

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

MEETING DATE: Tuesday, February 18, 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	CS/SB 450 Agriculture / Clemens	Telephone Solicitation; Redefining the term "telephonic sales call"; prohibiting a telephone solicitor from transmitting certain text messages to a consumer if the consumer is on the "no sales solicitation calls" list maintained by the Department of Agriculture and Consumer Services or if the consumer has previously communicated such a request to the telephone solicitor, etc. AG 01/13/2014 Fav/CS CU 02/18/2014 Favorable AP	Favorable Yeas 6 Nays 0
2	SB 636 Braynon	Public Utility Suppliers; Requiring certain public utilities, defined as regulated companies, to submit a plan for increasing procurement from businesses controlled and operated by women, minorities, and service-disabled veterans; requiring the Florida Public Service Commission to establish guidelines to assist regulated companies in establishing such plans; providing that a regulated company may take certain measures to facilitate the participation of businesses controlled and operated by women, minorities, or service-disabled veterans, etc. CU 02/18/2014 Favorable CM CA RC	Favorable Yeas 6 Nays 0

Other related meeting documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 636

INTRODUCER: Senator Braynon

SUBJECT: Public Utility Suppliers

DATE: February 6, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	<u>Favorable</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>CA</u>	_____
4.	_____	_____	<u>RU</u>	_____

I. Summary:

SB 636 requires each regulated company (specified regulated utilities) to annually submit a plan for increasing the procurement of contracts from woman, minority, and disabled-veteran business enterprises; provides measures that each regulated company may use to promote the inclusion and participation of these companies in these contracts; requires the Public Service Commission (PSC) to develop an outreach program to be implemented by each regulated company to inform and encourage these businesses to participate; and requires annual reports by each regulated company and the PSC.

II. Present Situation:

There is no similar requirement for a public utility and all existing similar requirements appear to apply only to governmental entities.

III. Effect of Proposed Changes:

The bill creates s. 350.118, F.S., for the purpose of expanding diversity among public utility suppliers. Speaking generally, the bill accomplishes this by:

- requiring each regulated company¹ to annually submit a plan for increasing the procurement of contracts from woman,² minority,³ and disabled-veteran business enterprises;⁴
- providing measures which each regulated company may use to promote the inclusion and participation of these companies;
- requiring the commission⁵ (PSC) to develop an outreach program to be implemented by each regulated company to inform and encourage these businesses to participate; and
- requiring annual reports by each regulated company and the PSC.

More specifically, the bill contains seven Whereas clauses and three statements of legislative intent to establish its purposes, including intent to:

- encourage greater economic opportunity for businesses controlled and operated by women, minorities, and service-disabled veterans;
- promote competition among suppliers of public utilities in order to enhance efficiency in the procurement of contracts from regulated companies; and
- expand programs for the procurement of contracts for technology, equipment, supplies, services, materials, and construction work between regulated companies and businesses controlled and operated by women, minorities, and service-disabled veterans.

Each regulated company must annually submit (presumably to the PSC, although this is not specified) a detailed and verifiable plan for increasing the procurement of contracts from woman, minority, and disabled-veteran business enterprises. Each plan must include both short-term and

¹ The bill defines the term “regulated company” to mean a public utility, as defined in s. 366.02 (electricity or natural gas selling to the public, but not a municipal or cooperative electric utility), or any person holding a valid and current certificate from the commission under chapter 351 (railroads – PSC does not issue certificate), chapter 364 (telecommunications – PSC does not issue certificate after July 1, 2011, but certificates issued prior to that date remain valid), chapter 365 (also telecommunications), or chapter 367 (water or wastewater, but not all subject to PSC jurisdiction) which has gross annual revenues exceeding \$25 million.

² The bill defines the term “woman business enterprise” to mean a business enterprise that is at least 51 percent owned by a woman or women. In the case of a publicly owned business, at least 51 percent of the stock must be owned by one or more women. The management and daily business operations of the woman business enterprise must be controlled by one or more women.

³ The bill defines the term “minority business enterprise” to mean a business enterprise that is at least 51 percent owned by a minority group or groups. In the case of a publicly owned business, at least 51 percent of the stock must be owned by one or more minority groups. The management and daily business operations of the minority business enterprise must be controlled by one or more minority individuals. The term “minority” includes black Americans, Hispanic Americans, Native Americans, and Asian-Pacific Americans.

⁴ The bill defines the term “disabled-veteran business enterprise” to mean an independently owned and operated business that:

- employs 200 or fewer permanent full-time employees;
- together with its affiliates has a net worth of \$5 million or less, or, if a sole proprietorship, has a net worth of \$5 million or less, including both personal and business investments;
- is organized to engage in commercial transactions;
- is domiciled in this state;
- is at least 51 percent owned by one or more permanent state residents who have a service-connected disability as determined by the United States Department of Veterans Affairs or who have been terminated from military service by reason of disability by the United States Department of Defense; and
- is controlled and operated by one or more service-disabled veterans or, for a service-disabled veteran having a permanent or total disability, by the spouse or permanent caregiver of the veteran.

⁵ The bill defines the term “commission” to mean the Florida Public Service Commission.

long-term goals, timetables, and methods for encouraging both prime contractors and grantees⁶ to engage woman, minority, and disabled-veteran business enterprises in subcontracts, including, but not limited to, renewable energy and smart grid projects. A plan may not include quotas. The PSC must establish guidelines that a regulated company shall use in establishing a plan.

An electrical, gas, water and wastewater, wireless, telephone, cable television, and direct broadcast satellite corporation that is not subject to PSC regulation, and therefore not subject to the bill's requirements, is encouraged to voluntarily adopt a plan for increasing procurement from woman, minority, and disabled-veteran business enterprises.

The bill also provides measures that each regulated company *may* use in order to promote the inclusion and participation of businesses controlled and operated by women, minorities, and service-disabled veterans in the procurement of contracts. These measures include:

- Progressive payments to woman, minority, or disabled-veteran business enterprises.
- An amendment of performance bond requirements to ensure that such requirements do not prohibit such businesses from participating, however, the bill does not restrict a regulated company's ability to require a bond.
- Providing assistance to such businesses by securing contract payments with letters of credit, negotiable securities, or other financing arrangements or measures.

To inform and encourage woman, minority, and disabled-veteran business enterprises to apply for procurement contracts, the PSC must develop an outreach program to be implemented by each regulated company.

Each regulated company is required to annually report to the PSC regarding the implementation of its plan, using a form and on a date determined by the PSC. The PSC must provide a summary report to the Legislature detailing the progress of activities undertaken by each regulated company on September 1 of each year. The summary report must include comparative information on procurement contracts made between regulated companies and the targeted businesses and those made with at least a majority of other enterprises in the state, to the extent that such information is readily available. The PSC must make recommendations regarding the implementation of the reporting requirement and any proposed legislative recommendations it deems necessary or desirable to further this policy. With regard to disabled-veteran business enterprises, the PSC must ensure that its recommended programs and legislation are consistent with those of a veteran business enterprise certified under s. 295.187, F.S. Finally, the PSC must make the summary report available on its website.

The bill creates penalties for any person, including a corporation through its directors, officers, or agents, which falsely represents a business as a woman, minority, or disabled-veteran business enterprise in the procurement of, or in the attempt to procure, contracts from a regulated company. Such a falsification is a first degree misdemeanor. In the case of a corporation, the fine or imprisonment, or both, is to be imposed on each director, officer, or agent responsible for the false representation.

⁶ The bill does not define this term and it is unclear what it means.

The bill authorizes the PSC to adopt rules for determining and verifying the eligibility of woman, minority, and disabled-veteran business enterprises for procurement contracts.

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

As is discussed in Related Issues, the language relating to the standards for who is eligible as a minority, and perhaps even a woman, are ambiguous. Given that falsifying one's eligibility will be a first degree misdemeanor (lines 194-202), the standard has to be precise enough to avoid a constitutional challenge of being void for vagueness for failing to place a person on notice as to what is illegal.

Lines 203-205 direct the PSC to adopt rules for determining and verifying eligibility. Given the ambiguity in defining the standards to be used by the PSC in rulemaking, the bill may be subject to constitutional challenge as an unlawful delegation of legislative authority.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill's requirements for each regulated company to: annually develop and submit a detailed and verifiable plan for increasing the procurement of contracts from woman, minority, and disabled-veteran business enterprises; implement the plan; comply with the outreach program requirements; and file the annual report will cause uncertain amounts of expenses for each company. These expenses will be recoverable from its customers or its ratepayers.

C. Government Sector Impact:

The bill will result in an uncertain fiscal impact on the PSC due to its requirements for developing an outreach program, preparing an annual report, and rulemaking.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 116-118 define “minority” but don’t speak to the percentage of a race that is necessary to qualify as such. For example, must a person seeking to establish eligibility as a Native American be pure Native American or will some lesser standard suffice? This also raises issues with Line 124 and “woman business enterprise.” What if a person is transgender or transsexual and is undergoing sex reassignment therapy; at what point does he become eligible or does she cease to be eligible? Also, line 117 includes “Hispanic Americans,” but Hispanic does not refer to race but is a term referring to a cultural relationship to Spain, regardless of race.

Lines 140-142 require the PSC to establish guidelines that a regulated company is to use in establishing a plan for increasing the procurement of relevant contracts. Lines 149-153 require the PSC to develop an outreach program. The only way for the PSC to fulfill these tasks is through adoption of rules, but the bill’s only grant of rulemaking authority relates to the eligibility of a business enterprise.

Lines 194-202 create penalties for falsely representing eligibility as a woman, minority, or disabled-veteran business enterprise. These penalties are applicable against “a person, including a corporation...” If the term person is defined as in s. 1.01, F.S., for general use in construing the statutes, it includes “individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.” If the term is not given this interpretation, the bill includes only an individual and a corporation, and excludes all these other types of entities.

As discussed above, lines 203-205 direct the PSC to adopt rules for determining and verifying eligibility and lines 194-202 create penalties for falsely representing eligibility as a woman, minority, or disabled-veteran business enterprise. This appears to create an unusual situation in which a criminal court will interpret and implement a PSC rule in adjudicating whether a crime has been committed.

VIII. Statutes Affected:

This bill creates section 350.118 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Braynon

36-00362-14

2014636__

1 A bill to be entitled
2 An act relating to public utility suppliers; creating
3 s. 350.118, F.S.; providing a statement of purpose;
4 providing definitions; requiring certain public
5 utilities, defined as regulated companies, to submit a
6 plan for increasing procurement from businesses
7 controlled and operated by women, minorities, and
8 service-disabled veterans; specifying requirements for
9 such plans; requiring the Florida Public Service
10 Commission to establish guidelines to assist regulated
11 companies in establishing such plans; encouraging
12 unregulated corporations to voluntarily adopt such
13 plans; requiring the commission to develop an outreach
14 program and regulated companies to implement such
15 program; providing that a regulated company may take
16 certain measures to facilitate the participation of
17 businesses controlled and operated by women,
18 minorities, or service-disabled veterans; requiring
19 each regulated company to submit an annual report to
20 the commission regarding the implementation of its
21 plan; requiring the commission to annually submit a
22 summary report to the Legislature; requiring the
23 commission to make recommendations; providing
24 penalties for any person or corporation that falsely
25 represents a business as being controlled or operated
26 by women, minorities, or service-disabled veterans;
27 authorizing the commission to adopt rules; providing
28 an effective date.
29

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30 WHEREAS, the opportunity for full participation in this
31 state's free-enterprise system by businesses controlled and
32 operated by women, minorities, and service-disabled veterans is
33 essential if this state is to attain economic equality for such
34 businesses, and

35 WHEREAS, some public agencies and regulated utilities have
36 established short-range and long-range goals for contracting
37 with businesses controlled and operated by women, minorities,
38 and service-disabled veterans and are awarding 30 percent or
39 more of their contracts to these types of business enterprises,
40 and

41 WHEREAS, businesses controlled and operated by women,
42 minorities, and service-disabled veterans traditionally have
43 received less than a proportionate share of public utility
44 procurement contracts, especially in the categories of renewable
45 energy, wireless telecommunications, broadband, and smart grid
46 projects, and

47 WHEREAS, it is in the state's interest to expeditiously
48 improve the economic climate for businesses controlled and
49 operated by women, minorities, and service-disabled veterans,
50 and

51 WHEREAS, the position of such businesses can be
52 substantially improved by establishing long-range goals for the
53 procurement of contracts for technology, equipment, supplies,
54 services, materials, and construction work, especially in the
55 categories of renewable energy, wireless telecommunications,
56 broadband, and smart grid projects between regulated companies
57 and businesses controlled and operated by women, minorities, and
58 service-disabled veterans, and

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59 WHEREAS, this initiative benefits regulated companies and
60 the consumers of this state by expanding the number of
61 suppliers, thereby encouraging competition and promoting
62 economic efficiency in the process, and

63 WHEREAS, the long-term economic viability of this state
64 substantially depends upon the ability of public utilities to
65 involve businesses controlled and operated by women, minorities,
66 and service-disabled veterans in the procurement process,
67 especially in the categories of renewable energy, wireless
68 telecommunications, broadband, and smart grid projects, NOW,
69 THEREFORE,

70
71 Be It Enacted by the Legislature of the State of Florida:

72
73 Section 1. Section 350.118, Florida Statutes, is created to
74 read:

75 350.118 Expanding diversity among public utility
76 suppliers.-

77 (1) INTENT.-The purpose of this section is to:

78 (a) Encourage greater economic opportunity for businesses
79 controlled and operated by women, minorities, and service-
80 disabled veterans.

81 (b) Promote competition among suppliers of public utilities
82 in order to enhance efficiency in the procurement of contracts
83 from regulated companies.

84 (c) Expand programs for the procurement of contracts for
85 technology, equipment, supplies, services, materials, and
86 construction work between regulated companies and businesses
87 controlled and operated by women, minorities, and service-

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88 disabled veterans.

89 (2) DEFINITIONS.—As used in this section, the term:

90 (a) "Commission" means the Florida Public Service

91 Commission.

92 (b) "Disabled-veteran business enterprise" means an
93 independently owned and operated business that:

94 1. Employs 200 or fewer permanent full-time employees;

95 2. Together with its affiliates has a net worth of \$5
96 million or less, or, if a sole proprietorship, has a net worth
97 of \$5 million or less, including both personal and business
98 investments;

99 3. Is organized to engage in commercial transactions;

100 4. Is domiciled in this state;

101 5. Is at least 51 percent owned by one or more permanent
102 state residents who have a service-connected disability as
103 determined by the United States Department of Veterans Affairs
104 or who have been terminated from military service by reason of
105 disability by the United States Department of Defense; and

106 6. Is controlled and operated by one or more service-
107 disabled veterans or, for a service-disabled veteran having a
108 permanent or total disability, by the spouse or permanent
109 caregiver of the veteran.

110 (c) "Minority business enterprise" means a business
111 enterprise that is at least 51 percent owned by a minority group
112 or groups. In the case of a publicly owned business, at least 51
113 percent of the stock must be owned by one or more minority
114 groups. The management and daily business operations of the
115 minority business enterprise must be controlled by one or more
116 minority individuals. The term "minority" includes black

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117 Americans, Hispanic Americans, Native Americans, and Asian-
118 Pacific Americans.

119 (d) "Regulated company" means a public utility, as defined
120 in s. 366.02, or any person holding a valid and current
121 certificate from the commission under chapter 351, chapter 364,
122 chapter 365, or chapter 367 which has gross annual revenues
123 exceeding \$25 million.

124 (e) "Woman business enterprise" means a business enterprise
125 that is at least 51 percent owned by a woman or women. In the
126 case of a publicly owned business, at least 51 percent of the
127 stock must be owned by one or more women. The management and
128 daily business operations of the woman business enterprise must
129 be controlled by one or more women.

130 (3) PLAN.—A regulated company must annually submit a
131 detailed and verifiable plan for increasing the procurement of
132 contracts from woman, minority, and disabled-veteran business
133 enterprises.

134 (a) Each plan must include short-term and long-term goals,
135 timetables, and methods for encouraging both prime contractors
136 and grantees to engage woman, minority, and disabled-veteran
137 business enterprises in subcontracts, including, but not limited
138 to, renewable energy and smart grid projects. A plan may not
139 include quotas.

140 (b) The commission shall establish guidelines that a
141 regulated company shall use in establishing a plan pursuant to
142 this subsection.

143 (c) An electrical, gas, water and wastewater, wireless, or
144 telephone corporation that is not required to submit a plan
145 pursuant to this subsection and cable television corporations

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146 and direct broadcast satellite providers are encouraged to
147 voluntarily adopt a plan for increasing procurement from woman,
148 minority, and disabled-veteran business enterprises.

149 (4) OUTREACH PROGRAM.—The commission shall develop and
150 require each regulated company to implement an outreach program
151 to inform and encourage woman, minority, and disabled-veteran
152 business enterprises to apply for procurement contracts under
153 this section.

154 (5) REGULATED COMPANIES.—

155 (a) In order to promote the inclusion and participation of
156 businesses controlled and operated by women, minorities, and
157 service-disabled veterans in the procurement of contracts, a
158 regulated company may consider implementing the following
159 measures in each phase of contracting:

160 1. Progressive payments to woman, minority, or disabled-
161 veteran business enterprises.

162 2. An amendment of performance bond requirements to ensure
163 that such requirements do not prohibit such businesses from
164 participating.

165 3. Providing assistance to such businesses by securing
166 contract payments with letters of credit, negotiable securities,
167 or other financing arrangements or measures.

168 (b) This subsection does not restrict a regulated company's
169 ability to require a bond.

170 (6) REPORTS.—

171 (a) Each regulated company shall submit an annual report to
172 the commission regarding the implementation of its plan created
173 pursuant to subsection (3) in a form and on a date determined by
174 the commission.

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175 (b) On September 1 of each year, the commission shall
176 provide the President of the Senate and the Speaker of the House
177 of Representatives with a summary report detailing the progress
178 of activities undertaken pursuant to this section by each
179 regulated company.

180 1. The summary report must include comparative information
181 on procurement contracts made between regulated companies and
182 woman, minority, and disabled-veteran business enterprises and
183 those made with at least a majority of other enterprises in the
184 state, to the extent that such information is readily available.

185 2. The commission shall make recommendations regarding the
186 implementation of this subsection and any proposed legislative
187 recommendations it deems necessary or desirable to further this
188 policy. With regard to disabled-veteran business enterprises,
189 the commission shall ensure that the programs and legislation
190 recommended are consistent with those of a veteran business
191 enterprise certified under s. 295.187.

192 3. The commission shall make the summary report available
193 on its website.

194 (7) PENALTIES.—Any person, including a corporation through
195 its directors, officers, or agents, which falsely represents a
196 business as a woman, minority, or disabled-veteran business
197 enterprise in the procurement of, or in the attempt to procure,
198 contracts from a regulated company commits a misdemeanor of the
199 first degree, punishable as provided in s. 775.082 or s.
200 775.083. In the case of a corporation, the fine or imprisonment,
201 or both, shall be imposed on each director, officer, or agent
202 responsible for the false representation.

203 (8) RULES.—The commission may adopt rules for determining

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204 and verifying the eligibility of woman, minority, and disabled-
205 veteran business enterprises for procurement contracts.

206 Section 2. This act shall take effect July 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.)

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

BILL: CS/SB 450

INTRODUCER: Agriculture Committee and Senator Clemens

SUBJECT: Telephone Solicitation

DATE: February 6, 2014 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
2.	<u>Telotte/Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 450 expands the definition of the term “telephonic sales call” regarding the type of unsolicited telephone calls that are prohibited by the Florida Do Not Call (Florida DNC) program to include a text message. Additionally, a telephone solicitor is prohibited from sending text messages to a consumer after the consumer communicates to the telephone solicitor that he or she does not wish to be contacted.

II. Present Situation:

The Florida Department of Agriculture and Consumer Services maintains the state's "Do Not Call" list, also known as the “no sales solicitation calls” list. Florida residents who do not wish to receive sales calls may have their residential, mobile, or paging device telephone number included on this list.¹ A “telephonic sales call” is defined as a call made by a telephone solicitor to a consumer for the purpose of soliciting a sale of any consumer goods or services, or for the purpose of soliciting an extension of credit for consumer goods or services, or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of consumer goods or services or an extension of credit for such purposes.

¹ <https://www.fldnc.com/About.aspx>

Telephone solicitors² are prohibited from making telephonic sales calls to consumers who register for the Do Not Call program. There are exceptions to this prohibition which include calls made:

- In response to an express request of the person called;
- Primarily in connection with an existing debt or contact, payment or performance of which has not been completed at the time of the call;
- To any person with whom the telephone solicitor has a prior or existing business relationship; or
- By a newspaper publisher or his or her agent or employee in connection with his or her business.

In addition to those consumers registered for the Do Not Call program, a telephone solicitor may not call a consumer who previously communicated to the telephone solicitor that he or she does not wish to be contacted.

A telephone solicitor that contacts a person whose number is on the Do Not Call list, contacts a consumer who previously communicated to the telephone solicitor that he or she does not wish to be contacted, or makes a call that does not fall into one of the four exceptions is subject to penalties. The penalty may include either a civil penalty³ with a maximum fine of \$10,000 per violation, or an administrative fine⁴ with a maximum of \$1000 per violation, in addition to payment of the consumer's attorney fees and costs.

The federal Telephone Consumer Protection Act provides for restrictions on unsolicited advertisement to a telephone. The state's language is consistent with the federal law.

III. Effect of Proposed Changes:

The bill expands the term "telephonic sales calls" to include text messages, made by a solicitor to a consumer, for the purpose of the Do Not Call prohibition.

The bill also prohibits a telephone solicitor from contacting by text message consumers who have previously communicated that they do not wish to be contacted.

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

² "Telephone solicitor" means a natural person, firm, organization, partnership, association, or corporation, or a subsidiary or affiliate thereof, doing business in this state, who makes or causes to be made a telephonic sales call, including, but not limited to, calls made by use of automated dialing or recorded message devices.

³ Section 501.059(9)(a), F.S.

⁴ Section 501.059(9)(b), F.S.

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:

Individuals and entities will be prohibited from sending unsolicited text messages to persons who register for the Florida Do Not Call program, and to those who have otherwise previously communicated to the telephone solicitor that they do not wish to be contacted by a telephone solicitor.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services estimates the fiscal impact arising from the implementation of this bill⁵ would be:

		FY 13-14	FY 14-15	FY 15-16
Recurring Revenue		\$ -0-	\$ 30,725	\$30,725
Expenditures:				
Recurring:				
Salaries & Benefits:				
	Regulatory Consultant (2)	-0-	106,520	106,520
	Senior Clerk (1)	-0-	40,717	40,717
Expenses:		-0-		
	Prof exp pkg (2 @ 6,261)	-0-	12,522	12,522
	Support staff (1)	-0-	5,055	5,055
Special category	HR allocation (3 @ 344)	-0-	1,032	1,032
Total recurring cost		-0-	165,846	165,846
Non-recurring	General Inspection Tr Fd	-0-		
Expenses	Prof exp pkg (2 @ 3,773)	-0-	7,546	-0-
	Support staff (1)	-0-	3,557	-0-
Contracted Services		-0-		
	Software (62.5 hrs @ 80)	-0-	5,000	-0-
Total non-recurring cost		-0-	16,103	-0-

⁵ DACS Analysis SB 450, Dec. 19, 2013. Copy available in committee files.

		FY 13-14	FY 14-15	FY 15-16
Total recurring & non-recurring cost		-0-	181,949	165,846
Non-operating cost		-0-		
	Information tech support	-0-	7,268	7,268
	Admin/indirect cost	-0-	17,583	17,583
Total non-operating cost		-0-	24,851	24,851
Expenditures Grand Total (GITF)		-0-	206,800	190,697

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 501.059 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 Agriculture on January 14, 2014:

The CS clarifies that only telephone calls and text messages are “telephonic sales calls” as that term is used in the administration of the “no sales solicitation calls” list maintained by DACS under the Florida Do Not Call program, which presently only applies to a “call made by a telephone solicitor.”

- B. **Amendments:**

None.

By the Committee on Agriculture; and Senator Clemens

575-01049-14

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1 A bill to be entitled
2 An act relating to telephone solicitation; reordering
3 and amending s. 501.059, F.S.; redefining the term
4 "telephonic sales call"; prohibiting a telephone
5 solicitor from transmitting certain text messages to a
6 consumer if the consumer is on the "no sales
7 solicitation calls" list maintained by the Department
8 of Agriculture and Consumer Services or if the
9 consumer has previously communicated such a request to
10 the telephone solicitor; providing an effective date.

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

13
14 Section 1. Subsection (1) of section 501.059, Florida
15 Statutes, is reordered and amended, and subsection (5) of that
16 section is amended, to read:

17 501.059 Telephone solicitation.—

18 (1) As used in this section, the term:

19 (g) ~~(a)~~ "Telephonic sales call" means a telephone call or
20 text message ~~call made by a telephone solicitor~~ to a consumer,
21 for the purpose of soliciting a sale of any consumer goods or
22 services, ~~or for the purpose of~~ soliciting an extension of
23 credit for consumer goods or services, or ~~for the purpose of~~
24 obtaining information that will or may be used for the direct
25 solicitation of a sale of consumer goods or services or an
26 extension of credit for such purposes.

27 (b) "Consumer goods or services" means ~~any~~ real property or
28 ~~any~~ tangible or intangible personal property that ~~which~~ is
29 normally used for personal, family, or household purposes,

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30 including, but not limited to ~~without limitation~~, any such
31 property intended to be attached to or installed in any real
32 property without regard to whether it is so attached or
33 installed, as well as cemetery lots and timeshare estates, and
34 any services related to such property.

35 (h) ~~(e)~~ "Unsolicited telephonic sales call" means a
36 telephonic sales call other than a call made:

- 37 1. In response to an express request of the person called;
- 38 2. Primarily in connection with an existing debt or
39 contract, if payment or performance of such debt or contract
40 ~~which~~ has not been completed at the time of such call;
- 41 3. To a ~~any~~ person with whom the telephone solicitor has a
42 prior or existing business relationship; or
- 43 4. By a newspaper publisher or his or her agent or employee
44 in connection with his or her business.

45 (f) ~~(d)~~ "Telephone solicitor" means a ~~any~~ natural person,
46 firm, organization, partnership, association, or corporation, or
47 a subsidiary or affiliate thereof, doing business in this state,
48 who makes or causes to be made a telephonic sales call,
49 including, but not limited to, calls made by use of automated
50 dialing or recorded message devices.

51 (a) ~~(e)~~ "Consumer" means an actual or prospective purchaser,
52 lessee, or recipient of consumer goods or services.

53 (e) ~~(f)~~ "Merchant" means a person who, directly or
54 indirectly, offers or makes available to consumers any consumer
55 goods or services.

56 (d) ~~(g)~~ "Doing business in this state" means ~~refers to~~
57 businesses that ~~who~~ conduct telephonic sales calls from a
58 location in Florida or from other states or nations to consumers

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59 located in Florida.

60 (c)~~(h)~~ "Department" means the Department of Agriculture and
61 Consumer Services.

62 (5) A telephone solicitor may not initiate an outbound
63 telephone call or text message to a consumer who has previously
64 communicated to the telephone solicitor that he or she does not
65 wish to receive an outbound telephone call or text message:

66 (a) Made by or on behalf of the seller whose goods or
67 services are being offered; or

68 (b) Made on behalf of a charitable organization for which a
69 charitable contribution is being solicited.

70 Section 2. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Communications, Energy, and Public Utilities
Criminal Justice
Regulated Industries

SELECT COMMITTEE:
Select Committee on Patient Protection and Affordable Care Act

SENATOR AUDREY GIBSON

9th District

February 17, 2014

Chair Anitere Flores
Committee on Communications, Energy, and Public Utilities
531 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Flores,

I respectfully ask to be excused from the Committee on Communications, Energy, and Public Utilities being held on Tuesday, February 18, 2014 at 10:00 a.m.

Thank you in advance for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Audrey Gibson".

Audrey Gibson
State Senator
Senate District 9

Cc: Diana Caldwell, Staff Director

REPLY TO:

- 101 E. Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553 FAX: (904) 359-2532
- 205 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Vice Chair*
Environmental Preservation and
Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

25th District

February 17th, 2014

The Honorable Anitere Flores
The Florida Senate
413 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Madam Chair Flores:

Please accept this letter as my formal request to excuse myself from the Communications, Energy, and Public Utilities committee meeting on Tuesday, February 18th, 2014.

Please let me know if I can provide any further information. Thank you for your time.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Abruzzo".

Joseph Abruzzo
Florida State Senator
District 25

Cc: Diana Caldwell, Staff Director

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR CHRISTOPHER L. SMITH

Democratic Leader
31st District

COMMITTEES:

Criminal Justice, *Vice Chair*
Rules, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health
and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Governmental Oversight and Accountability

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

JOINT COMMITTEE:

Joint Legislative Budget Commission

February 18, 2014

The Honorable Anitere Flores, Chair
404 South Monroe Street
413 Senate Office Building
Tallahassee Fla 32399

Dear, Chair Flores

Please excuse Senator Smith from the Senate Committee, on Communication, Energy, Public Utilities that was held on Tuesday February 18, 2014. At 10:00 AM. Senator Smith was in a meeting with a group of his Constituents, and the meeting over-time.

Sincerely,

A handwritten signature in cursive script that reads "Diane Randolph".

Diane Randolph
Aide to Senator Chris Smith
District 31

REPLY TO:

- 2151 NW 6th Street, Fort Lauderdale, Florida 33311 (954) 321-2705 FAX: (954) 321-2707
- 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: SB 301

Case:

Caption: Senate Communications, Energy and Public Utilities Committee

Type:

Judge:

Started: 2/18/2014 10:02:57 AM

Ends: 2/18/2014 10:05:43 AM

Length: 00:02:47

10:03:01 AM Call to order
10:03:05 AM Senators Abruzzo and Gibson Excused
10:03:12 AM Roll call
10:03:24 AM Quorum
10:03:31 AM CS/SB450
10:03:43 AM Senator Clemens presents Bill
10:04:05 AM Roll call vote
10:04:17 AM CS/SB 450 favorable
10:04:21 AM TAB 2
10:04:25 AM SB 636
10:04:34 AM Senator Braynon presents SB 636
10:05:14 AM Roll call vote
10:05:26 AM SB 636 favorable
10:05:37 AM Adjourned