reduction of  
51 the communications services tax; amending s. 202.18,  
52 F.S.; revising the distribution of tax revenues  
53 received; amending s. 203.001. F.S.; conforming rates  
54 to the



522720

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/04/2014	.	
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The Committee on Communications, Energy, and Public Utilities (Hukill) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 69

and insert:

Section 4. This act applies to taxable transactions included on bills that are for communication services and that are dated on or after January 1, 2015.

Section 5. This act shall take effect upon becoming a law.

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



522720

11 And the title is amended as follows:  
12       Delete line 9  
13 and insert:  
14       providing applicability; providing an effective date.

By Senator Hukill

8-00376A-14

2014266\_\_

1                   A bill to be entitled  
2       An act relating to communications services taxes;  
3       amending s. 202.12, F.S.; reducing the tax rate  
4       applied to the sale of communications services;  
5       reducing the tax rate applied to the retail sale of  
6       direct-to-home satellite services; amending ss.  
7       202.12001 and 203.001, F.S.; conforming rates to the  
8       reduction of the communications services tax;  
9       providing an effective date.

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

12  
13       Section 1. Paragraphs (a) and (b) of subsection (1) of  
14       section 202.12, Florida Statutes, are amended to read:

15       202.12 Sales of communications services.—The Legislature  
16       finds that every person who engages in the business of selling  
17       communications services at retail in this state is exercising a  
18       taxable privilege. It is the intent of the Legislature that the  
19       tax imposed by chapter 203 be administered as provided in this  
20       chapter.

21       (1) For the exercise of such privilege, a tax is levied on  
22       each taxable transaction, and the tax is due and payable as  
23       follows:

24       (a) Except as otherwise provided in this subsection, at a  
25       rate of 4.65 ~~6.65~~ percent applied to the sales price of the  
26       communications service that ~~which~~:

- 27       1. Originates and terminates in this state;; or  
28       2. Originates or terminates in this state and is charged to  
29       a service address in this state,

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2014266\_\_

30  
31 when sold at retail, computed on each taxable sale for the  
32 purpose of remitting the tax due. The gross receipts tax imposed  
33 by chapter 203 shall be collected on the same taxable  
34 transactions and remitted with the tax imposed by this  
35 paragraph. If no tax is imposed by this paragraph due to the  
36 exemption provided under ~~by reason of~~ s. 202.125(1), the tax  
37 imposed by chapter 203 shall nevertheless be collected and  
38 remitted in the manner and at the time prescribed for tax  
39 collections and remittances under this chapter.

40 (b) At the rate of 8.8 ~~10.8~~ percent on the retail sales  
41 price of any direct-to-home satellite service received in this  
42 state. The proceeds of the tax imposed under this paragraph  
43 shall be accounted for and distributed in accordance with s.  
44 202.18(2). The gross receipts tax imposed by chapter 203 shall  
45 be collected on the same taxable transactions and remitted with  
46 the tax imposed by this paragraph.

47 Section 2. Section 202.12001, Florida Statutes, is amended  
48 to read:

49 202.12001 Combined rate for tax collected pursuant to ss.  
50 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.  
51 2010-149, Laws of Florida, the dealer of communication services  
52 may collect a combined rate of 4.8 ~~6.8~~ percent comprised of 4.65  
53 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a) and  
54 203.01(1)(b)3., respectively, if ~~as long as~~ the provider  
55 properly reflects the tax collected with respect to the two  
56 provisions as required in the return to the Department of  
57 Revenue.

58 Section 3. Section 203.001, Florida Statutes, is amended to

8-00376A-14

2014266\_\_

59 read:

60 203.001 Combined rate for tax collected pursuant to ss.  
61 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.  
62 2010-149, Laws of Florida, the dealer of communication services  
63 may collect a combined rate of 4.8 ~~6.8~~ percent comprised of 4.65  
64 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a) and  
65 203.01(1)(b)3., respectively, if ~~as long as~~ the provider  
66 properly reflects the tax collected with respect to the two  
67 provisions as required in the return to the Department of  
68 Revenue.

69 Section 4. This act shall take effect January 1, 2015.

SUMMARY OF AMENDMENTS  
TO  
SB 364

<p><b>Amendment # 1</b> By Senator Bean Barcode # 412584 delete lines 255 – 256</p>	<p>Expands the definition of the term “public utility” to include investor owned, municipal, and cooperative electric utilities, water and wastewater utilities, natural gas transmission companies, persons with gas transmission or distribution facilities that supply or store natural or manufactured gas or liquefied gas, etc., by pipeline to or for the public within the state, and utilities formed under the Interlocal Cooperation Act for the purpose of providing utility service in the state.</p>
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**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.)

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

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BILL: CS/SB 364

INTRODUCER: Communications, Energy, and Public Utilities and Senator Brandes

SUBJECT: Computer Crimes

DATE: February 04, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Telotte/Wiehle	Caldwell	CU	<b>FAV/CS</b>
2.	_____	_____	CJ	_____
3.	_____	_____	ACJ	_____
4.	_____	_____	AP	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 364 recognizes that advancements in technology have led to an increase in computer related crimes while greatly extending their reach. The bill addresses this increase by updating terminology used to define these crimes and creating additional offenses.

Three crimes are added to “offenses against users of computer networks and electronic devices” including:

- Audio and video surveillance of an individual without that individual’s knowledge by accessing any inherent feature or component of a computer, computer system, computer network, or electronic device;
- Intentionally interrupting the transmittal of data to or from, or gaining unauthorized access to a computer, computer system, computer network, or electronic device belonging to a mode of public or private transit; and
- Disrupting a computer, computer system, computer network, or electronic device that affects medical equipment used in the direct administration of medical care or treatment to a person.

“Offenses against a public utility” are created in the bill and create two additional crimes, including:

- Gaining access to a computer, computer system, computer network, or electronic device owned, operated, or used by a public utility while knowing that such access is unauthorized; and
- Physically tampering with, inserting software into, or otherwise transmitting commands or electronic communications to a computer, computer system, computer network, or electronic device which cause a disruption in any service delivered by a public utility.

## II. Present Situation:

### Offenses against intellectual property

A person commits an offense against intellectual property, punishable as a third degree felony, if he does one of the following:

- willfully, knowingly and without authorization modifies or destroys data, programs, or supporting documentation residing or existing internal or external to a computer, computer system, or computer network; or
- willfully, knowingly and without authorization discloses or takes data, programs, or supporting documentation which is a trade secret as defined in s. 812.081, F.S., or is confidential as provided by law residing or existing internal or external to a computer, computer system, or computer network.

If the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the offense is elevated to a second degree felony.

### Offenses against computer users

It is an offense against computer users, punishable as a third degree felony, to willfully, knowingly, and without authorization:

- Access or cause to be accessed any computer, computer system, or computer network; or
- Disrupt or deny or cause denial of computer system services to an authorized user of such computer system services, which in whole or part, is owned by, under contract to, or operated for, on behalf of, or in conjunction with another; or
- Destroy, take, injure, or damage equipment or supplies used or intended to be used in a computer, computer system, or computer network; or
- Destroy, injure, or damage any computer, computer system, or computer network; or
- Introduce any computer contaminant into any computer, computer system, or computer network.

It is a second degree felony to commit an offense against computer users and additionally do any of the following:

- Damage a computer, computer equipment, a computer system, or a computer network and the monetary damage or loss incurred as a result of the violation is \$5,000 or greater;
- Commit an offense for the purpose of devising or executing any scheme or artifice to defraud or obtain property; or
- Interrupt or impair a governmental operation or public communication, transportation, or supply of water, gas, or other public service.

Committing an offense against computer users in any manner which endangers a human life is punishable as a first degree felony.

### III. Effect of Proposed Changes:

**Section 1** amends s. 815.02, F.S., to add a statement of legislative intent to recognize “The proliferation of new technology has led to the integration of computer systems in most sectors of the marketplace through the creation of computer networks, greatly extending the reach of computer crime.”

**Section 2** expands s. 815.03, F.S., to define the term “electronic devices” and include the devices in the definition of a “computer network”, which is a system that provides a medium for communication between one or more computer systems or electronic devices, including communication with an input or output device such as a display terminal, printer, or other electronic equipment that is connected to the computer system or electronic devices by physical or wireless telecommunication facilities. An “electronic device” is defined as a device that is capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data. These changes allow for devices other than the standard computer to be considered capable of being used to commit an offense. The bill also acknowledges the ability to form a computer network using wireless telecommunication facilities.

**Section 3** amends s. 815.04, F.S., to include the term “electronic devices” in the existing definition of offenses against intellectual property.

SB 366, a linked bill, amends the existing public records exemption regarding trade secrets in s. 815.04, F.S., and takes effect the same day as SB 364 if adopted the same session.

**Section 4** amends s. 815.06, F.S., and renames these offenses “offenses against users of computer networks and electronic devices.”

The definition of the term “person” is expanded for use in this section, to include:

- An individual;
- A partnership, corporation, association, or other entity doing business in this state, or an officer, agent, or employee of such entity; or
- An officer, employee, or agent of the state or a county, municipality, special district, or other political subdivision whether executive, judicial, or legislative, including, but not limited to, a department, division, bureau, commission, authority, district, or agency thereof.

The bill changes the criteria used to determine whether a person commits such a crime.

Current law provides that a person commits an offense against users of computer networks or electronic devices, which is punishable as a third degree felony, if he willfully, knowingly, and without authorization:

- Accesses or causes to be accessed by any computer, computer system, computer network, or electronic device with knowledge that such access of unauthorized; or

- Disrupts or denies or causes the denial or the ability to transmit data to or from an authorized user of such computer system or computer network services, which, in whole or in part, is owned by, under contract to, or operated for, on behalf of, or in conjunction with another.

The bill adds audio and video surveillance to this list, stating that “It is an offense to engage in audio or video surveillance of an individual without the individual’s knowledge by accessing any inherent feature or component of a computer, computer system, computer network, or electronic device, including accessing the data or information of a computer, computer system, computer network, or electronic device that is stored by a third party.”

If a person commits an offenses against users of a computer network and electronic devices and does either of the following, it is punishable as a first degree felony:

- Endangers a human life; or
- Disrupts a computer, computer system, computer network, or electronic device that affects medical equipment used in the direct administration of medical care or treatment to a person.

The bill provides that the section does not apply to a person who has acted pursuant to a search warrant authorized by law or when acting within the scope of his or her employment.

It is a third degree felony to commit an offense against users of computer networks and electronic devices. The punishment for the offense is elevated, and is punishable as a second degree felony, if a person commits an offense against users of computer networks and electronic devices, in addition to either of the following:

- Damages a computer, computer equipment or supplies, a computer system, or a computer network and the damage or loss is at least \$5,000; or
- Intentionally interrupts the transmittal of data to or from, or gains unauthorized access to, a computer, computer system, computer network, or electronic device belonging to any mode of public or private transit, as defined in s. 341.031, F.S.

**Section 5** creates s. 815.061, F.S., to define offenses against public utilities. The term “public utility” in this section means each public utility and electric utility as those terms are defined in s. 366.02, F.S.; each water and wastewater utility as defined in s. 367.021, F.S.; each natural gas transmission company as defined in s. 368.103, F.S.; each person, corporation, partnership, association, public agency, municipality, cooperative, gas district, or other legal entity and their lessees, trustees, or receivers, now or hereafter owning, operating, managing, or controlling gas transmission or distribution facilities or any other facility supplying or storing natural or manufactured gas or liquefied gas with air admixture or any similar gaseous substances by pipeline to or for the public within this state; and any separate legal entity created under s. 163.01, F.S., and composed of any of the entities described in this subsection for the purpose of providing utility services in this state, including wholesale power and electric transmission services.

A person may not willfully, knowingly, and without authorization:

- Gain access to a computer network or other defined device owned, operated, or used by a public utility while knowing that such access is unauthorized, which is punishable as a third degree felony; or
- Physically tamper with, insert software into, or otherwise transmit commands or electronic communications to a computer, computer system, computer network, or electronic device which causes a disruption in any service delivered by a public utility, which is punishable as a second degree felony.

Similar infractions are addressed in s. 815.06, F.S., which states that it is an offense against computer users if a person interrupts or impairs a governmental operation or public communication, transportation, or supply of water, gas, or other public service. However, s. 815.06, F.S., does not expressly include public utilities.

Technical and conforming changes are made throughout the bill.

**Section 6** states that the bill takes effect October 1, 2014.

#### **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:

The bill may provide better protection against economic loss to owners and users of computers, computer systems, and electronic devices.

C. Government Sector Impact:

The bill may result in additional arrests, prosecutions, and incarcerations. The economic impact of these potential increases is uncertain.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 815.02, 815.03, 815.04, and 815.06.

This bill creates section 815.061 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Communications, Energy, and Public Utilities on February 04, 2014:**

The CS/SB 364 provides that the term “public utility” is not limited to the definition found in s. 366.02, F.S., but also includes additional types of utilities such as water and wastewater utilities, natural gas pipelines, natural gas storage, and supply facilities, or utilities under the direction of a governmental owned authority (Facilities that serve a public purpose and are necessary for the security and wellbeing of the public.)

- B. **Amendments:**

None.



412584

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/04/2014	.	
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The Committee on Communications, Energy, and Public Utilities  
(Bean) recommended the following:

**Senate Amendment**

Delete lines 255 - 256

and insert:

(1) As used in this section, the term "public utility" includes each public utility and electric utility as those terms are defined in s. 366.02; each utility as defined in s. 367.021; each natural gas transmission company as defined in s. 368.103; each person, corporation, partnership, association, public agency, municipality, cooperative, gas district, or other legal



412584

11 entity and their lessees, trustees, or receivers, now or  
12 hereafter owning, operating, managing, or controlling gas  
13 transmission or distribution facilities or any other facility  
14 supplying or storing natural or manufactured gas or liquefied  
15 gas with air admixture or any similar gaseous substances by  
16 pipeline to or for the public within this state; and any  
17 separate legal entity created under s. 163.01 and composed of  
18 any of the entities described in this subsection for the purpose  
19 of providing utility services in this state, including wholesale  
20 power and electric transmission services.

By Senator Brandes

22-00210B-14

2014364\_\_

1                                   A bill to be entitled  
2       An act relating to computer crimes; amending s.  
3       815.02, F.S.; revising legislative findings; amending  
4       s. 815.03, F.S.; defining terms; amending s. 815.04,  
5       F.S.; providing that a person who willfully,  
6       knowingly, and without authorization modifies or  
7       destroys data, programs, or supporting documentation  
8       residing or existing internal or external to a  
9       computer network or electronic device commits an  
10      offense against intellectual property; providing  
11      criminal penalties; amending s. 815.06, F.S.; defining  
12      terms; providing that a person who willfully,  
13      knowingly, and without authorization accesses a  
14      computer network or electronic device, disrupts the  
15      ability to transmit data to or from a computer network  
16      or electronic device, damages a computer network or  
17      electronic device, or engages in the audio or video  
18      surveillance of an individual without the individual's  
19      knowledge by accessing a computer network or  
20      electronic device commits an offense against the users  
21      of computer networks and electronic devices; providing  
22      exceptions; providing criminal penalties; creating s.  
23      815.061, F.S.; defining the term "public utility";  
24      prohibiting a person from willfully, knowingly, and  
25      without authorization engaging in specified activities  
26      against a computer, computer system, computer network,  
27      or electronic device owned, operated, or used by a  
28      public utility; providing criminal penalties;  
29      providing an effective date.

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

Section 1. Present subsection (4) of section 815.02, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

815.02 Legislative intent.—The Legislature finds and declares that:

(4) The proliferation of new technology has led to the integration of computer systems in most sectors of the marketplace through the creation of computer networks, greatly extending the reach of computer crime.

Section 2. Section 815.03, Florida Statutes, is amended to read:

815.03 Definitions.—As used in this chapter, unless the context clearly indicates otherwise:

(1) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

(2) "Computer" means an internally programmed, automatic device that performs data processing.

(3) "Computer contaminant" means any set of computer instructions designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. The term includes, but is not limited to, a group of computer instructions, commonly called viruses or worms, which are self-replicating or self-propagating and which are designed to contaminate other computer programs or computer

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59 data; consume computer resources; modify, destroy, record, or  
60 transmit data; or in some other fashion usurp the normal  
61 operation of the computer, computer system, or computer network.

62 (4) "Computer network" means a system that provides a  
63 medium for communication between one or more computer systems or  
64 electronic devices, including communication with an input or  
65 output device such as a display terminal, printer, or other  
66 electronic equipment that is connected to the computer systems  
67 or electronic devices by physical or wireless telecommunication  
68 facilities ~~any system that provides communications between one~~  
69 ~~or more computer systems and its input or output devices,~~  
70 ~~including, but not limited to, display terminals and printers~~  
71 ~~that are connected by telecommunication facilities.~~

72 (5) "Computer program or computer software" means a set of  
73 instructions or statements and related data which, when executed  
74 in actual or modified form, cause a computer, computer system,  
75 or computer network to perform specified functions.

76 (6) "Computer services" include, but are not limited to,  
77 computer time; data processing or storage functions; or other  
78 uses of a computer, computer system, or computer network.

79 (7) "Computer system" means a device or collection of  
80 devices, including support devices, one or more of which contain  
81 computer programs, electronic instructions, or input data and  
82 output data, and which perform functions, including, but not  
83 limited to, logic, arithmetic, data storage, retrieval,  
84 communication, or control. The term does not include calculators  
85 that are not programmable and that are not capable of being used  
86 in conjunction with external files.

87 (8) "Data" means a representation of information,

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88 knowledge, facts, concepts, computer software, computer  
89 programs, or instructions. Data may be in any form, in storage  
90 media or stored in the memory of the computer, or in transit or  
91 presented on a display device.

92 (9) "Electronic device" means a device that is capable of  
93 communicating across a computer network with other computers or  
94 devices for the purpose of transmitting, receiving, or storing  
95 data.

96 (10)~~(9)~~ "Financial instrument" means any check, draft,  
97 money order, certificate of deposit, letter of credit, bill of  
98 exchange, credit card, or marketable security.

99 (11)~~(10)~~ "Intellectual property" means data, including  
100 programs.

101 (12)~~(11)~~ "Property" means anything of value as defined in  
102 s. 812.012 and includes, but is not limited to, financial  
103 instruments, information, including electronically produced data  
104 and computer software and programs in ~~either~~ machine-readable or  
105 human-readable form, and any other tangible or intangible item  
106 of value.

107 Section 3. Section 815.04, Florida Statutes, is amended to  
108 read:

109 815.04 Offenses against intellectual property; public  
110 records exemption.—

111 (1) A person who ~~Whoever~~ willfully, knowingly, and without  
112 authorization modifies data, programs, or supporting  
113 documentation residing or existing internal or external to a  
114 computer, computer system, ~~or~~ computer network, or electronic  
115 device commits an offense against intellectual property.

116 (2) A person who ~~Whoever~~ willfully, knowingly, and without

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117 authorization destroys data, programs, or supporting  
118 documentation residing or existing internal or external to a  
119 computer, computer system, ~~or~~ computer network, or electronic  
120 device commits an offense against intellectual property.

121 (3) (a) Data, programs, or supporting documentation which is  
122 a trade secret as defined in s. 812.081 which resides or exists  
123 internal or external to a computer, computer system, or computer  
124 network which is held by an agency as defined in chapter 119 is  
125 confidential and exempt from the provisions of s. 119.07(1) and  
126 s. 24(a), Art. I of the State Constitution.

127 (b) A person who ~~Whoever~~ willfully, knowingly, and without  
128 authorization discloses or takes data, programs, or supporting  
129 documentation which is a trade secret as defined in s. 812.081  
130 or is confidential as provided by law residing or existing  
131 internal or external to a computer, computer system, or computer  
132 network commits an offense against intellectual property.

133 (4) (a) Except as otherwise provided in this subsection, an  
134 offense against intellectual property is a felony of the third  
135 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
136 775.084.

137 (b) If the offense is committed for the purpose of devising  
138 or executing any scheme or artifice to defraud or to obtain any  
139 property, ~~then the person commits~~ offender is guilty of a felony  
140 of the second degree, punishable as provided in s. 775.082, s.  
141 775.083, or s. 775.084.

142 Section 4. Section 815.06, Florida Statutes, is amended to  
143 read:

144 815.06 Offenses against ~~computer~~ users of computer networks  
145 and electronic devices.-

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- 146       (1) As used in this section, the term "person" means:
- 147       (a) An individual;
- 148       (b) A partnership, corporation, association, or other
- 149 entity doing business in this state, or an officer, agent, or
- 150 employee of such an entity; or
- 151       (c) An officer, employee, or agent of the state or a
- 152 county, municipality, special district, or other political
- 153 subdivision whether executive, judicial, or legislative,
- 154 including, but not limited to, a department, division, bureau,
- 155 commission, authority, district, or agency thereof.
- 156       (2) A person commits an offense against users of computer
- 157 networks or electronic devices if he ~~Whoever~~ willfully,
- 158 knowingly, and without authorization:
- 159       (a) Accesses or causes to be accessed any computer,
- 160 computer system, ~~or~~ computer network, or electronic device with
- 161 knowledge that such access is unauthorized;
- 162       (b) Disrupts or denies or causes the denial of the ability
- 163 to transmit data ~~computer system services~~ to or from an
- 164 authorized user of such computer system or computer network
- 165 services, which, in whole or in part, is owned by, under
- 166 contract to, or operated for, on behalf of, or in conjunction
- 167 with another;
- 168       (c) Destroys, takes, injures, or damages equipment or
- 169 supplies used or intended to be used in a computer, computer
- 170 system, ~~or~~ computer network, or electronic device;
- 171       (d) Destroys, injures, or damages any computer, computer
- 172 system, ~~or~~ computer network, or electronic device; ~~or~~
- 173       (e) Introduces any computer contaminant into any computer,
- 174 computer system, ~~or~~ computer network, or electronic device; or

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175 (f) Engages in audio or video surveillance of an individual  
176 without that individual's knowledge by accessing any inherent  
177 feature or component of a computer, computer system, computer  
178 network, or electronic device, including accessing the data or  
179 information of a computer, computer system, computer network, or  
180 electronic device that is stored by a third party.

181  
182 This section does not apply to a person who has acted pursuant  
183 to a search warrant or to an exception to a search warrant  
184 authorized by law or when acting within the scope of his or her  
185 lawful employment ~~commits an offense against computer users.~~

186 (3)-(2)(a) Except as provided in paragraphs (b) and (c), a  
187 person who ~~whoever~~ violates subsection (2) (1) commits a felony  
188 of the third degree, punishable as provided in s. 775.082, s.  
189 775.083, or s. 775.084.

190 (b) A person commits a felony of the second degree,  
191 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
192 if he or she ~~Whoever~~ violates subsection (2) (1) and:

193 1. Damages a computer, computer equipment or supplies,  
194 ~~computer supplies,~~ a computer system, or a computer network, and  
195 the monetary damage or loss incurred as a result of the  
196 violation is at least \$5,000 ~~or greater;~~

197 2. Commits the offense for the purpose of devising or  
198 executing any scheme or artifice to defraud or obtain property;  
199 ~~or~~

200 3. Interrupts or impairs a governmental operation or public  
201 communication, transportation, or supply of water, gas, or other  
202 public service; or

203 4. Intentionally interrupts the transmittal of data to or

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204 from, or gains unauthorized access to, a computer, computer  
205 system, computer network, or electronic device belonging to any  
206 mode of public or private transit, as defined in s. 341.031,

207  
208 ~~commits a felony of the second degree, punishable as provided in~~  
209 ~~s. 775.082, s. 775.083, or s. 775.084.~~

210 (c) A person who ~~Whoever~~ violates subsection (2) ~~(1)~~ and  
211 ~~the violation endangers human life~~ commits a felony of the first  
212 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
213 775.084, if the violation:

214 1. Endangers human life; or

215 2. Disrupts a computer, computer system, computer network,  
216 or electronic device that affects medical equipment used in the  
217 direct administration of medical care or treatment to a person.

218 ~~(4)(3)~~ A person who ~~Whoever~~ willfully, knowingly, and  
219 without authorization modifies equipment or supplies used or  
220 intended to be used in a computer, computer system, ~~or~~ computer  
221 network, or electronic device commits a misdemeanor of the first  
222 degree, punishable as provided in s. 775.082 or s. 775.083.

223 ~~(5)(4)~~ (a) In addition to any other civil remedy available,  
224 the owner or lessee of the computer, computer system, computer  
225 network, computer program, computer equipment or supplies,  
226 electronic device, computer supplies, or computer data may bring  
227 a civil action against a ~~any~~ person convicted under this section  
228 for compensatory damages.

229 (b) In an ~~any~~ action brought under this subsection, the  
230 court may award reasonable attorney ~~attorney's~~ fees to the  
231 prevailing party.

232 ~~(6)(5)~~ A ~~Any~~ computer, computer system, computer network,

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233 computer software, ~~or~~ computer data, or electronic device owned  
234 by a defendant which is used during the commission of a any  
235 violation of this section or a any computer or electronic device  
236 owned by the defendant which is used as a repository for the  
237 storage of software or data obtained in violation of this  
238 section is subject to forfeiture as provided under ss. 932.701-  
239 932.704.

240 (7)~~(6)~~ This section does not apply to a any person who  
241 accesses his or her employer's computer system, computer  
242 network, computer program, ~~or~~ computer data, or electronic  
243 device when acting within the scope of his or her lawful  
244 employment.

245 (8)~~(7)~~ For purposes of bringing a civil or criminal action  
246 under this section, a person who causes, by any means, the  
247 access to a computer, computer system, ~~or~~ computer network, or  
248 electronic device in one jurisdiction from another jurisdiction  
249 is deemed to have personally accessed the computer, computer  
250 system, ~~or~~ computer network, or electronic device in both  
251 jurisdictions.

252 Section 5. Section 815.061, Florida Statutes, is created to  
253 read:

254 815.061 Offenses against public utilities.-

255 (1) As used in this section, the term "public utility" has  
256 the same meaning as in s. 366.02.

257 (2) A person may not willfully, knowingly, and without  
258 authorization:

259 (a) Gain access to a computer, computer system, computer  
260 network, or electronic device owned, operated, or used by a  
261 public utility while knowing that such access is unauthorized.

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262       (b) Physically tamper with, insert software into, or  
263 otherwise transmit commands or electronic communications to a  
264 computer, computer system, computer network, or electronic  
265 device which cause a disruption in any service delivered by a  
266 public utility.

267       (3) (a) A person who violates paragraph (2) (a) commits a  
268 felony of the third degree, punishable as provided in s.  
269 775.082, s. 775.083, or s. 775.084.

270       (b) A person who violates paragraph (2) (b) commits a felony  
271 of the second degree, punishable as provided in s. 775.082, s.  
272 775.083, or s. 775.084.

273       Section 6. This act shall take effect October 1, 2014.

**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.)

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

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BILL: SB 366

INTRODUCER: Senator Brandes

SUBJECT: Public Records/Trade Secrets/Computers

DATE: January 23, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	<b>Favorable</b>
2.			CJ	
3.			GO	
4.			RC	

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**I. Summary:**

SB 366 expands an existing public records exemption for data, programs, or supporting documentation that contain trade secrets as defined in s. 812.081, F.S., reside or exist internal or external to a computer, computer system, or computer network, and are held by an agency. The exemption is subject to the Open Government Sunset Review Act and will automatically repeal on October 2, 2019, unless reviewed and reenacted by the Legislature.

The bill contains a statement of public necessity as required by the Florida Constitution.

Because this bill expands a public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for passage.

**II. Present Situation:**

**Florida's Public Records Law**

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.<sup>1</sup> The records of the legislative, executive, and judicial branches are specifically included.<sup>2</sup>

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act<sup>3</sup> guarantees every person's right to inspect and

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

<sup>2</sup> *Id.*

<sup>3</sup> Chapter 119, F.S.

copy any state or local government public record<sup>4</sup> at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>5</sup>

Only the Legislature may create an exemption to public records requirements.<sup>6</sup> Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.<sup>7</sup> Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions<sup>8</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>9</sup>

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>10</sup> It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>11</sup> The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.<sup>12</sup>

### **Offenses against intellectual property; public records exemption**

Section 815.04(3), F.S., makes data, programs, or supporting documentation that are a trade secret as defined in s. 812.081, F.S., reside or exist internal or external to a computer, computer system, or computer network, and are held by an agency as defined in chapter 119, confidential and exempt from the provisions of s. 119.07(1), F.S., and s. 24(a), Art. I of the State

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<sup>4</sup> Section 119.011(12), F.S., defines “public records” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.” The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

<sup>5</sup> Section 119.07(1)(a), F.S.

<sup>6</sup> FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

<sup>7</sup> FLA. CONST., art. I, s. 24(c).

<sup>8</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

<sup>10</sup> Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

<sup>11</sup> Section 119.15(3), F.S.

<sup>12</sup> Section 119.15(6)(b), F.S.

Constitution. A person who willfully, knowingly, and without authorization discloses or takes such information commits an offense against intellectual property.

### III. Effect of Proposed Changes:

The bill amends s. 815.04(3), F.S., to include protections for information held on electronic devices.<sup>13</sup> The bill makes this subsection subject to the Open Government Sunset Review Act and provides that it is automatically repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature prior to that date.

The bill contains a finding of public necessity for this exemption. It states that it is a public necessity that trade secrets and intellectual property be protected from disclosure by persons gaining unauthorized access into computer networks and electronic devices. Trade secrets and intellectual property are already afforded public records exemptions because of the immense importance of this type of proprietary information to the economic competition between this state and other states and nations. As technology continues to evolve, it is important that the existing public records exemption for trade secrets and intellectual property expand accordingly to encompass new technology used in association with sensitive trade secrets and intellectual property. Thus the Legislature declares that it is a public necessity that data, programs, and supporting documentation that are trade secrets, are held by an agency and reside or exist internal or external to a computer, computer system, computer network, or electronic device be confidential and exempt from the requirements of s. 119.07(1), F.S., and s. 24(a), Article I of the State Constitution.

The bill takes effect on the same date that SB 364 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

The Florida Constitution provides that every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution.<sup>14</sup> However, the Legislature may provide for the exemption of records from these requirements by general law passed by a two-thirds vote of each house, provided that such law shall state with specificity the public necessity justifying the

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<sup>13</sup> The term “electronic devices” is defined in a related bill, SB 364, to mean a device that is capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data.

<sup>14</sup> Art. I, s. 24(c) of the State Constitution.

exemption and shall be no broader than necessary to accomplish the stated purpose of the law.<sup>15</sup> Such laws may contain only exemptions from these requirements and must relate to one subject.<sup>16</sup>

The bill appears to meet the constitutional requirements as it appears to: contain the required statement of public necessity, be no broader than necessary, contain only the exemption from public records laws, and relate to one subject. It requires a two-thirds vote of the members present and voting in each house of the Legislature for passage.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Those persons who have trade secrets contained in documents held by agencies on computers and electronic devices will be better protected.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends s. 815.04 of the Florida Statutes.

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

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

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By Senator Brandes

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1                   A bill to be entitled  
 2           An act relating to public records; amending s. 815.04,  
 3           F.S.; amending an exemption from public records  
 4           requirements for data, programs, and supporting  
 5           documentation that are trade secrets residing or  
 6           existing internal or external to a computer, computer  
 7           system, or computer network; expanding the exemption  
 8           to include such trade secret information residing or  
 9           existing internal or external to an electronic device;  
 10          providing for legislative review and repeal of the  
 11          exemption; providing a statement of public necessity;  
 12          providing a contingent effective date.

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

15  
 16           Section 1. Subsection (3) of section 815.04, Florida  
 17           Statutes, is amended to read:

18           815.04 Offenses against intellectual property; public  
 19           records exemption.—

20           (3) (a) Data, programs, or supporting documentation that  
 21 ~~which~~ is a trade secret as defined in s. 812.081, that is held  
 22 by an agency as defined in chapter 119, and that ~~which~~ resides  
 23 or exists internal or external to a computer, computer system,  
 24 or computer network, or electronic device ~~which is held by an~~  
 25 ~~agency as defined in chapter 119~~ is confidential and exempt from  
 26 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
 27 Constitution.

28           (b) A person who ~~Whoever~~ willfully, knowingly, and without  
 29 authorization discloses or takes data, programs, or supporting

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30 documentation ~~that~~ ~~which~~ is a trade secret as defined in s.  
31 812.081 or is confidential as provided by law residing or  
32 existing internal or external to a computer, computer system, ~~or~~  
33 computer network, or electronic device commits an offense  
34 against intellectual property.

35 (c) This subsection is subject to the Open Government  
36 Sunset Review Act in accordance with s. 119.15, and shall stand  
37 repealed on October 2, 2019, unless reviewed and saved from  
38 repeal through reenactment by the Legislature.

39 Section 2. The Legislature finds that it is a public  
40 necessity that trade secrets and intellectual property be  
41 protected from disclosure by persons gaining unauthorized access  
42 into computer networks and electronic devices. Trade secrets and  
43 intellectual property are already afforded public records  
44 exemptions because of the immense importance of this type of  
45 proprietary information to the economic competition between this  
46 state and other states and nations. As technology continues to  
47 evolve, it is important that the existing public records  
48 exemption for trade secrets and intellectual property expand  
49 accordingly to encompass new technology used in association with  
50 sensitive trade secrets and intellectual property. Thus the  
51 Legislature declares that it is a public necessity that data,  
52 programs, and supporting documentation that are trade secrets  
53 which are held by an agency and which reside or exist internal  
54 or external to a computer, computer system, computer network, or  
55 electronic device be confidential and exempt from the  
56 requirements of s. 119.07(1), Florida Statutes, and s. 24(a),  
57 Article I of the State Constitution.

58 Section 3. This act shall take effect on the same date that

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59 SB \_\_\_\_\_ or similar legislation takes effect, if such  
60 legislation is adopted in the same legislative session or an  
61 extension thereof and becomes a law.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR ANITERE FLORES**

37th District

**COMMITTEES:**

Communications, Energy, and Public Utilities, *Chair*  
Appropriations Subcommittee on Health  
and Human Services, *Vice Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Ethics and Elections  
Health Policy  
Regulated Industries

**SELECT COMMITTEE:**

Select Committee on Patient Protection  
and Affordable Care Act

February 4, 2014

Committee on Communications, Energy  
and Public Utilities

531 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Vice Chairman Garcia,

I respectfully request to be excused from the Committee on Communications, Energy and Public Utilities. I will be presenting SB 66 in the Education Committee and am unsure of when I will be able to return.

Thank you for understanding.

Sincerely,

A handwritten signature in cursive script that reads "Anitere Flores".

Anitere Flores  
State Senator  
District 37

REPLY TO:

- 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
- 413 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations Subcommittee on Finance and Tax, *Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Commerce and Tourism  
Communications, Energy, and Public Utilities  
Community Affairs  
Governmental Oversight and Accountability

**JOINT COMMITTEE:**  
Joint Committee on Public Counsel Oversight

Handwritten initials, possibly "DL", in the upper right quadrant of the page.

**SENATOR DOROTHY L. HUKILL**

8th District

February 4, 2014

The Honorable Anitere Flores  
Committee on Communications, Energy & Public Utilities  
413 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Flores:

Please excuse me from the Communications, Energy & Public Utilities meeting today at 10:00am and I will be presenting a bill in another committee. Please allow my Legislative Assistant Lindsey Swindle to present SB 266, Communications, Energy, Public Utilities on my behalf.

Thank you for your consideration and understanding.

Sincerely,

Handwritten signature of Dorothy L. Hukill in cursive script.

Dorothy L. Hukill  
State Senator, District 8

CC: Diana Caldwell, Staff Director of Communications, Energy & Public Utilities  
Kim Bonn, Committee Administrative Assistant of Communications, Energy & Public Utilities

**REPLY TO:**

209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818  
 Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: [www.flisenate.gov](http://www.flisenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

TAB 1

Meeting Date

Topic CYBER-SECURITY Bill Number 364  
Name MIKE BJORCKLUND Amendment Barcode \_\_\_\_\_  
(if applicable) (if applicable)

Job Title DIR. OF LEG. AFFAIRS  
Address 2914 APALACHEE PKY Phone 877-6164  
Street City State Zip  
TALLAHASSEE E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FECA

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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Meeting Date

*Write in support of amendment*

Topic Computer Crimes

Bill Number 364

Name Donna Simmons

Amendment Barcode 412584  
(if applicable)

Job Title Dir State Gov't Relations

(if applicable)

Address 106 E College Ave

Phone \_\_\_\_\_

Street

Lallahassee

City

FL

State

32301

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Tampa Electric and Peoples Gas

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

2/4/2014  
Meeting Date

Topic CST Bill Number 266 (if applicable)  
Name Amber Hughes Amendment Barcode --- (if applicable)  
Job Title Leg Advocate

Address \_\_\_\_\_ Phone \_\_\_\_\_  
Street \_\_\_\_\_ E-mail \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Speaking:  For  Against  Information

Representing FL League of Cities

Appearing at request of Chair:  Yes  No  
Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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2/4/14

Meeting Date

Topic Communications Services Tax

Bill Number SB 266

(if applicable)

Name Brewster Bevis

Amendment Barcode

(if applicable)

Job Title Senior Vice President

Address 516 N. Adams St

Phone 224-7173

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/4/14

Meeting Date

Topic CS T Bill Number 266 (if applicable)

Name Markes Dudley Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title \_\_\_\_\_

Address 108 S. MONROE ST. Phone 681-0024

TALL. City FL State 32301 Zip com

Speaking:  For  Against  Information

Representing FL Cable Telecom. Assoc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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3

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date 2/4/14

Topic CST Bill Number SB 266 (if applicable)
Name Brian Musselwhite Amendment Barcode (if applicable)

Job Title VP State Gov't Affairs - Comcast Phone 850-201-9458

Address 300 West Pensacola Street Tallahassee FL 32301 E-mail brian-musselwhite@comcast.com

Speaking: [X] For [ ] Against [ ] Information [ ] Waive in support
Representing Comcast

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.

This form is part of the public record for this meeting. S-001 (10/20/11)

3

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date  
2/4/14

Topic SB Zeb - Cst (Amendment) Bill Number 266 (if applicable)

Name DAVIN J. SWEES Amendment Barcode 852234 (if applicable)

Job Title SR. Leg. Advocate

Address 100 S. MONROE ST Phone 888.320.2635

TALL FL 32301 E-mail \_\_\_\_\_  
Street City State Zip

Speaking:  For  Against  Information

Representing FL - Assoc. of Counties

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 3

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date Feb. 4, 2013

Topic CST Bill Number SB 266 (if applicable)

Name Doug Mannheim Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title Atty

Address 215 S. Monroe St. Suite 400 Phone 850 681 6810

City Tallahassee State FL Zip 32301

Speaking:  For  Against  Information  
Representing Sprint

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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3

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/4/14 Meeting Date

Topic CST Bill Number SB 266 (if applicable)
Name Carolyn Johnson Amendment Barcode
Job Title Policy Director

Address 134 S Bronough St Phone 521-1235
Tallahassee FL 32301 E-mail cjohnson@flsenator.com
City State Zip

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

Representing FL Chamber of Commerce

Appearing at request of Chair: [X] 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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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/4/14

Meeting Date

Topic Communications Services Tax Bill Number SB 266  
*(if applicable)*

Name Brewster Bevis Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Senior Vice President

Address 516 N. Adams St Phone 224-7173  
*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.**

# CourtSmart Tag Report

**Room:** SB 301

**Case:**

**Type:**

**Caption:** Senate Committee on Communications, Energy, and Public Utilities

**Judge:**

**Started:** 2/4/2014 10:01:45 AM

**Ends:** 2/4/2014 10:20:37 AM

**Length:** 00:18:53

10:02:01 AM Call to order  
10:02:19 AM Senator Garcia  
10:02:27 AM Quorum Call  
10:02:37 AM Quorum Present – Senators Hukill and Flores are excused  
10:02:48 AM Senator Brandes presents SB 364  
10:04:16 AM 412584 Barcode  
10:04:28 AM Senator Brandes introduces amendment to sb 364  
10:04:41 AM Amendment adopted  
10:04:53 AM Mike Bjorklund waives in support  
10:05:02 AM Donna Simmons waives in support  
10:05:15 AM Senator Brandes closes  
10:05:28 AM CS/SB 364 roll call vote  
10:06:06 AM CS adopted  
10:06:14 AM SB 366 Introduced by Senator Brandes  
10:06:42 AM Waived close  
10:06:55 AM Roll call vote  
10:07:09 AM SB 366 Shown Favorably  
10:07:14 AM Tab 3  
10:07:18 AM SB 266  
10:07:26 AM Lindsey Swindle presents for Senator Hukill  
10:10:10 AM Recording Paused – equipment malfunction  
10:10:12 AM Recording Resumed – See meeting packet for list of speakers  
10:11:51 AM Recording Paused  
10:11:55 AM Recording Resumed  
10:17:38 AM Amber Hughes – FL League of Cities with concern  
10:18:10 AM test  
10:18:18 AM roll call vote  
10:18:33 AM SB/CS recorded favorably  
10:19:08 AM Sen Flores requests to be shown voting favorably on 366/364  
10:19:10 AM close