

Committee on Infrastructure and Security

CS/CS/HB 1095 — Infrastructure Regulation

by Commerce Committee; Energy and Utilities Subcommittee; and Rep. Fitzenhagen and others (CS/CS/CS/SB 1464 by Rules Committee; Banking and Insurance Committee; Infrastructure and Security Committee; and Senator Flores)

The bill amends provisions of law relating to the Underground Facility Damage Prevention and Safety Act and revises provisions relating to the Office of Public Counsel within the Public Service Commission.

Underground Facility Damage Prevention and Safety Act (The Act)

The Act is intended to identify and locate underground facilities (*e.g.*, pipes, pipelines, and cables) prior to an excavation or demolition to prevent injury to persons or property or interruption of services resulting from damages to those facilities. Specifically, the bill:

- Expands the list of entities that may issue citations for existing and new enhanced-penalty violations of ch. 556, F.S., to include the State Fire Marshal or his or her statutorily defined agents, and the fire chiefs of special districts, municipalities, and counties; and provides criminal penalties for willful failure to respond to a citation.
- Increases the maximum civil penalty (up to \$2,500, in addition to any other court costs) for certain violations of ch. 556, F.S., that involve an underground pipe or facility transporting hazardous materials regulated by the U.S.D.O.T. Pipeline and Hazardous Material Safety Administration. Eighty percent of the civil penalty will be distributed to the entity that issued the citation, and the remaining 20 percent will be retained by the clerk, in addition to any court costs.
- Requires each clerk of court to submit an annual report to the State Fire Marshal listing each violation notice written under ch. 556, F.S., which was filed in that county during the preceding calendar year.
- Provides a criminal penalty for knowingly and willfully removing or damaging a permanent marker.
- Requires member operators and excavators to transmit reports of incidents that involve high-priority subsurface installations for investigation by the State Fire Marshal, who replaces the Division of Administrative Hearings as the investigative authority. The State Fire Marshal may also issue a citation and impose a civil penalty for a violation of ch. 556, F.S., and 95 percent of any civil penalty imposed will be equally distributed between the Sunshine 811 system and the State Fire Marshal for specified uses. The remaining five percent is retained by the clerk of court to cover administrative costs.
- Requires Sunshine State One-Call of Florida, Inc., to review the reports submitted by the clerks of court to the State Fire Marshal, and any complaints of alleged violations of ch. 556, F.S., in order to identify issues and potential issues with damage prevention and enforcement. Sunshine State One-Call of Florida, Inc., is further required to submit an analysis of its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives on an annual basis.

Office of the Public Counsel

The bill also establishes a four-year term for the Public Counsel beginning March 1, 2021. It clarifies the Public Counsel serves at the pleasure of the Joint Committee on Public Counsel Oversight and is appointed by a majority vote of the committee appointees of each house of the Legislature. The bill provides the committee may remove the Public Counsel with a majority vote of the committee appointees of each house. The joint committee must receive applications, conduct interviews, and appoint a Public Counsel to a four-year term beginning on March 1, 2021, and every four years thereafter. The Public Counsel may continue in office beyond the four-year limit until his or her successor is appointed and takes office, unless removed by the committee. A person serving as the Public Counsel may be reappointed, but in no event may a person serve as the Public Counsel for more than 12 consecutive years. However, the time served by the Public Counsel before July 1, 2020, may not be considered in applying the limitation on consecutive years of service.

If approved by the Governor, these provisions take effect July 1, 2020.

Vote: Senate 37-1; House 115-0