

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

MEETING DATE: Tuesday, April 1, 2014
TIME: 9:30 —11:00 a.m.
PLACE: 301 Senate Office Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1050 Hays (Similar CS/H 357, Identical H 229)	Water And Wastewater Utility Systems; Requiring the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds to determine the availability of additional allocation or reallocation of bonds for water and wastewater infrastructure projects; establishing a procedure for the commission to follow if it determines that a utility has failed to provide water and wastewater services that meet certain standards; allowing the Department of Environmental Protection to make, or to request that the Florida Water Pollution Control Financing Corporation make, loans, grants, and deposits to for-profit privately owned or investor-owned systems, and deleting current restrictions on such activity, etc. CU 04/01/2014 Fav/CS EP AFT AP	Fav/CS Yeas 8 Nays 0
2	SB 1078 Soto (Identical H 1253)	Use of Wireless Communications Devices While Operating a Motor Vehicle; Defining the term "wireless communications device"; providing a criminal penalty if a person operating a motor vehicle while using a wireless communications device causes the death of a human being or a viable fetus, etc. CU 04/01/2014 Favorable TR CJ AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Communications, Energy, and Public Utilities
Tuesday, April 1, 2014, 9:30 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 1646 Health Policy (Compare H 167, CS/H 751, S 70)	Telemedicine; Creating the "Florida Telemedicine Act"; requiring physicians providing telemedicine services to patients in this state to be licensed in this state or to meet alternative requirements; providing standards and prohibitions for the provision of telemedicine services; authorizing the use of telemedicine services in the diagnosis and treatment of the human eye; providing requirements for reimbursement of telemedicine services under the Medicaid program, etc. CU 04/01/2014 Fav/CS AHS AP	Fav/CS Yeas 6 Nays 2
4	CS/SM 1174 Environmental Preservation and Conservation / Gibson (Similar HM 1027)	Carbon Dioxide Emissions Guidelines; Urging Congress to direct the United States Environmental Protection Agency to use specified criteria in developing guidelines for regulating carbon dioxide emissions from existing fossil-fueled electric generating units, etc. EP 03/26/2014 Fav/CS CU 04/01/2014 Favorable	Favorable Yeas 9 Nays 0

Other related meeting documents

**SUMMARY OF AMENDMENTS
TO
SB 1050**

<p>Amendment # 1 By Senator Bean Barcode 714954 delete all</p>	<p>The amendment:</p> <ul style="list-style-type: none">• Removes a proposed sales tax exemption.• Allows utilities to recover costs incurred to resolve deficiencies found by the PSC or DEP with respect to secondary drinking water standards or certain wastewater service issues.• Authorizes water utilities to establish a surcharge to recover fixed costs of system improvements intended to maintain or achieve compliance with secondary drinking water standards.• Removes proposed limits on rate case expense recovery.
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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.)

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

BILL: CS/SB 1050

INTRODUCER: Communications, Energy, and Public Utilities Committee and Senator Hays

SUBJECT: Water and Wastewater Utility Systems

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	CU	Fav/CS
2.			EP	
3.			AFT	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1050:

- Directs the Division of Bond Finance to review the allocation of private activity bonds in Florida with respect to water and wastewater projects.
- Creates an exemption from regulation by the Public Service Commission (PSC) for persons who resell water service to individually-metered end-users at a price that does not exceed the purchase price of water plus 9 percent or the purchase price of water plus actual costs of meter reading and billing.
- Provides a mechanism, within a rate case, for the identification and potential resolution of issues involving secondary drinking water standards (e.g., standards related to odor, taste, and corrosiveness) and wastewater operational requirements related to odor, noise, aerosol drift, and lighting and allows utilities to recover costs incurred to resolve deficiencies found by the PSC or DEP with respect to secondary drinking water standards or certain wastewater service issues. Provides for recovery of those costs prudently incurred by the utility to resolve the issues.
- Authorizes the PSC, during a rate case, to create an individual IOU reserve fund to be used for projects identified in an IOU's capital improvement plan, with disbursement subject to approval by the PSC.
- Identifies specific types of expenses eligible for "pass-through" treatment in IOU rates and authorizes the PSC, by rule, to identify additional types of expenses eligible for such treatment, provided the expenses are beyond the utility's control.

- Authorizes water utilities to establish a surcharge to recover fixed costs of system improvements intended to maintain or achieve compliance with secondary drinking water standards.
- Expands the availability of low-interest loans through the State Revolving Fund to all for-profit water utilities.

II. Present Situation:

Water and Wastewater Industry Overview

In various areas throughout Florida, water and wastewater services are provided through privately-owned and operated water and wastewater companies. These privately-owned companies are referred to as “investor-owned utilities,” or “IOUs.” An IOU can range in size from a very small system, owned by an individual as a sole proprietorship and serving only a few dozen customers in a small neighborhood, to systems owned by a large interstate corporation which serves tens of thousands of customers in multiple Florida counties.

Chapter 367, F.S., is the Water and Wastewater System Regulatory Law. Section 367.011, F.S., grants the commission exclusive jurisdiction over each utility with respect to its authority, service, and rates. It also declares the regulation of utilities to be in the public interest, and the chapter to be an exercise of the police power of the state for the protection of the public health, safety, and welfare.

Despite this broad grant of authority, the PSC does not have authority over all water and wastewater utilities. For IOUs operating within a single Florida county, the county has the option to regulate rates and service or allow the PSC to regulate those utilities.¹ Regardless of whether the county has opted to regulate IOUs, the PSC has jurisdiction over all water and wastewater utility systems whose service transverses county boundaries, except for systems owned and regulated by an intergovernmental authority.² The PSC currently has jurisdiction over water and wastewater IOUs in 37 of 67 counties in Florida, accounting for approximately 120,567 water customers and 74,317 wastewater customers.³ The remaining water and wastewater customers in the state are served either by IOUs in non-jurisdictional counties, by statutorily exempt utilities (such as municipal utilities, cooperatives, and non-profits), by wells and septic tanks, or by systems owned, operated, managed, or controlled by governmental authorities.⁴

For regulatory purposes, the PSC classifies an IOU into one of three categories based on annual operating revenues:⁵

Class A – Operating revenues of \$1,000,000 or more.

Class B – Operating revenues of \$200,000 or more but less than \$1,000,000.

Class C – Operating revenues less than \$200,000.

¹ Section 367.171, F.S. If a county chooses to allow regulation by the PSC, it may rescind this election only after 10 continuous years of PSC regulation.

² Section 367.171(7), F.S.

³ *Facts and Figures of the Florida Utility Industry*, Florida Public Service Commission, April 2013.

⁴ Section 367.022(2), F.S.

⁵ Rules 25-30.110(4) and 25-30.115, F.A.C. As noted in these rules, this classification system is used by the National Association of Regulatory Utility Commissioners for publishing its system of accounts.

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

Study Committee on Investor-Owned Water and Wastewater Utility Systems

Chapter 2012-187, Laws of Florida, created the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee)⁶ to “identify issues of concern of investor-owned water and wastewater utility systems, particularly small systems, and their customers” and to research possible solutions.⁷ Specifically, the Study Committee was required to consider:

- The ability of a small IOU to achieve economies of scale when purchasing equipment, commodities, or services;
- The availability of low interest loans to a small, privately-owned water or wastewater utility;
- Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility;
- The impact on customer rates if a utility purchases an existing water or wastewater utility system;
- The impact on customer rates of a utility providing service through the use of a reseller; and
- Other issues that the Study Committee identifies during its investigation.⁸

The Study Committee conducted 12 public meetings at which it heard public comment on these issues, identified additional issues for consideration and research (and heard public comment on the additional issues), and discussed and debated solutions to the issues.⁹ Consistent with the law, the Study Committee submitted a report on February 15, 2013, containing its recommendations to the Speaker of the House, the President of the Senate, and the Governor.

The Study Committee's report included recommendations for legislative action, agency rulemaking, and other agency action. Based on the issues that it was required to consider, the Study Committee recommended legislative action to do the following:

- Increase the availability of low-interest loans to small, privately-owned water and wastewater utilities by:
 - Expanding availability of low-interest loans through the State Revolving Fund (SRF) to all for-profit water utilities;
 - Allowing IOUs to apply “pass-through” treatment for loan service fees or loan origination fees for eligible projects as identified by the PSC; and

⁶ As required by the law, the Study Committee was comprised of 18 members, including three non-voting members and 15 voting members. The three non-voting members included Commissioner Julie I. Brown (representing the PSC as the Study Committee Chair), a representative of the Florida Department of Environmental Protection, and the Public Counsel. The 15 voting members included State Senator Alan Hays (appointed by the President of the Senate), State Representative Ray Pilon (appointed by the Speaker of the House), and representatives of the following entities, as appointed by the Governor: a county commission that regulates investor-owned water/wastewater utilities; a governmental authority created under Chapter 163, F.S.; a water management district; a county health department; two Class A utilities; a Class B utility; a Class C utility; a utility owned or operated by a municipal or county government; customers of a Class A utility; customers of a Class B or C utility; the Florida Section of the American Water Works Association; and the Florida Rural Water Association.

⁷ Chapter 2012-187, Laws of Florida, Section 2.

⁸ *Id.*

⁹ See Sections II and III, *Report of the Study Committee on Investor-Owned Water and Wastewater Utility Systems*, February 15, 2013.

- Directing the Division of Bond Finance to review the allocation of private activity bonds (PABs) in Florida with respect to water and wastewater projects.
- Provide a sales tax exemption for sales or leases to an IOU owned or operated by a Florida corporation.
- Create an exemption from PSC regulation for persons who resell service to individually-metered end-users at a price that does not exceed actual purchase price of water plus actual costs of meter reading and billing not to exceed 9 percent.

Based on additional issues that it identified and considered, the Study Committee recommended legislative action to do the following:

- Authorize the PSC, during a rate case, to create individual utility reserve funds to be used for projects identified in an IOU's capital improvement plan, with disbursement subject to approval by the PSC, as a means of reducing borrowing costs and making funds more readily available.
- Identify specific types of expenses eligible for "pass-through" treatment in utility rates or authorize the PSC to adopt rules identifying such expenses, provided the expenses are beyond the utility's control, to help minimize the need for costly rate case proceedings.
- Reduce the impact of rate case expense on customer rates by prohibiting the recovery of rate case expense in certain circumstances.
- Provide a mechanism for the resolution of issues involving secondary water standards (e.g., odor, taste, corrosiveness, etc.) and wastewater operational requirements.

Drinking Water State Revolving Fund

Sections 403.8532 and 403.8533, F.S., establish the state revolving fund (SRF). The SRF, which is administered by the Department of Environmental Protection (DEP), provides low-interest loans to eligible entities for planning, designing, and constructing public water facilities. Eligible entities include, among others, investor-owned public water systems that are legally responsible for public water services and which serve no more than 1,500 connections.¹⁰ Projects eligible for SRF loans include new construction and improvements of public water systems, inclusive of storage, transmission, treatment, disinfection, and distribution facilities.¹¹ Loan funding is based on a priority system which takes into account public health considerations, compliance, and affordability.¹²

Based on data gathered from IOU's 2011 annual reports filed with the PSC, the Study Committee determined that all Class C water IOUs and almost all (28 out of 33) Class B water IOUs serve no more than 1,500 connections and are therefore eligible for the SRF program.¹³ The remaining PSC-regulated Class B and Class A water IOUs are, presumably, not eligible to use the SRF program.

¹⁰ Section 403.8532(3), F.S. An investor-owned public water system that serves more than 1,500 connections may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems.

¹¹ <http://www.dep.state.fl.us/water/wff/dwsrf/ellocgov.htm> (most recently accessed on March 27, 2014).

¹² Section 403.8532(9)(a), F.S.

¹³ *Study Committee Report*, pp. 36-37. The report notes that this data does not include water IOUs that are regulated by counties.

Private Activity Bonds

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

Private activity bonds are administered in Florida by the Division of Bond Finance of the State Board of Administration (the Division) under ss. 159.801-159.816, F.S. Each year, the Division determines the amount of private activity bonds permitted to be issued in Florida under the Code.¹⁵ This amount is allocated on January 1 of each year as follows:¹⁶

- An initial amount is allocated to manufacturing facility projects.
- 50 percent of the amount remaining after the initial allocation is allocated to individual counties and groups of counties¹⁷ on a per capita basis for any permitted purpose, which may include water and sewer projects.
- 25 percent of the amount remaining after the initial allocation is allocated to the Florida Housing Finance Corporation for use in connection with the issuance of housing bonds.
- 5 percent of the amount remaining after the initial allocation is allocated to the state allocation pool and applied to “priority projects,” which may include water and sewer projects.
- 20 percent of the amount remaining after the initial allocation is allocated to the Florida First Business allocation pool for projects certified by the Department of Economic Opportunity.

The Study Committee was unable to determine the amount of private activity bonds ultimately used for water and sewer projects in Florida.¹⁸

Resellers of Water Service

As noted above, the PSC currently has jurisdiction to regulate the rates and service of water and wastewater utilities in 37 of 67 counties in Florida. For purposes of the PSC’s jurisdiction, the term “utility” is defined as every person owning, operating, managing, or controlling a system, who is providing water or wastewater service to the public for compensation.¹⁹ However, certain entities that meet this definition are exempt from PSC regulation as utilities.²⁰ Included among these exemptions are persons who resell water or wastewater service at a rate or charge that does

¹⁴ *Tax-Exempt Private Activity Bonds, Compliance Guide*, Internal Revenue Service Publication 4078, Version 09-2005.

¹⁵ Section 159.804, F.S.

¹⁶ *Id.*

¹⁷ These individual counties and groups of counties are identified in s. 159.804(2)(b), F.S.

¹⁸ *Study Committee Report*, p. 43.

¹⁹ Section 367.021(12), F.S.

²⁰ *See* Section 367.022, F.S.

not exceed the actual purchase price of the water or wastewater.²¹ If the reseller includes any additional costs in the rate or charge to the retail customer, the reseller is considered a utility subject to PSC regulation.

Reseller utilities that are regulated by the PSC generally have significant investment in distribution and collection lines and other utility equipment. Examples include mobile home parks and subdivisions. In a rate proceeding, the PSC determines the utility's investment and expenses related to the facilities it owns and operates, then it sets rates accordingly. The cost of the water and wastewater service purchased from a wholesale provider, which is often a significant portion of the customers' bills, is allowed to be passed through to the customers pursuant to s. 367.081(4)(b), F.S. Resellers that choose not to pass along costs beyond their cost to purchase water or wastewater (and therefore remain exempt from PSC regulation) generally have very little investment in equipment or lines needed to provide the service. Examples include apartment complexes, condominium buildings, and small master-metered shopping centers.²²

In its report, the Study Committee noted that a metered charge for water sends an appropriate price signal to end users and is a means of discouraging indiscriminate use of this resource. However, if a reseller wishes to install sub-meters for its users and bill those users for their actual water use, it will be unable recover from its customers those metering and billing costs without becoming regulated and incurring the costs of regulation.²³

Reserve Funds for Water and Wastewater Utilities

As noted above, the Study Committee was required to consider, among other things, the availability of low interest loans to a small, privately-owned water or wastewater utility. In its report, the Study Committee noted the following:

Affordable, accessible financing is an ongoing issue for the water and wastewater industry and is a particularly acute need for smaller systems. Smaller utilities ... have difficulty securing low-cost, long-term financing because the characteristics and track record of the industry make smaller systems more risky in the view of lending institutions. Timing is also an issue, particularly when critical system failures occur and small utilities do not have the cash reserves to address such short-term needs. In addition, regulatory policy frequently does not provide sufficient cash flow to fully service the debt over the term of the loan. The establishment of individual utility reserve funding and/or establishment of a broader statewide reserve fund could reduce borrowing costs and make funding more readily available.²⁴

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

²¹ Section 367.022(8), F.S.

²² *Study Committee Report*, p. 61.

²³ *Id.*, pp. 61-62.

²⁴ *Id.*, p. 67.

Pass-through Costs

Outside of a rate case, PSC-regulated water and wastewater IOUs are entitled to “pass through” specific types of expenses without the requirement of a PSC hearing.²⁵ This mechanism provides quick rate relief to a utility when it experiences an increase in one of these types of costs and may help defer the need for a full rate case. Currently, the types of expenses eligible for pass-through treatment are limited by statute²⁶ to the following:

- Purchased water or wastewater service.
- Electric power.
- Ad valorem taxes.
- Regulatory Assessment Fees.
- DEP fees for the National Pollutant Discharge Elimination System Program.
- Water quality or wastewater quality testing required by DEP.

Prior to changing rates using this mechanism, the IOU must file, under oath, an affirmation as to the accuracy of the figures and calculations upon which the change in rates is based and a statement that the change will not cause the utility to exceed the rate of return on equity last approved by the PSC.²⁷

Public Service Commission Ratemaking and Water Quality

Pursuant to s. 367.081, F.S., the PSC is to establish rates which are just, reasonable, compensatory, and not unfairly discriminatory. In doing so, the commission must consider the value and quality of the service and the cost of providing the service, which includes, but is not limited to: debt interest; the requirements of the utility for working capital; maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service; and a fair return on the investment of the utility in property used and useful in the public service.

According to the PSC staff:

The FPSC establishes rates for investor-owned water and wastewater utilities on an individualized, prospective basis. In the rate-setting process, a utility submits investments it believes are appropriate for inclusion into its rate base, and expenses that it considers appropriate for recovery in rates. The role of the FPSC is to determine the extent to which such investments and expenses submitted are reasonable and prudent. Once the PSC determines which items are allowable for the purpose of recovery, rates are established that allow the utility an opportunity to earn a fair rate of return on its investment and to recover all prudently incurred expenses associated with the provision of utility service. The FPSC does not set rates for government-owned utilities.

The FPSC establishes rates for investor-owned water and wastewater utilities pursuant to Chapter 367, Florida Statutes, in those counties that have elected to place utilities under

²⁵ Section 367.081(4)(b), F.S.

²⁶ *Id.*

²⁷ Section 367.081(4)(c), F.S.

FPSC jurisdiction. The objective of regulation under the statute is to provide safe potable water and wastewater services at fair and reasonable rates. The FPSC sets rates through an evidentiary administrative proceeding, or through a process known as a Staff Assisted Rate Case (SARC). The Commission holds customer service hearings in the investor-owned utility's service area to accept customer testimony as part of the record of the proceeding. The FPSC reviews the utility's costs to determine if they are prudently incurred. The FPSC also reviews the utility's earnings to determine a fair rate of return on investment.

When setting rates, the FPSC takes into account customer concerns and issues with water and wastewater utilities, including the value and the quality of the service. The Commission has the flexibility to adjust rates based on the evidence on record in a rate case. Current law, however, does not give the FPSC specific authority to consider secondary drinking water standards or wastewater standards.²⁸

Quality of Service and Secondary Standards

DEP is the state agency with primary authority to implement and enforce federal and state drinking water and wastewater standards. The focus of DEP's permitting, monitoring, and enforcement of water and wastewater systems is to ensure compliance with primary drinking water standards and wastewater operational requirements to protect the health and safety of the public and the environment.²⁹

With respect to drinking water, DEP has also adopted secondary standards for contaminants related to color, corrosion, and odor.³⁰ Testing for these secondary standards is required on a regular basis, though DEP generally requires corrective action only if users (i.e., water customers) voice significant complaints or if a primary contaminant level has also been exceeded.

With respect to wastewater, DEP requires that new treatment plants and modifications to existing plants be designed and sited to minimize adverse effects on neighboring residential and commercial areas resulting from odors, noise, aerosol drift, and lighting.³¹ Permittees must give reasonable assurance that such effects will not be potentially harmful to human health or welfare or unreasonably interfere with the enjoyment of life or property.³² Likewise, if existing facilities fail to function as intended and create such adverse effects, the permittee must take corrective action, or DEP may require corrective action.³³ DEP generally requires corrective action only in response to significant complaints or if a primary contaminant level has also been exceeded.³⁴

²⁸ Agency Analysis by the Florida Public Service Commission (FPSC), Nov. 13, 2013.

²⁹ See Chapter 403, F.S., and Chapters 62-550, 555, 602, and 699, F.A.C., for drinking water regulations, and Chapters 62-600, 604, 610, 620, 621, and 640, F.A.C., for wastewater regulations

³⁰ Rule 62-550.320, F.A.C.

³¹ Rule 62-600.400(2)(a), F.A.C.

³² *Id.*

³³ Rule 62-600.410, F.A.C.

³⁴ *Study Committee Report*, p. 105

The quality of the water and compliance with secondary water quality standards are recurrent issues at both the PSC and the Legislature. As previously noted, the PSC considers an IOU's quality of service in rate cases. In doing so, the PSC evaluates the quality of the product, the operating condition of the IOU's plant and facilities, and the IOU's efforts to address customer satisfaction.³⁵ Sanitary surveys, outstanding citations, violations, and consent orders on file with DEP and county health departments are also considered. In addition, DEP and county health department officials' testimony and customer testimony concerning quality of service is considered.³⁶ In most cases, the emphasis of this evaluation is compliance with standards related to health and safety of the public and the environment.³⁷ However, the focus has been on the quality of the service provided; that is, primarily how well the utility provides water service, not necessarily the quality of the water itself, particularly when DEP standards are met. If the PSC finds that an IOU has failed to provide its customers with water or wastewater service that meets the standards set by DEP or the water management districts, the PSC may reduce the IOU's return on equity until the standards are met.³⁸

III. Effect of Proposed Changes:

Private Activity Bonds

Section 1 amends s. 159.810, F.S., by requiring the Division of Bond Finance of the State Board of Administration to review the allocation of PBAs to determine the availability of additional allocation or reallocation of PABs for water and wastewater infrastructure projects.

Resellers of Water Service

Section 2 amends s. 367.022, F.S., to create an exemption from PSC regulation for a person who resells water service to his or her tenants or to individually metered residents for a fee that does not exceed the reseller's actual purchase price of the water plus: (1) up to 9 percent of the actual purchase price; or (2) the actual cost of meter reading and billing.

Absent this exemption, a water reseller who charges more than the actual purchase price of the water would be subject to PSC regulation and would incur the costs and obligations of such regulation. While the costs would be recoverable from the reseller's customers through PSC-approved rates, a reseller may not wish to incur the additional regulatory obligations.

This provision may encourage resellers to use individual metering more often for their tenants. Through individual metering, water users can be charged more accurately for the water they consume. Thus, customers of resellers who use individual metering may be more likely to use water more efficiently.

³⁵ Rule 25-30.433(1), F.A.C.

³⁶ *Id.*

³⁷ *Study Committee Report*, p. 106

³⁸ Section 367.111(2), F.S.

Reserve Funds for Water and Wastewater IOUs

Section 3 amends s. 367.081, F.S. relating to procedures for fixing and changing rates.

Paragraph 367.081(3)(c), F.S. is added to authorize the PSC, in a rate case proceeding, to create a reserve fund for a water or wastewater IOU. The PSC is directed to adopt rules to govern such a fund. These rules must include, but are not limited to:

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

The establishment of individual reserve funds may reduce borrowing costs and make funding more readily available for PSC-regulated water and wastewater IOUs. IOUs may be able to avoid the need to access capital markets to finance certain projects and repairs or to request a rate increase to cover the costs of the projects and repairs.

Pass-Through Costs

New paragraph 367.081(4)(b)³⁹, F.S., expands the types of expenses eligible for pass-through treatment in IOU rates by adding the following expense items:

- Rates charged by a governmental authority or other regulated water or wastewater utility which provides utility service to the utility.
- Rates or fees that the utility is charged for electric power.
- Certain ad valorem taxes.
- DEP fees charged in connection with the National Pollutant Discharge Elimination System permit program.
- Regulatory assessment fees imposed by the PSC.
- Costs for water quality or wastewater quality testing required by DEP.
- Fees charged for wastewater sludge removal.
- A loan service fee or loan origination fee associated with a loan related to an eligible project, as specified by PSC rule, provided that the project is associated with new infrastructure or improvements to existing infrastructure needed to achieve or maintain compliance with primary or secondary drinking water standards or wastewater treatment standards that relate to:
 - The provision of water or wastewater service for existing customers;
 - The remediation or prevention of a violation of primary or secondary health standards;
 - The replacement or upgrade of aging water or wastewater infrastructure if needed to achieve or maintain compliance with primary or secondary regulations; or
 - Projects consistent with the most recent long-range plan of the IOU on file with PSC, except for projects primarily intended to serve future growth.
- Costs incurred for a tank inspection required by DEP or a local government authority.
- Operator and distribution license fees required by DEP or a local government authority.
- Water or wastewater operating permit fees charged by DEP or a local government authority.
- Consumptive or water use permit fees charged by a water management district.

³⁹ Section 3 of the bill.

The bill continues the current requirement that an IOU wishing to change its rates to reflect a change in any of these costs must provide verified notice to the PSC 45 days before implementing a change in its rates. The bill provides that the new rates must reflect, on an amortized or annual basis, as appropriate, the cost or amount of change in the cost of the specified expense item. Further, the bill provides that the new rates may not reflect the costs of any specific expense item already included in the IOU's rates. The bill also continues the current prohibition on use of the pass-through mechanism for increases or decreases in a specific expense item that occurred more than 12 months before the IOU's filing.

The bill authorizes the PSC, by rule, to establish additional specific expense items eligible for pass-through treatment. To be eligible for such treatment, an additional expense item must be imposed by a local, state, or federal law, rule, order, or notice and must be outside the control of the utility. If the PSC uses this authority, it must review its rule at least once every 5 years to determine if each specific expense item should remain eligible for pass-through treatment or if any additional expense items should become eligible.

Section 367.081(7), F.S.⁴⁰, is added to allow a water utility to file tariffs establishing a surcharge, or other method for the automatic adjustment of its rates, which provides for recovery of the prudently incurred fixed costs consisting of depreciation and pretax returns of certain system improvement projects, as approved by the PSC, which are completed and placed in service between base rate proceedings. The projects must be for the purpose of achieving compliance with secondary drinking water quality standards regarding taste, odor, color, or corrosiveness. The PSC must proscribe procedures the utility must follow in establishing a sliding scale or other automatic adjustment method.

Rate Case Expense

Section 367.081(2)(a)6,⁴¹ F.S., is added to allow a utility to recover its prudently incurred costs and expenses to resolve deficiencies found by the PSC or DEP with respect to secondary drinking water standards or certain wastewater service issues. The costs are recoverable through a separate proceeding initiated by petition of the utility. The utility must describe in its petition the activities and costs projected or incurred to resolve the deficiencies found by the commission or the department. The costs may be a result of action agreed upon by the utility and the commission or the department or as a consequence of a consent order.

Quality of Service / Secondary Standards

Section 367.081(2), F.S.,⁴² creates a mechanism, within the context of a rate case, for the identification and potential resolution of issues involving secondary drinking water standards (e.g., standards related to odor, taste, and corrosiveness) and wastewater operational requirements related to odor, noise, aerosol drift, and lighting.

The PSC, in determining the value and quality of water service provided by an IOU, is required to consider the extent to which the IOU meets secondary drinking water standards established by DEP and the local government. In making this determination, the PSC must consider: testimony

⁴⁰ Section 3 of the bill.

⁴¹ *Id.*

⁴² *Id.*

and evidence provided by customers and the utility; relevant complaints filed during the previous 5 years with the PSC, DEP, county health departments, or the local government; results of past tests required by DEP or county health departments to measure compliance with secondary standards; and results of other tests that the PSC deems necessary.

The PSC, in determining the value and quality of wastewater service provided by an IOU, is also required to consider the extent to which the IOU provides service in a manner that does not cause odor, noise, aerosol drift, or lighting that adversely affects customers. In making this determination, the PSC must consider: testimony and evidence provided by customers and the utility; and relevant complaints filed during the previous 5 years with the PSC, DEP, county health departments, or the local government.

If, as a result of these analyses, the PSC determines that the IOU's water service does not meet secondary drinking water standards or that the IOU's wastewater service adversely affects customers due to odor, noise, aerosol drift, or lighting, the IOU must take the following steps:

- Provide estimates of the costs and benefits of various solutions to the problems;
- Meet with its customers to discuss the costs and benefits of the various solutions; and
- Report the conclusions of these customer meetings to the PSC.

The PSC is required to adopt rules necessary to assess and enforce the IOU's compliance with these provisions. These rules must prescribe penalties, including fines and reduction of return on equity of up to 100 basis points, if an IOU "fails to adequately address or offer solutions to the water or wastewater problems."⁴³

The bill does not explicitly require that the IOU take any action, such as repairs or improvements, to remedy the problem. Thus, the circumstances in which an IOU could be penalized for failure to "adequately address" a particular problem are unclear. Further, given the somewhat subjective nature of some of these issues (e.g., what is an acceptable odor, taste, or noise level) and the possibility for localized problems on an IOU's system, there may not be consensus among all customers as to whether a problem has been adequately addressed.

Staff Assisted Rate Cases

Section 4 amends s. 367.0814, F.S., to make conforming changes to cross references.

Drinking Water State Revolving Fund

Section 5 amends s. 403.8532, F.S., to remove the current size restrictions on water IOUs eligible to utilize the Drinking Water State Revolving Fund (SRF). Water IOUs of any size will be eligible to seek low-interest loans through the SRF for planning, designing, and constructing public water facilities, including storage, transmission, treatment, disinfection, and distribution facilities.

Section 6 provides an effective date of July 1, 2014.

⁴³ Section 367.081(2)(a)5., F.S.

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

The bill does not appear to affect county or municipal government.

B. Public Records/Open Meetings Issues:

The bill does not appear to have public record or open meetings issues.

C. Trust Funds Restrictions:

The bill does not appear to restrict trust funds.

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

None.

B. Private Sector Impact:**Drinking Water State Revolving Fund**

The expanded availability of low-interest financing through the State Revolving Fund to additional water IOUs may encourage more of these utilities to make investments in water infrastructure in the state at a lower cost to ratepayers than would otherwise result from such expenditures.

Private Activity Bonds

To the extent that additional private activity bonds are made available for eligible projects, more water and wastewater IOUs may be encouraged to make investments in water and wastewater infrastructure in the state at a lower cost to ratepayers than would otherwise result from such expenditures.

Resellers of Water Service

The creation of a regulatory exemption for water resellers who add no more than the costs of meter reading and billing or, alternatively, up to a 9 percent charge to their purchase price for water, will remove the costs and obligations of regulation for these resellers and may encourage them to invest in individual metering apparatus.

Reserve Funds for Water and Wastewater IOUs

The establishment of individual reserve funds may reduce borrowing costs and make funding more readily available for PSC-regulated water and wastewater IOUs to make needed improvements and repairs. In some instances, the availability of these reserve

funds may allow IOUs to avoid or defer the need for a rate case, the expense of which ultimately would be borne by ratepayers.

Pass-Through Costs

The expanded availability of “pass-through” treatment for new expense items may, in some instances, allow IOUs to avoid or defer the need for a rate case, the expense of which ultimately would be borne by ratepayers.

Quality of Service / Secondary Standards

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

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides a list of specified expense items eligible for pass-through treatment in IOU rates but indicates that the list is not exclusive. Thus, the bill appears ambiguous as to what types of other expense items might also be eligible for pass-through treatment. Further, the direction in s. 367.081(7), F.S., that “the commission shall prescribe the specific procedures to be followed in establishing the sliding scale or other automatic adjustment method” is unclear.

With respect to the mechanism established to identify and address issues involving secondary drinking water standards and wastewater operational requirements, the bill does not require that the IOU make repairs or improvements to resolve an identified issue but requires the PSC to establish, by rule, penalties for an IOU’s failure to “adequately address” the problem. Thus, it is unclear what is required of a utility to “adequately address” a problem.

Also, with respect to secondary water standards, the provisions of this bill conflict with those of SB 272, which has passed all committees of reference.

VIII. Statutes Affected:

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

This bill creates section 159.8105 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 April 1, 2014:

CS/SB 1050:

- Removes a proposed sales tax exemption.
- Allows utilities to recover costs incurred to resolve deficiencies found by the PSC or DEP with respect to secondary drinking water standards or certain wastewater service issues.
- Authorizes water utilities to establish a surcharge to recover fixed costs of system improvements intended to maintain or achieve compliance with secondary drinking water standards.
- Removes proposed limits on rate case expense recovery.

- B. **Amendments:**

None.



714954

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

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



714954

11 for water facilities and sewage facilities.

12 Section 2. Present subsections (9) through (12) of section
13 367.022, Florida Statutes, are renumbered as subsections (10)
14 through (13), respectively, and a new subsection (9) is added to
15 that section, to read:

16 367.022 Exemptions.—The following are not subject to
17 regulation by the commission as a utility nor are they subject
18 to the provisions of this chapter, except as expressly provided:

19 (9) A person who resells water service to his or her
20 tenants or to individually metered residents for a fee that does
21 not exceed the actual purchase price plus:

22 (a) Up to 9 percent of the actual purchase price; or

23 (b) The actual cost of meter reading and billing.

24 Section 3. Present subsections (7) and (8) of section
25 367.081, Florida Statutes, are renumbered as subsections (8) and
26 (9), respectively, subsections (2) and (4) and present
27 subsection (7) of that section are amended, and a new subsection
28 (7) is added to that section, to read:

29 367.081 Rates; procedure for fixing and changing.—

30 (2) (a) ~~1.~~ The commission shall, ~~either~~ upon request or upon
31 its own motion, fix rates that ~~which~~ are just, reasonable,
32 compensatory, and not unfairly discriminatory.

33 1. In each ~~every~~ such proceeding, the commission shall
34 consider the value and quality of the service and the cost of
35 providing the service, which must ~~shall~~ include, but need not be
36 limited to, debt interest; the requirements of the utility for
37 working capital; maintenance, depreciation, tax, and operating
38 expenses incurred in the operation of all property used and
39 useful in the public service; and a fair return on the



714954

40 investment of the utility in property used and useful in the
41 public service. However, the commission shall not allow the
42 inclusion of contributions-in-aid-of-construction in the rate
43 base of a any utility during a rate proceeding ~~or, nor shall the~~
44 ~~commission~~ impute prospective future contributions-in-aid-of-
45 construction against the utility's investment in property used
46 and useful in the public service. ~~and~~ Accumulated depreciation
47 on such contributions-in-aid-of-construction shall not be used
48 to reduce the rate base, and ~~nor shall~~ depreciation on such
49 contributed assets shall not be considered a cost of providing
50 utility service.

51 2. For purposes of such proceedings, the commission shall
52 consider utility property, including land acquired or facilities
53 constructed or to be constructed within a reasonable time in the
54 future, up to ~~not to exceed~~ 24 months after the end of the
55 historic base year used to set final rates unless a longer
56 period is approved by the commission, to be used and useful in
57 the public service, if:

58 a. Such property is needed to serve current customers;

59 b. Such property is needed to serve customers 5 years after
60 the end of the test year used in the commission's final order on
61 a rate request as provided in subsection (6) at a growth rate
62 for equivalent residential connections up to ~~not to exceed~~ 5
63 percent per year; or

64 c. Such property is needed to serve customers more than 5
65 full years after the end of the test year used in the
66 commission's final order on a rate request as provided in
67 subsection (6) only to the extent that the utility presents
68 clear and convincing evidence to justify such consideration.



714954

69 3. In determining the value and quality of water service
70 provided by a utility and whether such utility has satisfied its
71 obligation to provide water service to its customers, the
72 commission shall consider the extent to which the utility meets
73 secondary drinking water standards regarding taste, odor, color,
74 or corrosiveness adopted by the Department of Environmental
75 Protection and the local government. In making its
76 determination, the commission shall consider:

77 a. Testimony and evidence provided by customers and the
78 utility.

79 b. Complaints that relate to the secondary drinking water
80 standards which customers have filed during the past 5 years
81 with the commission, the Department of Environmental Protection,
82 the county health departments, or the applicable local
83 government.

84 c. The results of past tests required by the Department of
85 Environmental Protection or county health departments which
86 measure the utility's compliance with the applicable secondary
87 drinking water standards.

88 d. The results of other tests, if deemed necessary by the
89 commission.

90 4. In determining the value and quality of wastewater
91 service provided by a utility, the commission shall consider the
92 extent to which the utility provides wastewater service to its
93 customers which does not cause odor, noise, aerosol drift, or
94 lighting that adversely affects customers. In making its
95 determination, the commission shall consider:

96 a. Testimony and evidence provided by customers and the
97 utility.



714954

98 b. Complaints that relate to the alleged odor, noise,
99 aerosol drift, or lighting problem which customers have filed
100 during the past 5 years with any of the following:

101 (I) The commission;

102 (II) The Department of Environmental Protection;

103 (III) The county health departments; or

104 (IV) The local government.

105 5. If the commission determines that a utility provides
106 water service that does not meet the secondary water quality
107 standards of the Department of Environmental Protection and the
108 local government regarding taste, odor, color, or corrosiveness,
109 or that a utility provides wastewater service that adversely
110 affects customers due to odor, noise, aerosol drift, or
111 lighting, the utility shall provide the commission with
112 estimates of the costs and benefits of various solutions to the
113 problems. The utility shall meet with its customers to discuss
114 the costs and benefits of the various solutions and report to
115 the commission the conclusions of the meetings. The commission
116 shall adopt rules necessary to assess and enforce the utility's
117 compliance with this subparagraph. The rules shall prescribe
118 penalties, including fines and reduction of return on equity of
119 up to 100 basis points, if a utility fails to adequately address
120 or offer solutions to the water or wastewater problems.

121 6. A utility may recover its prudently incurred costs and
122 expenses to resolve deficiencies found by the commission
123 pursuant to this subsection or found by the Department of
124 Environmental Protection in a proceeding under chapter 403,
125 related to noncompliance with secondary drinking water standards
126 regarding taste, odor, color, or corrosiveness, or concerning



714954

127 wastewater service issues related to odor, noise, aerosol drift,
128 or lighting. Such costs shall be recoverable through a rate case
129 filed pursuant to this section or through a separate proceeding
130 initiated by petition of the utility. In its filing, the utility
131 shall describe the activities and costs projected or incurred to
132 resolve the deficiencies found by the commission or the
133 department. Such costs may be a result of action agreed upon by
134 the utility and the commission or the department or as a
135 consequence of a consent order.

136
137 Notwithstanding ~~the provisions of~~ this paragraph, the commission
138 shall approve rates for service which allow a utility to recover
139 from customers the full amount of environmental compliance
140 costs. Such rates may not include charges for allowances for
141 funds prudently invested or similar charges. For purposes of
142 this requirement, the term "environmental compliance costs"
143 includes all reasonable expenses and fair return on any prudent
144 investment incurred by a utility in complying with the
145 requirements or conditions contained in any permitting,
146 enforcement, or similar decisions of the United States
147 Environmental Protection Agency, the Department of Environmental
148 Protection, a water management district, or any other
149 governmental entity with similar regulatory jurisdiction.

150 (b) In establishing initial rates for a utility, the
151 commission may project the financial and operational data as set
152 out in paragraph (a) to a point in time when the utility is
153 expected to be operating at a reasonable level of capacity.

154 (c) In establishing rates for a utility, the commission may
155 authorize the creation of a utility reserve fund. The commission



714954

156 shall adopt rules to govern the fund, including, but not limited
157 to, rules relating to expenses for which the fund may be used,
158 segregation of reserve account funds, requirements for a capital
159 improvement plan, and requirements for commission authorization
160 before disbursements are made from the reserve fund.

161 (4) (a) On or before March 31 of each year, the commission
162 by order shall establish a price increase or decrease index for
163 major categories of operating costs incurred by utilities
164 subject to its jurisdiction reflecting the percentage of
165 increase or decrease in such costs from the most recent 12-month
166 historical data available. The commission by rule shall
167 establish the procedure to be used in determining such indices
168 and a procedure by which a utility, without further action by
169 the commission, or the commission on its own motion, may
170 implement an increase or decrease in its rates based upon the
171 application of the indices to the amount of the major categories
172 of operating costs incurred by the utility during the
173 immediately preceding calendar year, except to the extent of any
174 disallowances or adjustments for those expenses of that utility
175 in its most recent rate proceeding before the commission. The
176 rules shall provide that, upon a finding of good cause,
177 including inadequate service, the commission may order a utility
178 to refrain from implementing a rate increase hereunder unless
179 implemented under a bond or corporate undertaking in the same
180 manner as interim rates may be implemented under s. 367.082. A
181 utility may not use this procedure between the official filing
182 date of the rate proceeding and 1 year thereafter, unless the
183 case is completed or terminated at an earlier date. A utility
184 may not use this procedure to increase any operating cost for



714954

185 which an adjustment has been or could be made under paragraph
186 (b), or to increase its rates by application of a price index
187 other than the most recent price index authorized by the
188 commission at the time of filing.

189 (b) Upon verified notice to the commission 45 days before
190 implementation of the increase or decrease, and without a
191 hearing, the approved rates of a utility shall automatically
192 increase or decrease. Such notice shall inform the commission
193 that the utility's costs for a specified expense item have
194 changed.

195 1. The new rates shall reflect, on an amortized or annual
196 basis, as appropriate, the cost or amount of change in the cost
197 of the specified expense item. The new rates may not reflect the
198 costs of a specified expense item already included in the rates
199 of a utility. Specified expense items eligible for automatic
200 increase or decrease of a utility's rates include, but are not
201 limited to:

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

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

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

209 d. The fees charged by the Department of Environmental
210 Protection in connection with the National Pollutant Discharge
211 Elimination System permit program.

212 e. The regulatory assessment fees imposed upon the utility
213 by the commission.



714954

214 f. Costs incurred for water quality or wastewater quality
215 testing required by the Department of Environmental Protection.
216 g. The fees charged for wastewater sludge disposal.
217 h. A loan service fee or loan origination fee associated
218 with a loan related to an eligible project. The commission shall
219 adopt rules governing the determination of eligible projects,
220 which shall be limited to those projects associated with new
221 infrastructure or improvements to existing infrastructure needed
222 to achieve or maintain compliance with federal, state, and local
223 governmental primary or secondary drinking water standards or
224 wastewater treatment standards that relate to:
225 (I) The provision of water or wastewater service for
226 existing customers;
227 (II) The remediation or prevention of a violation of
228 federal, state, and local governmental primary or secondary
229 health standards;
230 (III) The replacement or upgrade of aging water or
231 wastewater infrastructure if needed to achieve or maintain
232 compliance with federal, state, and local governmental primary
233 or secondary drinking water regulations; or
234 (IV) Projects consistent with the most recent long-range
235 plan of the utility on file with the commission. Eligible
236 projects do not include projects primarily intended to serve
237 future growth.
238 i. Costs incurred for a tank inspection required by the
239 Department of Environmental Protection or a local governmental
240 authority.
241 j. Operator and distribution license fees required by the
242 Department of Environmental Protection or a local governmental



714954

243 authority.

244 k. Water or wastewater operating permit fees charged by the
245 Department of Environmental Protection or a local governmental
246 authority.

247 1. Consumptive or water use permit fees charged by a water
248 management district.

249 2. A utility may not use the procedure under this paragraph
250 to increase or decrease its rates as a result of an increase or
251 decrease in a specific expense item which occurred more than 12
252 months before the filing by the utility.

253 3. The commission may establish by rule additional specific
254 expense items that cause an automatic increase or decrease in a
255 utility's rates as provided in this paragraph. To be eligible
256 for such treatment, an additional expense item shall be imposed
257 upon the utility by a federal, state, or local law, rule, order,
258 or notice and shall be outside the control of the utility. If
259 the commission exercises its authority to establish such rule,
260 the commission shall, at least once every 5 years, review the
261 rule and determine if each expense item should continue to be
262 cause for the automatic increase or decrease of a utility's
263 rates, or if any additional items should become cause for the
264 automatic increase or decrease of a utility's rates as provided
265 in this paragraph ~~The approved rates of any utility which~~
266 ~~receives all or any portion of its utility service from a~~
267 ~~governmental authority or from a water or wastewater utility~~
268 ~~regulated by the commission and which redistributes that service~~
269 ~~to its utility customers shall be automatically increased or~~
270 ~~decreased without hearing, upon verified notice to the~~
271 ~~commission 45 days prior to its implementation of the increase~~



714954

272 ~~or decrease that the rates charged by the governmental authority~~
273 ~~or other utility have changed. The approved rates of any utility~~
274 ~~which is subject to an increase or decrease in the rates or fees~~
275 ~~that it is charged for electric power, the amount of ad valorem~~
276 ~~taxes assessed against its used and useful property, the fees~~
277 ~~charged by the Department of Environmental Protection in~~
278 ~~connection with the National Pollutant Discharge Elimination~~
279 ~~System Program, or the regulatory assessment fees imposed upon~~
280 ~~it by the commission shall be increased or decreased by the~~
281 ~~utility, without action by the commission, upon verified notice~~
282 ~~to the commission 45 days prior to its implementation of the~~
283 ~~increase or decrease that the rates charged by the supplier of~~
284 ~~the electric power or the taxes imposed by the governmental~~
285 ~~authority, or the regulatory assessment fees imposed upon it by~~
286 ~~the commission have changed. The new rates authorized shall~~
287 ~~reflect the amount of the change of the ad valorem taxes or~~
288 ~~rates imposed upon the utility by the governmental authority,~~
289 ~~other utility, or supplier of electric power, or the regulatory~~
290 ~~assessment fees imposed upon it by the commission. The approved~~
291 ~~rates of any utility shall be automatically increased, without~~
292 ~~hearing, upon verified notice to the commission 45 days prior to~~
293 ~~implementation of the increase that costs have been incurred for~~
294 ~~water quality or wastewater quality testing required by the~~
295 ~~Department of Environmental Protection. The new rates authorized~~
296 ~~shall reflect, on an amortized basis, the cost of, or the amount~~
297 ~~of change in the cost of, required water quality or wastewater~~
298 ~~quality testing performed by laboratories approved by the~~
299 ~~Department of Environmental Protection for that purpose. The new~~
300 ~~rates, however, shall not reflect the costs of any required~~



714954

301 ~~water quality or wastewater quality testing already included in~~
302 ~~a utility's rates. A utility may not use this procedure to~~
303 ~~increase its rates as a result of water quality or wastewater~~
304 ~~quality testing or an increase in the cost of purchased water~~
305 ~~services, sewer services, or electric power or in assessed ad~~
306 ~~valorem taxes, which increase was initiated more than 12 months~~
307 ~~before the filing by the utility.~~

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

311 (c) Before implementing a change in rates under this
312 subsection, the utility must ~~shall~~ file an affirmation under
313 oath as to the accuracy of the figures and calculations upon
314 which the change in rates is based, stating that the change will
315 not cause the utility to exceed the range of its last authorized
316 rate of return on equity. A person who ~~Whoever~~ makes a false
317 statement in the affirmation required under this subsection
318 ~~hereunder~~, which statement he or she does not believe to be true
319 in regard to any material matter, commits ~~is guilty of~~ a felony
320 of the third degree, punishable as provided in s. 775.082, s.
321 775.083, or s. 775.084.

322 (d) If, within 15 months after the filing of a utility's
323 annual report required by s. 367.121, the commission finds that
324 the utility exceeded the range of its last authorized rate of
325 return on equity after an adjustment in rates as authorized by
326 this subsection was implemented within the year for which the
327 report was filed or was implemented in the preceding year, the
328 commission may order the utility to refund, with interest, the
329 difference to the ratepayers and adjust rates accordingly. This



714954

330 provision does ~~shall not be construed to~~ require a bond or
331 corporate undertaking not otherwise required.

332 (e) Notwithstanding anything in this section ~~herein~~ to the
333 contrary, a utility may not adjust its rates under this
334 subsection more than two times in any 12-month period. For the
335 purpose of this paragraph, a combined application or
336 simultaneously filed applications that were filed under the
337 provisions of paragraphs (a) and (b) are ~~shall be~~ considered one
338 rate adjustment.

339 (f) At least annually, the commission shall ~~may regularly,~~
340 ~~not less often than once each year,~~ establish by order a
341 leverage formula or formulae that reasonably reflect the range
342 of returns on common equity for an average water or wastewater
343 utility and that ~~which,~~ for purposes of this section, are ~~shall~~
344 ~~be~~ used to calculate the last authorized rate of return on
345 equity for a ~~any~~ utility which otherwise would not have an ~~no~~
346 established rate of return on equity. In any other proceeding in
347 which an authorized rate of return on equity is to be
348 established, a utility, in lieu of presenting evidence on its
349 rate of return on common equity, may move the commission to
350 adopt the range of rates of return on common equity which is
351 ~~that has been~~ established under this paragraph.

352 (7) A water utility may file tariffs establishing a
353 surcharge, or other method for the automatic adjustment of its
354 rates, which shall provide for recovery of the prudently
355 incurred fixed costs consisting of depreciation and pretax
356 returns of certain system improvement projects, as approved by
357 the commission, which are completed and placed in service
358 between base rate proceedings. Such projects shall be for the



714954

359 specific purpose of achieving compliance with secondary drinking
360 water quality standards regarding taste, odor, color, or
361 corrosiveness. With respect to each tariff filed, the commission
362 shall prescribe the specific procedures to be followed in
363 establishing the sliding scale or other automatic adjustment
364 method.

365 (8)-(7) The commission shall determine the reasonableness of
366 rate case expenses and shall disallow all rate case expenses
367 determined to be unreasonable. A ~~No~~ rate case expense determined
368 to be unreasonable may not shall be paid by a consumer. In
369 determining the reasonable level of rate case expense, the
370 commission shall consider the extent to which a utility has used
371 ~~utilized~~ or failed to use ~~utilize~~ the provisions of paragraph
372 (4) (a) or paragraph (4) (b) and such other criteria as it may
373 establish by rule.

374 Section 4. Subsection (3) of section 367.0814, Florida
375 Statutes, is amended to read:

376 367.0814 Staff assistance in changing rates and charges;
377 interim rates.—

378 (3) The provisions of s. 367.081(1), (2) (a), (2) (c), and
379 (3), and (7) ~~shall~~ apply in determining the utility's rates and
380 charges.

381 Section 5. Subsection (3) of section 403.8532, Florida
382 Statutes, is amended to read:

383 403.8532 Drinking water state revolving loan fund; use;
384 rules.—

385 (3) The department may make, or request that the
386 corporation make, loans, grants, and deposits to community water
387 systems, for-profit privately owned or investor-owned water



714954

388 systems, nonprofit transient noncommunity water systems, and
389 nonprofit nontransient noncommunity water systems to assist them
390 in planning, designing, and constructing public water systems,
391 ~~unless such public water systems are for profit privately owned~~
392 ~~or investor-owned systems that regularly serve 1,500 service~~
393 ~~connections or more within a single certified or franchised~~
394 ~~area. However, a for profit privately owned or investor-owned~~
395 ~~public water system that regularly serves 1,500 service~~
396 ~~connections or more within a single certified or franchised area~~
397 ~~may qualify for a loan only if the proposed project will result~~
398 ~~in the consolidation of two or more public water systems.~~ The
399 department may provide loan guarantees, purchase loan insurance,
400 and refinance local debt through the issue of new loans for
401 projects approved by the department. Public water systems may
402 borrow funds made available pursuant to this section and may
403 pledge any revenues or other adequate security available to them
404 to repay any funds borrowed.

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

408 1. At least 15 percent for qualifying small public water
409 systems.

410 2. Up to 15 percent for qualifying financially
411 disadvantaged communities.

412 (b) If an insufficient number of the projects for which
413 funds are reserved under this subsection have been submitted to
414 the department at the time the funding priority list authorized
415 under this section is adopted, the reservation of these funds no
416 longer applies. The department may award the unreserved funds as



714954

417 otherwise provided in this section.

418 Section 6. This act shall take effect July 1, 2014.

419

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

421 And the title is amended as follows:

422 Delete everything before the enacting clause

423 and insert:

424 A bill to be entitled

425 An act relating to water and wastewater utility
426 systems; creating s. 159.8105, F.S.; requiring the
427 Division of Bond Finance of the State Board of
428 Administration to review the allocation of private
429 activity bonds to determine the availability of
430 additional allocation or reallocation of bonds for
431 water facilities or sewage facilities; amending s.
432 367.022, F.S.; exempting from regulation by the
433 Florida Public Service Commission a person who resells
434 water service to certain tenants or residents up to a
435 specified cost; amending s. 367.081, F.S.;
436 establishing criteria for determining the quality of
437 water and wastewater services provided by a utility;
438 establishing a procedure to follow if the commission
439 determines that a utility has failed to provide water
440 and wastewater services that meet certain standards;
441 requiring the commission to adopt rules that include
442 fines; providing for recovery of costs prudently
443 incurred by a utility to address certain findings of
444 the commission or the Department of Environmental
445 Protection; authorizing the creation of a utility



714954

446 reserve fund to establish rates for a utility;
447 requiring the commission to adopt rules to govern such
448 fund; providing for the automatic increase or decrease
449 of approved rates under certain circumstances;
450 establishing criteria for adjusted rates; specifying
451 expense items that permit an automatic increase or
452 decrease in utility rates; providing standards to
453 allow the commission to establish, by rule, additional
454 specified expense items that cause an automatic
455 increase or decrease of utility rates; deleting
456 certain requirements for approved utility rates that
457 are automatically increased or decreased, upon notice
458 to the commission; deleting a prohibition to conform
459 to changes made by the act; authorizing a water
460 utility to establish a surcharge or other mechanism to
461 recover the prudently incurred fixed costs of certain
462 system improvement projects approved by the
463 commission; amending s. 367.0814, F.S.; conforming
464 cross-references to changes made by the act; amending
465 s. 403.8532, F.S.; authorizing the Department of
466 Environmental Protection to make, or to request that
467 the Florida Water Pollution Control Financing
468 Corporation make, loans, grants, and deposits to for-
469 profit privately owned or investor-owned water
470 systems, and deleting current restrictions on such
471 activities; providing an effective date.

By Senator Hays

11-00226B-14

20141050__

1 A bill to be entitled
2 An act relating to water and wastewater utility
3 systems; creating s. 159.810, F.S.; requiring the
4 Division of Bond Finance of the State Board of
5 Administration to review the allocation of private
6 activity bonds to determine the availability of
7 additional allocation or reallocation of bonds for
8 water and wastewater infrastructure projects; amending
9 s. 212.08, F.S.; extending specified tax exemptions to
10 certain investor-owned water and wastewater utilities;
11 amending s. 367.022, F.S.; exempting from regulation
12 by the Florida Public Service Commission a person who
13 resells water service to certain tenants or residents
14 up to a specified cost; amending s. 367.081, F.S.;
15 establishing criteria for determining the quality of
16 water and wastewater services provided by a utility;
17 establishing a procedure for the commission to follow
18 if it determines that a utility has failed to provide
19 water and wastewater services that meet certain
20 standards; authorizing the commission to adopt rules
21 that include fines; authorizing the commission to
22 create a utility reserve fund to establish rates for a
23 utility; providing for the automatic increase or
24 decrease of approved rates under certain
25 circumstances; establishing criteria for adjusted
26 rates; specifying expense items that cause an
27 automatic increase or decrease in utility rates;
28 providing standards to allow the commission to
29 establish, by rule, additional specified expense items

11-00226B-14

20141050__

30 that cause an automatic increase or decrease of
31 utility rates; deleting certain requirements for
32 approved utility rates that are automatically
33 increased or decreased, upon notice to the commission;
34 deleting a prohibition to conform to changes made by
35 the act; prohibiting the commission from awarding rate
36 case expense under certain circumstances; amending s.
37 367.0814, F.S.; describing the circumstances under
38 which the commission may award rate case expense to
39 cover attorney fees or fees for other outside
40 consultants; requiring the commission to adopt related
41 rules; amending s. 367.0816, F.S.; requiring the
42 commission to determine that the amount of rate case
43 expense is reasonable before the expense can be
44 apportioned for a certain period; providing
45 limitations on and rules for the amortized rate case
46 expense recovery; amending s. 403.8532, F.S.; allowing
47 the Department of Environmental Protection to make, or
48 to request that the Florida Water Pollution Control
49 Financing Corporation make, loans, grants, and
50 deposits to for-profit privately owned or investor-
51 owned systems, and deleting current restrictions on
52 such activity; providing an effective date.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. Section 159.810, Florida Statutes, is created to
57 read:

58 159.810 Allocation of bonds for water and wastewater

11-00226B-14

20141050__

59 infrastructure projects.—The division shall review the
60 allocation of private activity bonds to determine the
61 availability of additional allocation or reallocation of bonds
62 for water and wastewater infrastructure projects.

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

65 212.08 Sales, rental, use, consumption, distribution, and
66 storage tax; specified exemptions.—The sale at retail, the
67 rental, the use, the consumption, the distribution, and the
68 storage to be used or consumed in this state of the following
69 are hereby specifically exempt from the tax imposed by this
70 chapter.

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

11-00226B-14

20141050__

88 this subsection.

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

96 Section 3. Present subsections (9) through (12) of section
97 367.022, Florida Statutes, are redesignated as subsections (10)
98 through (13), respectively, and a new subsection (9) is added to
99 that section, to read:

100 367.022 Exemptions.—The following are not subject to
101 regulation by the commission as a utility nor are they subject
102 to the provisions of this chapter, except as expressly provided:

103 (9) Any person who resells water service to his or her
104 tenants or to individually metered residents for a fee that does
105 not exceed the actual purchase price plus:

- 106 (a) Up to 9 percent of the actual purchase price; or
107 (b) The actual cost of meter reading and billing.

108 Section 4. Subsections (2), (4), and (7) of section
109 367.081, Florida Statutes, are amended to read:

110 367.081 Rates; procedure for fixing and changing.—

111 (2) (a) ~~1.~~ The commission shall, ~~either~~ upon request or upon
112 its own motion, fix rates that ~~which~~ are just, reasonable,
113 compensatory, and not unfairly discriminatory.

114 1. In each ~~every~~ such proceeding, the commission shall
115 consider the value and quality of the service and the cost of
116 providing the service, which must ~~shall~~ include, but need not be

11-00226B-14

20141050__

117 limited to, debt interest; the requirements of the utility for
118 working capital; maintenance, depreciation, tax, and operating
119 expenses incurred in the operation of all property used and
120 useful in the public service; and a fair return on the
121 investment of the utility in property used and useful in the
122 public service. However, the commission shall not allow the
123 inclusion of contributions-in-aid-of-construction in the rate
124 base of a any utility during a rate proceeding ~~or, nor shall the~~
125 ~~commission~~ impute prospective future contributions-in-aid-of-
126 construction against the utility's investment in property used
127 and useful in the public service. ~~and~~ Accumulated depreciation
128 on such contributions-in-aid-of-construction shall not be used
129 to reduce the rate base, and ~~nor shall~~ depreciation on such
130 contributed assets shall not be considered a cost of providing
131 utility service.

132 2. For purposes of such proceedings, the commission shall
133 consider utility property, including land acquired or facilities
134 constructed or to be constructed within a reasonable time in the
135 future, up to ~~not to exceed~~ 24 months after the end of the
136 historic base year used to set final rates unless a longer
137 period is approved by the commission, to be used and useful in
138 the public service, if:

139 a. Such property is needed to serve current customers;

140 b. Such property is needed to serve customers 5 years after
141 the end of the test year used in the commission's final order on
142 a rate request as provided in subsection (6) at a growth rate
143 for equivalent residential connections up to ~~not to exceed~~ 5
144 percent per year; or

145 c. Such property is needed to serve customers more than 5

11-00226B-14

20141050__

146 full years after the end of the test year used in the
147 commission's final order on a rate request as provided in
148 subsection (6) only to the extent that the utility presents
149 clear and convincing evidence to justify such consideration.

150 3. In determining the value and quality of water service
151 provided by a utility and whether such utility has satisfied its
152 obligation to provide water service to its customers, the
153 commission shall consider the extent to which the utility meets
154 secondary drinking water standards regarding taste, odor, color,
155 or corrosiveness which are established by the Department of
156 Environmental Protection and the local government. In making its
157 determination, the commission shall consider:

158 a. Testimony and evidence provided by customers and the
159 utility;

160 b. Complaints that relate to the secondary water standards
161 which customers have filed during the past 5 years with the
162 commission, the Department of Environmental Protection, the
163 county health departments, or the local government;

164 c. The results of past tests required by the Department of
165 Environmental Protection or county health departments which
166 measure the utility's compliance with the applicable secondary
167 drinking water standards; and

168 d. The results of other tests, if deemed necessary by the
169 commission.

170 4. In determining the value and quality of wastewater
171 service provided by a utility, the commission shall consider the
172 extent to which the utility provides wastewater service to its
173 customers which does not cause odor, noise, aerosol drift, or
174 lighting that adversely affects customers. In making its

11-00226B-14

20141050__

175 determination, the commission shall consider:

176 a. Testimony and evidence provided by customers and the
177 utility; and

178 b. All complaints related to the alleged odor, noise,
179 aerosol drift, or lighting problem which customers have filed
180 over the past 5 years with any of the following:

181 (I) The commission;

182 (II) The Department of Environmental Protection;

183 (III) The county health departments; or

184 (IV) The local government.

185 5. If the commission determines that a utility provides
186 water service that does not meet the secondary water quality
187 standards of the Department of Environmental Protection and the
188 local government regarding taste, odor, color, or corrosiveness,
189 or that a utility provides wastewater service that adversely
190 affects customers due to odor, noise, aerosol drift, or
191 lighting, the utility shall provide estimates of the costs and
192 benefits of various solutions to the problems. The utility must
193 meet with its customers to discuss the costs and benefits of the
194 various solutions and report to the commission the conclusions
195 of the meetings. The commission shall adopt rules necessary to
196 assess and enforce the utility's compliance with this section.
197 The rules must prescribe penalties, including fines and
198 reduction of return on equity of up to 100 basis points, if a
199 utility fails to adequately address or offer solutions to the
200 water or wastewater problems.

201
202 Notwithstanding ~~the provisions of~~ this paragraph, the commission
203 shall approve rates for service which allow a utility to recover

11-00226B-14

20141050__

204 from customers the full amount of environmental compliance
205 costs. Such rates may not include charges for allowances for
206 funds prudently invested or similar charges. For purposes of
207 this requirement, the term "environmental compliance costs"
208 includes all reasonable expenses and fair return on any prudent
209 investment incurred by a utility in complying with the
210 requirements or conditions contained in any permitting,
211 enforcement, or similar decisions of the United States
212 Environmental Protection Agency, the Department of Environmental
213 Protection, a water management district, or any other
214 governmental entity with similar regulatory jurisdiction.

215 (b) In establishing initial rates for a utility, the
216 commission may project the financial and operational data as set
217 out in paragraph (a) to a point in time when the utility is
218 expected to be operating at a reasonable level of capacity.

219 (c) In establishing rates for a utility, the commission may
220 authorize the creation of a utility reserve fund. The commission
221 shall adopt rules to govern the fund, including, but not limited
222 to, rules relating to expenses for which the fund may be used,
223 segregation of reserve account funds, requirements for a capital
224 improvement plan, and requirements for commission authorization
225 before disbursements from the reserve fund.

226 (4) (a) On or before March 31 of each year, the commission
227 by order shall establish a price increase or decrease index for
228 major categories of operating costs incurred by utilities
229 subject to its jurisdiction reflecting the percentage of
230 increase or decrease in such costs from the most recent 12-month
231 historical data available. The commission by rule shall
232 establish the procedure to be used in determining such indices

11-00226B-14

20141050__

233 and a procedure by which a utility, without further action by
234 the commission, or the commission on its own motion, may
235 implement an increase or decrease in its rates based upon the
236 application of the indices to the amount of the major categories
237 of operating costs incurred by the utility during the
238 immediately preceding calendar year, except to the extent of any
239 disallowances or adjustments for those expenses of that utility
240 in its most recent rate proceeding before the commission. The
241 rules shall provide that, upon a finding of good cause,
242 including inadequate service, the commission may order a utility
243 to refrain from implementing a rate increase hereunder unless
244 implemented under a bond or corporate undertaking in the same
245 manner as interim rates may be implemented under s. 367.082. A
246 utility may not use this procedure between the official filing
247 date of the rate proceeding and 1 year thereafter, unless the
248 case is completed or terminated at an earlier date. A utility
249 may not use this procedure to increase any operating cost for
250 which an adjustment has been or could be made under paragraph
251 (b), or to increase its rates by application of a price index
252 other than the most recent price index authorized by the
253 commission at the time of filing.

254 (b) Upon verified notice to the commission 45 days before
255 implementation of the increase or decrease, and without a
256 hearing, the approved rates of a utility must automatically
257 increase or decrease. Such notice must inform the commission
258 that the utility's costs for a specified expense item have
259 changed.

260 1. The new rates must reflect, on an amortized or annual
261 basis, as appropriate, the cost or amount of change in the cost

11-00226B-14

20141050__

262 of the specified expense item. The new rates may not reflect the
263 costs of a specified expense item already included in the rates
264 of a utility. Specified expense items eligible for automatic
265 increase or decrease of a utility's rates include, but are not
266 limited to:

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

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

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

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

277 e. The regulatory assessment fees imposed upon the utility
278 by the commission.

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

281 g. The fees charged for wastewater sludge disposal.

282 h. A loan service fee or loan origination fee associated
283 with a loan related to an eligible project. The commission shall
284 adopt rules governing the determination of eligible projects,
285 which must be limited to those projects associated with new
286 infrastructure or improvements to existing infrastructure needed
287 to achieve or maintain compliance with federal, state, and local
288 governmental primary or secondary drinking water standards or
289 wastewater treatment standards that relate to:

290 (I) The provision of water or wastewater service for

11-00226B-14

20141050__

291 existing customers;

292 (II) The violation or prevention of a violation of federal,
293 state, and local governmental primary or secondary health
294 standards;

295 (III) The replacement or upgrade of aging water or
296 wastewater infrastructure if needed to achieve or maintain
297 compliance with federal, state, and local governmental primary
298 or secondary regulations; or

299 (IV) Projects consistent with the most recent long-range
300 plan of the utility on file with the commission. Eligible
301 projects do not include projects primarily intended to serve
302 future growth.

303 i. Costs incurred for a tank inspection required by the
304 Department of Environmental Protection or a local governmental
305 authority.

306 j. Operator and distribution license fees required by the
307 Department of Environmental Protection or a local governmental
308 authority.

309 k. Water or wastewater operating permit fees charged by the
310 Department of Environmental Protection or a local governmental
311 authority.

312 1. Consumptive or water use permit fees charged by a water
313 management district.

314 2. A utility may not use the procedure under this paragraph
315 to increase or decrease its rates as a result of an increase or
316 decrease in a specific expense item which occurred more than 12
317 months before the filing by the utility.

318 3. The commission may establish by rule additional specific
319 expense items that cause an automatic increase or decrease in a

11-00226B-14

20141050__

320 utility's rates as provided in this paragraph. To be eligible
321 for such treatment, an additional expense item must be imposed
322 upon the utility by a local, state, or federal law, rule, order,
323 or notice and must be outside the control of the utility. If the
324 commission exercises its authority to establish such rule, the
325 commission must, at least once every 5 years, review the rule
326 and determine if each expense item should continue to be cause
327 for the automatic increase or decrease of a utility's rates or
328 if any additional items should become cause for the automatic
329 increase or decrease of a utility's rates as provided in this
330 paragraph ~~The approved rates of any utility which receives all~~
331 ~~or any portion of its utility service from a governmental~~
332 ~~authority or from a water or wastewater utility regulated by the~~
333 ~~commission and which redistributes that service to its utility~~
334 ~~customers shall be automatically increased or decreased without~~
335 ~~hearing, upon verified notice to the commission 45 days prior to~~
336 ~~its implementation of the increase or decrease that the rates~~
337 ~~charged by the governmental authority or other utility have~~
338 ~~changed. The approved rates of any utility which is subject to~~
339 ~~an increase or decrease in the rates or fees that it is charged~~
340 ~~for electric power, the amount of ad valorem taxes assessed~~
341 ~~against its used and useful property, the fees charged by the~~
342 ~~Department of Environmental Protection in connection with the~~
343 ~~National Pollutant Discharge Elimination System Program, or the~~
344 ~~regulatory assessment fees imposed upon it by the commission~~
345 ~~shall be increased or decreased by the utility, without action~~
346 ~~by the commission, upon verified notice to the commission 45~~
347 ~~days prior to its implementation of the increase or decrease~~
348 ~~that the rates charged by the supplier of the electric power or~~

11-00226B-14

20141050__

349 ~~the taxes imposed by the governmental authority, or the~~
350 ~~regulatory assessment fees imposed upon it by the commission~~
351 ~~have changed. The new rates authorized shall reflect the amount~~
352 ~~of the change of the ad valorem taxes or rates imposed upon the~~
353 ~~utility by the governmental authority, other utility, or~~
354 ~~supplier of electric power, or the regulatory assessment fees~~
355 ~~imposed upon it by the commission. The approved rates of any~~
356 ~~utility shall be automatically increased, without hearing, upon~~
357 ~~verified notice to the commission 45 days prior to~~
358 ~~implementation of the increase that costs have been incurred for~~
359 ~~water quality or wastewater quality testing required by the~~
360 ~~Department of Environmental Protection. The new rates authorized~~
361 ~~shall reflect, on an amortized basis, the cost of, or the amount~~
362 ~~of change in the cost of, required water quality or wastewater~~
363 ~~quality testing performed by laboratories approved by the~~
364 ~~Department of Environmental Protection for that purpose. The new~~
365 ~~rates, however, shall not reflect the costs of any required~~
366 ~~water quality or wastewater quality testing already included in~~
367 ~~a utility's rates. A utility may not use this procedure to~~
368 ~~increase its rates as a result of water quality or wastewater~~
369 ~~quality testing or an increase in the cost of purchased water~~
370 ~~services, sewer services, or electric power or in assessed ad~~
371 ~~valorem taxes, which increase was initiated more than 12 months~~
372 ~~before the filing by the utility.~~

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

376 (c) Before implementing a change in rates under this
377 subsection, the utility must ~~shall~~ file an affirmation under

11-00226B-14

20141050__

378 oath as to the accuracy of the figures and calculations upon
379 which the change in rates is based, stating that the change will
380 not cause the utility to exceed the range of its last authorized
381 rate of return on equity. A person who ~~Whoever~~ makes a false
382 statement in the affirmation required under this subsection
383 ~~hereunder~~, which statement he or she does not believe to be true
384 in regard to any material matter, commits ~~is guilty of~~ a felony
385 of the third degree, punishable as provided in s. 775.082, s.
386 775.083, or s. 775.084.

387 (d) If, within 15 months after the filing of a utility's
388 annual report required by s. 367.121, the commission finds that
389 the utility exceeded the range of its last authorized rate of
390 return on equity after an adjustment in rates as authorized by
391 this subsection was implemented within the year for which the
392 report was filed or was implemented in the preceding year, the
393 commission may order the utility to refund, with interest, the
394 difference to the ratepayers and adjust rates accordingly. This
395 provision does ~~shall not be construed to~~ require a bond or
396 corporate undertaking not otherwise required.

397 (e) Notwithstanding anything in this section ~~herein~~ to the
398 contrary, a utility may not adjust its rates under this
399 subsection more than two times in any 12-month period. For the
400 purpose of this paragraph, a combined application or
401 simultaneously filed applications that were filed under the
402 provisions of paragraphs (a) and (b) are ~~shall be~~ considered one
403 rate adjustment.

404 (f) At least annually, the commission shall ~~may regularly,~~
405 ~~not less often than once each year,~~ establish by order a
406 leverage formula or formulae that reasonably reflect the range

11-00226B-14

20141050__

407 of returns on common equity for an average water or wastewater
 408 utility and which, for purposes of this section, are ~~shall be~~
 409 used to calculate the last authorized rate of return on equity
 410 for a ~~any~~ utility which otherwise would not have an ~~ne~~
 411 established rate of return on equity. In any other proceeding in
 412 which an authorized rate of return on equity is to be
 413 established, a utility, in lieu of presenting evidence on its
 414 rate of return on common equity, may move the commission to
 415 adopt the range of rates of return on common equity which is
 416 ~~that has been~~ established under this paragraph.

417 (7) The commission shall determine the reasonableness of
 418 rate case expenses and shall disallow all rate case expenses
 419 determined to be unreasonable. A ~~No~~ rate case expense determined
 420 to be unreasonable may not be ~~shall be~~ paid by a consumer. In
 421 determining the reasonable level of rate case expense, the
 422 commission shall consider the extent to which a utility has used
 423 ~~utilized~~ or failed to use ~~utilize~~ the provisions of paragraph
 424 (4) (a) or paragraph (4) (b) and such other criteria as it may
 425 establish by rule. In a rate case filed pursuant to this
 426 section, the commission shall not award rate case expenses that
 427 exceed the total rate increase approved by the commission
 428 exclusive of any rate case expense.

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

431 367.0814 Staff assistance in changing rates and charges;
 432 interim rates.—

433 (3) The provisions of s. 367.081(1), (2) (a), (2) (c), and
 434 (3), and (7) ~~shall~~ apply in determining the utility's rates and
 435 charges. However, the commission shall not award rate case

11-00226B-14

20141050__

436 expense to cover fees for attorneys or other outside consultants
437 who are engaged for purposes of preparing or filing the case if
438 a utility receives staff assistance in changing rates and
439 charges pursuant to this section, unless the Office of Public
440 Counsel or interested parties have intervened. The commission
441 may award rate case expense for attorney fees or other outside
442 consultant fees if the fees are incurred for the purpose of
443 providing consulting or legal services to the utility after the
444 initial staff report is made available to customers and the
445 utility. If there is a protest or appeal by a party other than
446 the utility, the commission may award rate case expense to the
447 utility for attorney fees or other outside consultant fees for
448 costs incurred after the protest or appeal. The commission shall
449 adopt rules to administer this subsection.

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

452 367.0816 Recovery of rate case expenses.—

453 (1) The amount of rate case expense determined to be
454 reasonable by the commission pursuant to s. 367.081 ~~the~~
455 ~~provisions of this chapter to be recovered through a public~~
456 ~~utilities rate shall be apportioned for recovery through the~~
457 utility's rates over a period of 4 years. At the conclusion of
458 the recovery period, the rate of the public utility shall be
459 reduced immediately by the amount of rate case expense
460 previously included in rates.

461 (2) A utility may recover the 4-year amortized rate case
462 expense for only one rate case at any given time. If the
463 commission approves and a utility implements a rate change from
464 a subsequent rate case pursuant to this section, the utility

11-00226B-14

20141050__

465 forfeits any unamortized rate case expense from a prior rate
466 case. The unamortized portion of rate case expense for a prior
467 case must be removed from rates before the implementation of an
468 additional amortized rate case expense for the most recent rate
469 proceeding. This limitation does not apply to the recovery of
470 rate case expense for a limited proceeding filed pursuant to s.
471 367.0822.

472 Section 7. Subsection (3) of section 403.8532, Florida
473 Statutes, is amended to read:

474 403.8532 Drinking water state revolving loan fund; use;
475 rules.-

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

11-00226B-14

20141050__

494 pledge any revenues or other adequate security available to them
495 to repay any funds borrowed.

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

499 1. At least 15 percent for qualifying small public water
500 systems.

501 2. Up to 15 percent for qualifying financially
502 disadvantaged communities.

503 (b) If an insufficient number of the projects for which
504 funds are reserved under this subsection have been submitted to
505 the department at the time the funding priority list authorized
506 under this section is adopted, the reservation of these funds no
507 longer applies. The department may award the unreserved funds as
508 otherwise provided in this section.

509 Section 8. 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: SB 1078

INTRODUCER: Senator Soto

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

DATE: March 27, 2014

REVISED: _____

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

I. Summary:

SB 1078 makes it a second degree felony for a person to cause the death of a human being or a viable fetus as provided in s. 782.071, F.S., while operating a motor vehicle and using a wireless communications device in violation of the statutory ban on texting while driving. The offense is reclassified to a first degree felony under specified circumstances.

II. Present Situation:

Ban on Texting While Driving

Section 316.305, F.S., is the “Florida Ban on Texting While Driving Law,” which makes it unlawful for a person to operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device¹ or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. For the purposes of this statute, a motor vehicle that is stationary is not being operated and is not subject to this prohibition. Additionally, enforcement by state or local law enforcement agencies must be accomplished only as a secondary action when an

¹ The term “wireless communications device” means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15, F.S., and that allows text communications. Section 812.15(1)(d), F.S., defines the term “communications service” to mean any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

operator of a motor vehicle has been detained for a suspected violation of another statute involving state uniform traffic control, motor vehicle licenses, or drivers' licenses.

The prohibition does not apply to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle, a law enforcement or fire service professional, or an emergency medical services professional.
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities.
- Receiving messages that are:
 - Related to the operation or navigation of the motor vehicle;
 - Safety-related information, including emergency, traffic, or weather alerts;
 - Data used primarily by the motor vehicle; or
 - Radio broadcasts.
- Using a device or system for navigation purposes.
- Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.
- Operating an autonomous vehicle,² in autonomous mode.

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

Vehicular Homicide

Section 782.071, F.S., creates the crime of vehicular homicide, which is the killing of a human being or of a viable fetus by any injury to the mother when the killing is caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another. Vehicular homicide is a second degree felony, reclassified to a first degree felony if:

- at the time of the accident, the person knew, or should have known, that the accident occurred; and
- the person failed to give information and render aid as required by s. 316.062, F.S.

This paragraph does not require that the person knew that the accident resulted in injury or death.

For purposes of this section, a fetus is viable when it becomes capable of meaningful life outside the womb through standard medical measures.

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

A right of action for civil damages exists under s. 768.19, F.S., under all circumstances, for all deaths described in this section.

In addition to any other punishment, the court may order the person to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

Obligation to Provide Information and Render Aid

Section 316.062, F.S. requires that the driver of any vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property which is driven or attended by any person to provide specified information to others involved in the crash and to a police officer. The driver also must render reasonable assistance to any person injured in the crash, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person. If none of these persons are in condition to receive the information and a police officer is not present, the driver may report the crash to the nearest office of a duly authorized police authority and submit the specified information. This statutory duty to give information to a police officer shall not be construed as extending to information which would violate the privilege of such person against self-incrimination.

III. Effect of Proposed Changes:

The bill creates s. 316.3035, F.S., making it a second degree felony for a person to cause the death of a human being or a viable fetus as provided in s. 782.071, F.S., while operating a motor vehicle and using a wireless communications device³ in violation of s. 316.305, F.S. The offense is reclassified to a first degree felony if:

- at the time of the accident, the person knew, or should have known, that the accident occurred; and
- the person failed to give information and render aid as required by s. 316.062, F.S.

These are the same penalties as in the current vehicular homicide statute.

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³ The bill defines the term “wireless communications device” to have the same meaning as provided in section 316.305, F.S., which is discussed above.

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:

None.

C. Government Sector Impact:

The bill will create an uncertain amount of additional costs for incarceration of people convicted of this new crime who could not have been convicted of vehicular homicide or other existing law.

VI. Technical Deficiencies:

The bill creates a new statute to make it a second degree felony for a person to cause the death of a human being or a viable fetus *as provided in section 782.071, F.S.*, while operating a motor vehicle and using a wireless communications device in violation of s. 316.305, F.S. The italicized cross-reference is ambiguous; it is uncertain how much of the cross-referenced statute is to be incorporated into the new statute. It could be intended to incorporate:

- the definition of the term “viable fetus”;
- the element of the killing of a viable fetus “by any injury to the mother”; or
- the entirety of the vehicular homicide statute, including the element of reckless driving.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 316.3035 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 Soto

14-00032-14

20141078__

1 A bill to be entitled
 2 An act relating to the use of wireless communications
 3 devices while operating a motor vehicle; creating s.
 4 316.3035, F.S.; defining the term "wireless
 5 communications device"; providing a criminal penalty
 6 if a person operating a motor vehicle while using a
 7 wireless communications device causes the death of a
 8 human being or a viable fetus; providing an effective
 9 date.

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

12
 13 Section 1. Section 316.3035, Florida Statutes, is created
 14 to read:

15 316.3035 Death caused by motor vehicle operator using a
 16 wireless communications device; criminal penalty.-

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

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

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

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

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

14-00032-14

20141078__

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

32 Section 2. This act shall take effect July 1, 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 1646

INTRODUCER: Health Policy Committee and Senator Bean

SUBJECT: Telemedicine

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Lloyd	Stovall	HP	HP SPB 7128 as introduced
1.	Caldwell	Caldwell	CU	Fav/CS
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1646 creates the Florida Telemedicine Act (the act) and defines the key components for the practice of telemedicine. The act establishes telemedicine as the practice of medicine through advanced communications technology by a telemedicine provider at a distant site. A telemedicine provider is a physician or physician assistant licensed under chapter 458 or chapter 459, an advanced registered nurse practitioner licensed under chapter 464, or a pharmacist licensed under chapter 465 who provides telemedicine services or an out-of-state physician who meets the specific requirements for an exemption from Florida licensure. The act also provides exclusions from licensure for consultations with a Florida licensed provider who holds the ultimate authority and for emergency services, as defined under the act.

Physicians practicing telemedicine are required at license renewal to identify themselves as a telemedicine provider on their practitioner profile and to complete 2 hours of continuing education related to telemedicine.

The standard of care for telemedicine service coincides with health care services provided in-person. The nonemergency prescribing of a legend drug based solely on an online questionnaire is specifically prohibited and a controlled substance may not be prescribed through telemedicine for chronic non-malignant pain.

The act requires a telemedicine provider to be responsible for the quality of his or her equipment or technology and to maintain records in accordance with federal and state laws. Each telemedicine provider must identify himself or herself and their location to the patient prior to each encounter.

Regulatory boards, or the Department of Health (DOH) if there is not an applicable board, may adopt rules to administer the act. Rules prohibiting telemedicine that are inconsistent with this act must be repealed. Venue for any civil or administrative action is based on the location of the patient or in Leon County.

Telemedicine services to diagnose and treat the human eye may be used if certain standards are met, including minimum automated equipment requirements. The act prohibits the prescription of spectacles or contact lenses based on a telemedicine service or solely on the use of a computer controlled device.

The Medicaid program must reimburse providers for telemedicine services in the same manner as provided for in-person services. Reimbursement amounts must be negotiated between the parties, to the extent permitted under federal law. Regardless of the amount negotiated, reimbursement for both the originating and the distant site should be considered based on the services provided during the encounter. A process for discontinuation of reimbursement for a Medicaid service through telemedicine is provided if the Agency for Health Care Administration (AHCA) can document a specific telemedicine service is not cost effective or does not meet the clinical needs of Medicaid recipients. The Medicaid provisions sunset on June 30, 2017.

The AHCA is required to submit a report on the usage and costs, including any savings, of telemedicine services provided to Medicaid recipients by January 1, 2017, to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the House and Senate.

A claim for payment for medical services based on a medical necessity determination conducted via telemedicine may not be denied unless the determination was conducted by a Florida licensed physician. In addition, a managed care plan under Medicaid may only use telemedicine providers to meet network standards that are Florida licensed physicians.

II. Present Situation:

Telemedicine utilizes various advances in communication technology to provide healthcare services through a variety of electronic mediums. Telemedicine is not a separate medical specialty and does not change what constitutes proper medical treatment and services. According to the American Telemedicine Association, services provided through telemedicine include¹:

- **Primary Care and Specialist Referral Services** - that involves a primary care or allied health professional providing consultation with a patient or specialist assisting the primary care physician with a diagnosis. The process may involve live interactive video or the use of store and forward transmission of diagnostic images, vital signs, and/or video clips with patient data for later review.

¹ American Telemedicine Association, *What is Telemedicine?*, <http://www.americantelemed.org/learn/what-is-telemedicine> (last visited Jan. 6, 2014).

- **Remote patient monitoring** - that includes home telehealth, using devices to remotely collect and send data to home health agencies or remote diagnostic testing facilities.
- **Consumer medical and health information** - that offers consumers specialized health information and online discussion groups for peer to peer support.
- **Medical education** - that provides continuing medical education credits.

The term telehealth is also sometimes used interchangeably with telemedicine. Telehealth, however, generally refers to a wider range of health care services that may or may not include clinical services². Telehealth often collectively defines the telecommunications equipment and technology that is used to collect and transmit the data for a telemedicine consultation or evaluation.

Board of Medicine Rulemaking

Florida's Board of Medicine convened a Telemedicine Workgroup in 2013 to review its rules on telemedicine which had not been amended since 2003. The 2003 rule focused on standards for the prescribing of medicine via the internet. Last month, the Board adopted new rules specific to standards for telemedicine practice for allopathic and osteopathic physicians. These new rules define telemedicine, establish a standard of care, prohibit the prescription of controlled substances, permit the establishment of a doctor-patient relationship via telemedicine, and exempt emergency medical services³.

Telemedicine in Other States

As of January 2014, at least 20 states and the District of Columbia have mandated that private insurance plans cover telemedicine services at reimbursement rates equal to an in-person consultation.⁴ Forty-four states reimburse under Medicaid for limited services, some restricting reimbursement to only rural or low provider access areas.⁵ The breadth of state telemedicine laws vary from the very limited of authorizing store and forward services to mandating private insurance coverage and payment equivalency between face-to-face visits and telemedicine encounters. While nine states specifically issue a special-telemedicine-only license or certificate, several others may allow physicians from contiguous states to practice under certain conditions.⁶

² Majerowicz, Anita; Tracy, Susan, "Telemedicine: Bridging Gaps in Healthcare Delivery," *Journal of AHIMA* 81, no. 5, (May 2010): 52-53, 56, http://library.ahima.org/xpedio/groups/public/documents/ahima/bok1_047324.hcsp?dDocName=bok1_047324 (last visited Jan. 27, 2014).

³ See Notice of Final Rule 64B8-9.0141, F.A.C., published February 20, 2014 and Notice of Final Rule 64B15-14.0081, F.A.C., published February 20, 2014. Both rules are effective March 12, 2014.

⁴ American Telemedicine Association, *2014 State Telemedicine Legislative Tracking*, <http://www.americantelemed.org/docs/default-source/policy/state-telemedicine-legislation-matrix.pdf> (last visited Jan. 24, 2014).

⁵ Id.

⁶ Center for Connected Health Policy, *State Telehealth Laws and Reimbursement Policies*, (November 2013), p.6, <http://telehealthpolicy.us/sites/telehealthpolicy.us/files/uploader/50%20State%20Medicaid%20Update%20Nov.%202013%20-%20Rev.%2012-20.pdf> (last visited Jan. 24, 2014).

States have used telemedicine in correctional systems to eliminate the need to transport inmates in both Colorado and Wyoming.⁷ In some cases, the health care professional is located in another location at the same facility and is able to interact with the inmate. This option addresses situations with violent inmates or handicap accessibility issues. Some jails use this same technology for online visits in place of face-to-face visitation, including the Alachua County jail in Florida.⁸

Rural counties have utilized telemedicine to fill the void for specialty care in their emergency rooms and to avoid costly and time consuming transfers of patients from smaller hospitals to the larger tertiary centers for care. In a California project, the rural hospitals' emergency rooms received video conference equipment to facilitate the telemedicine consultations as part of the study. The rural hospital physicians, nurses, and parents were linked with pediatric critical care medicine specialists at the University of California, Davis.⁹ Researchers at the university found that parents' satisfaction and perception of the quality of care received was significantly greater with telemedicine than with telephone guidance.¹⁰

Federal Provisions for Telemedicine

Federal laws and regulations address telemedicine from several angles, from prescribing controlled substances and setting hospital emergency room guidelines, to establishing reimbursement guidelines for the Medicare program.

Prescribing Via the Internet

Federal law specifically prohibits the issue of controlled substances prescribed via the internet without an in-person evaluation. The federal regulation under 21 CFR §829 specifically states:

No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act may be delivered, distributed or dispensed by means of the Internet without a valid prescription.

A valid prescription is further defined under the same regulation as one issued by a practitioner who has conducted an in-person evaluation. The in-person evaluation requires that the patient be in the physical presence of the provider without regard to the presence or conduct of other professionals.¹¹ However, the Ryan Haight Online Pharmacy Consumer Protection Act,¹² signed into law in October 2008, created an exception for the in-person medical evaluation for telemedicine practitioners. The practitioner is still subject to the requirement that all controlled substance prescriptions be issued for a legitimate purpose by a practitioner acting in the usual course of professional practice.

⁷ Government Computing News, *Prisons Turn to Telemedicine for Treating Inmates*, (May 21, 2013), <http://gcn.com/blogs/pulse/2013/05/prisons-telemedicine-treating-inmates.aspx> (last visited Jan. 28, 2014)

⁸ Gainesville, Sun, *Now You Can Visit an Inmate From Home*, (Jan. 9, 2014), <http://www.gainesville.com/article/20140109/ARTICLES/140109711?p=1&tc=pg#gsc.tab=0> (last visited Jan. 28, 2014).

⁹ *In Rural ERs, Kids Get Better Care with Telemedicine*, <http://www.futurity.org/in-rural-ers-kids-get-better-care-with-telemedicine> (last visited Jan. 28, 2014).

¹⁰ *Id.*

¹¹ 21 CFR §829(e)(2).

¹² Ryan Haight Online Consumer Protection Act of 2008, Public Law 110-425 (H.R. 6353).

The Drug Enforcement Administration (DEA) of the federal Department of Justice issued its own definition of telemedicine in April 2009 as required under the Haight Act.¹³ The federal regulatory definition of telemedicine under the DEA includes, but is not limited to, the following elements:

- The patient and the practitioner are located in separate locations;
- Patient and practitioner communicate via a telecommunications system;
- The practitioner must meet other registration requirements for the dispensing of controlled substance via the Internet; and,
- Certain practitioners (Department of Veterans Affairs' employees, for example) or practitioners in certain situations (public health emergencies) may be exempted from registration requirements.¹⁴

Medicare Coverage

Specific telehealth services delivered at designated sites are covered under Medicare. The federal Centers for Medicare and Medicaid Services' regulations require both a distant site (location of physician delivering the service via telecommunications) and a separate originating site (location of the patient) under their definition of telehealth. Asynchronous "store and forward" activities are only reimbursed under Medicare in federal demonstration projects.¹⁵

To qualify for Medicare reimbursement, the originating site must meet one of these qualifications:

- Located in a federally defined rural county;
- Designated rural health professional shortage area;¹⁶ or,
- Identified as a participant in a federal telemedicine demonstration project as of December 21, 2000.¹⁷

Federal requirements provide additional qualifications for an originating site once one of the initial elements above has been satisfied. An originating site must be one of the following location types as further defined in federal law and regulation:

- The office of a physician or practitioner;
- A critical access hospital;
- A rural health clinic;
- A federally qualified health center;
- A hospital;
- A hospital-based or critical access hospital-based renal dialysis center (including satellites);
- A skilled nursing facility; and,
- A community mental health center.¹⁸

¹³ Id., at sec. 3(j).

¹⁴ 21 CFR §802(54).

¹⁵ Only two states have a federal demonstration project that meets these qualifications, Hawaii and Alaska.

¹⁶The rural definition was expanded through a final federal regulation released on December 10, 2013 to include health professional shortage areas located in rural census tracts of urban areas as determined by the Office of Rural Health Policy. See 78 FR 74229, 74400-74402, 74812 (December 10, 2013).

¹⁷ See 42 U.S.C. sec. 1395(m)(m)(4)(C)(i).

¹⁸ See 42 U.S.C. sec. 1395(m)(m)(4)(C)(ii).

Reimbursement for the distant site is established as “an amount equal to the amount that such physician or practitioner would have been paid under this title had such service been furnished without the use of a telecommunications system.”¹⁹

Federal law also provides for a facility fee for the originating site that started and remained at \$20 through December 31, 2002, and then, by law, is subsequently increased each year by the percentage increase in the Medicare Economic Index or MEI. For calendar year 2014, the originating fee was 80 percent of the lesser of the actual charge or \$24.63.²⁰

Telehealth services covered under Medicare include professional consultations, office visits, and office psychiatry services within certain health care procedure codes.²¹ Practitioners eligible to bill for telehealth services include physicians, nurse practitioners, physician assistants, nurse midwives, clinical nurse specialists, clinical psychologists, clinical social workers, and registered dietitians or nutrition specialists who are licensed to provide the service under state law.²²

Telemedicine Services in Florida

The University of Miami (UM) initiated telehealth services in 1973 and claims the first telehealth service in Florida, the first use of nurse practitioners in telemedicine in the nation, and the first telemedicine program in correctional facilities.²³ Today, UM has several initiatives in the areas of tele-dermatology, tele-trauma, humanitarian and disaster response relief telehealth, school telehealth services, and acute teleneurology or telestroke.²⁴ While some of the UM’s activities reach their local community, others reach outside of Florida including providing Haiti earthquake relief and teledermatology to cruise line employees. Telehealth communications are also used for monitoring patients in the hospital and conducting training exercises.

The UM also utilizes telemedicine to research the effectiveness of telemedicine in different trauma situations with the United States military. The research utilizes a robot which is operated from a control station using a joystick. The control station is on a laptop that allows the provider to operate the robot from any location with a wireless connection.²⁵ Lessons learned from this research are intended to provide assistance to deployed surgeons on the battlefield treating injured soldiers.

The UM along with other designated trauma centers participate in the Florida Emergency Trauma Telemedicine Network (FETTN). Coordinated by the DOH, the FETTN, facilitates the

¹⁹ See 42 U.S.C. sec. 1395(m)(m)(2)(A).

²⁰ Department of Health and Human Services, Centers for Medicare and Medicaid Services, *MLN Matters - News Flash #MM8533(December 20, 2013)*, <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM8533.pdf> (last visited: Jan 28, 2014).

²¹ See 42 U.S.C. sec. (m)(m)(4)(F) for statutory authority and visit <http://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/> for additional federal guidance.

²² Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Telehealth Services - Rural Health Fact Sheet Series*, December 2012, <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/telehealthsrvcfsht.pdf> (last visited Jan. 27, 2014).

²³ University of Miami, Miller School of Medicine, *UM Telehealth - Our History*, <http://telehealth.med.miami.edu/about-us/our-history> (last visited Jan. 31, 2014).

²⁴ University of Miami, Miller School of Medicine, *UM Telehealth*, <http://telehealth.med.miami.edu/featured/teledermatology> (last visited Jan. 28, 2014).

²⁵ University of Miami, Miller School of Medicine, *UM Telehealth - Teletrauma*, <http://telehealth.med.miami.edu/featured/teletrauma> (last visited Jan. 31, 2014).

treatment of trauma patients between trauma centers and community or rural hospitals.²⁶ The FETTN allows for multiple interface options and currently 7 out of 25 trauma centers are part of the network.²⁷ In 2011-2012, the seven level 1 or level 2 trauma centers that participated as a hub site, known as the location where the consulting physician is delivering the services, were Holmes Regional Medical Center, Tallahassee Memorial Hospital, Sacred Heart Hospital, University of Miami, Shands-Gainesville, Shands-Jacksonville, and Orlando Health.²⁸ According to the DOH, the trauma centers and their satellites as well as the rural hospitals that currently participate in the FETTN are not reimbursed for the consultation and treatment services provided within the telemedicine network.

Florida Medicaid Program

Florida's Medicaid program reimburses for a limited number of telemedicine services by designated practitioners.²⁹ Audio only, email messages, facsimile transmissions, or communications with an enrollee through another mechanism other than the spoke site, known as the site where the patient is located, are not covered under Florida Medicaid.

Telemedicine is currently covered by Medicaid for the following services and settings:³⁰

- Behavioral Health
 - Tele-psychiatry services for psychiatric medication management by practitioners licensed under chapter 458 or chapter 459, F.S.
 - Tele-behavioral health services for individual and family behavioral health therapy services by qualified practitioners licensed under chapter 490 or chapter 491, F.S.
- Dental Services
 - Video conferencing between a registered dental hygienist employed by and under contract with a Medicaid-enrolled group provider and under the supervision of a supervising dentist.
 - Services include oral prophylaxis, topical fluoride, and oral hygiene instructions.
- Physician Services
 - Services provided using audio and video equipment that allow for two-way, real time interactive communication between physician and patient.
 - State plan waiver specifically authorizes reimbursement for specialty physician services for Children's Medical Services Network.
 - Physicians may bill for consultation services only provided via telemedicine.

The distant or hub site, where the provider is located, is eligible for reimbursement; the spoke site, where the patient is located, is not eligible for reimbursement unless a separate service is

²⁶ Florida Department of Health, *2014 Agency Legislative Bill Analysis of SB 70*, p.2, on file with the Senate Health Policy Committee (August 26, 2013).

²⁷ *Id.*, at 3.

²⁸ Florida Department of Health, *Long Range Program Plan* (September 28, 2012), on file with the Senate Health Policy Committee.

²⁹ Agency for Health Care Administration, *Highlights of Practitioner Services Coverage and Limitations Handbook Presentation*, Bureau of Medicaid Services, Summer 2013, p.30.

³⁰ Agency for Health Care Administration, *2014 Legislative Bill Analysis of SB 70*, November 7, 2013, p. 3, on file with the Senate Health Policy Committee.

performed on the same day. Medicaid also requires that the referring physician and the patient be present during the consultation.³¹

Medicaid requires the following specific clinical records documentation to qualify for reimbursement as a telemedicine service:³²

- A brief explanation of why services were not provided face-to-face;
- Documentation of telemedicine services, including results of assessment; and,
- A signed statement from the patient (or parent or guardian, if a child), indicating their choice to receive services through telemedicine.

Medicaid services are reimbursable only in the hospital outpatient, inpatient, and physician office settings. During the 2013 Legislative Session, Medicaid provider enrollment requirements were revised to allow the enrollment of physicians actively licensed in Florida to interpret diagnostic testing results through telecommunications and information technology provided from a distance.³³

Since 2006, the Children's Medical Services Network (CMS Network) has been authorized to provide specified telemedicine services under Florida's 1915(b) Medicaid Managed Care waiver. Authorized services include physician office visits (evaluation and management services) and consultation services already covered by the Medicaid state plan in select rural counties. Currently, the CMS Network provides telemedicine services in 57 of Florida's 67 counties.³⁴

The CMS Network works with the University of Florida's (UF) pediatric endocrinology staff to provide telehealth services for enrollees with diabetes and other endocrinology diseases in the Daytona Beach service area.³⁵ Additional partnerships with the Institute for Child Health Policy at UF include referring children with special health care needs to community health centers for consults via telehealth for nutritional, neurological, and orthopedics in Southeast Florida.³⁶

Child Protection Teams

The Child Protection Team (CPT) program under Children's Medical Services utilizes a telemedicine network to perform child assessments. The CPT is a medically directed multi-disciplinary program that works with local Sheriff's offices and the Department of Children and Families in cases of child abuse and neglect to supplement investigative activities.³⁷ The CPT patient is seen at a remote site and a registered nurse assists with the medical exam. A physician or Advanced Registered Nurse Practitioner (ARNP) is located at the hub site and has responsibility for directing the exam.

³¹ Agency for Health Care Administration, *supra*, note 29, at 34.

³² *Id.* at p. 36.

³³ See Chapter 2013-150, L.O.F., sec. 1.

³⁴ Florida Department of Health, *supra*, note 28, at 2.

³⁵ Florida Department of Health, *Maternal and Child Health Block Grant Narrative for 2013*, <http://www.floridahealth.gov/healthy-people-and-families/womens-health/pregnancy/mch-fl-2013-1narrative.pdf>, p.21, (last visited: Jan. 31, 2014).

³⁶ *Id.*

³⁷ Florida Department of Health, *Child Protection Teams*, http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited Jan. 7, 2014).

Hub sites are comprehensive medical facilities that offer a wide range of medical and interdisciplinary staff whereas the remote sites tend to be smaller facilities that may lack medical diversity. In 2013, CPT telehealth services were available at 14 sites and 437 children were provided medical or other assessments via telemedicine technology.³⁸

Other Department of Health Initiatives

The DOH utilizes tele-radiology through the Tuberculosis (TB) Physician's Network.³⁹ The ability to read electronic chest X-rays remotely can lead to a faster diagnosis, treatment, and a reduction in the spread of the disease, according to the DOH. This service is not currently reimbursed by Medicaid.

Compliance with Health Insurance Portability and Accountability Act (HIPAA)

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects personal health information (PHI). Privacy rules were initially issued in 2000 by the Department of Health and Human Services and later modified in 2002. These rules address the use and disclosure of an individual's health information as well as create standards for privacy rights. Additional privacy and security measures were adopted in 2009 with the Health Information Technology for Economic Clinical Health (HITECH) Act.

Only certain entities are subject to HIPAA's provisions. These "covered entities" include:

- Health plans;
- Health care providers;
- Health care clearinghouses; and,
- Business Associates.

While not a covered entity as an individual, the patient still maintains his or her privacy and confidentiality rights regardless of the method in which the medical service is delivered. The HITECH Act specifically identified telemedicine as an area for review and consideration and funding was provided, in part, to strengthen infrastructure and tools to promote telemedicine.⁴⁰

Under the provisions of HIPAA and the HITECH Act, a health care provider or other covered entity participating in telemedicine is required to meet the same technical and physical HIPAA and HITECH requirements as would be required for a physical office visit. These requirements include ensuring that the equipment and technology is HIPAA compliant.

III. Effect of Proposed Changes:

Section 1 designates ss. 456.4501-456.4506, F.S., as the "Florida Telemedicine Act."

Section 2 creates s. 456.4502, F.S., and provides definitions for the terms used in the Florida Telemedicine Act, including:

³⁸Florida Department of Health, *supra* note 35, at 21.

³⁹ Florida Department of Health, *supra* note 26, at 2.

⁴⁰ Public Law 111-5, sec. 3002(b)(2)(C)(iii) and sec. 3011(a)(4).

- Act
- Advanced Communications Technology
- Distant Site
- Encounter
- Health Care Provider
- In Person
- Originating Site
- Patient Presenter
- Store and forward
- Telehealth
- Telemedicine
- Telemedicine provider

The term “telemedicine provider” means a physician or physician assistant licensed under chapter 458 or chapter 459, an advanced registered nurse practitioner licensed under chapter 464, or a pharmacist licensed under chapter 465 who provides telemedicine services.

Section 3 creates s. 456.4503, F.S., and establishes requirements for telemedicine providers and for an out-of-state physician who provides telemedicine across state lines to a patient physically located in Florida. In order to practice telemedicine, the out-of-state physician must:

- Have a Florida license to practice medicine under chapter 458, F.S., or chapter 459, F.S.; or
- Hold an active, unrestricted license to practice allopathic or osteopathic medicine in the distant site and that state’s licensure requirements must meet or exceed this state’s requirements;
- Maintain professional liability coverage that includes telemedicine that is consistent with s. 458.320, F.S.;
- Have one of the following:
 - Privileges or be on the medical staff of an out-of-state hospital that is affiliated with a Florida hospital licensed under chapter 395, F.S.; or,
 - Affiliation with an out-of-state health insurer or health plan that is also authorized to conduct business in Florida under chapter 627, F.S., or chapter 641, F.S.; and,
- Practice in a state that authorizes Florida-licensed physicians to provide telemedicine services to patients in that state without having to be licensed in that state.

An out-of-state physician who provides telemedicine services to a patient in Florida is subject to disciplinary action by the Florida Board of Medicine, the Board of Osteopathic Medicine, or a regulatory entity that has jurisdiction over the hospital, insurer, or health plan affiliated with the physician. The physician and the hospital, insurer, or health plan of the affiliated physician, physician assistant, advanced registered nurse practitioner, or pharmacist must agree to make available any pertinent records upon the request of the applicable board, the DOH, or any other federal or state regulatory authority. Failure to comply with a records request may result in revocation of the out-of-state practitioner’s license or a fine, as established by the appropriate board or the DOH, as applicable.

Licensure is not required for consultations between an out-of-state practitioner and an in-state practitioner where the physician licensed in this state retains ultimate responsibility for the

diagnosis, treatment, and care of the patient. Physician consultations via telemedicine that occur on an emergency basis are also exempt from licensure.

A health care provider or patient presenter using telemedicine technology at the direction and supervision of a physician may not be interpreted as practicing medicine without a license. Providers, however, are required to be trained and knowledgeable about the equipment being used. Failure to acquire appropriate training and knowledge is grounds for disciplinary action. Upon license renewal, a physician practicing telemedicine must identify himself or herself as a telemedicine provider on the physician's practitioner profile and submit proof of the successful completion of a course and subsequent examination, on the standards of practice in telemedicine. The act requires that the board-approved course consist of at least 2 web-based contact hours and the first course must be offered by July 1, 2014.

Venue for any civil or administrative action initiated by a telemedicine recipient or the appropriate regulatory board shall be based on the location of the patient or shall be in Leon County.

The regulatory boards, or the DOH if there is no board, may adopt rules to implement this act and are directed to repeal any rules that prohibit the practice of telemedicine. The boards may also adopt rules regarding patient presenters but may not require the use of a presenter, if special skills and training are not needed for the patient to participate in the encounter.

Section 4 creates s. 456.4504, F.S., to specify standards for the delivery of telemedicine services. The standard of care for the delivery of telemedicine services shall be the same as if the services were delivered in person.

The bill references the standard of care in s. 766.102, F.S. That section of law addresses medical negligence and provides:

The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.

The telemedicine provider is responsible for the quality of the telemedicine equipment and technology and its safe use. Telemedicine equipment must be able to provide the same information, at a minimum, that would have been obtained in an in-person encounter. The equipment and technology must enable the telemedicine provider to meet or exceed the prevailing standard of care for the practitioner's profession.

The telemedicine provider is not required to conduct a patient history or physical exam before the telemedicine encounter as long as the telemedicine evaluation meets the prevailing standard of care for the services provided.

The act prohibits prescribing a legend drug based solely on an electronic questionnaire without a visual examination. Additionally, a practitioner may not prescribe a controlled substance through the use of telemedicine for chronic non-malignant pain.

Medical record-keeping requirements must be of the same manner as an in-person encounter under federal and state law. All records generated must conform to confidentiality and record-keeping laws of this state, regardless of the patient's location. Telemedicine technology must be encrypted and include a record-keeping program to verify each interaction.

If a third party vendor is used by a telemedicine provider, a business associate agreement is required. The act requires that the third party vendor comply with the HITECH Act.

Section 5 creates s. 456.4505, F.S., to provide standards for the provision of telemedicine services to diagnose or treat the human eye and its appendages. Automated equipment may be utilized for telemedicine services to diagnose or treat the human eye if the following requirements are met:

- The automated equipment is approved by the United States Food and Drug Administration for the intended use;
- The automated equipment is designed and operated to accommodate any requirements of the federal ADA Amendments Act of 2008;
- The automated equipment and accompanying technology gathers and transmits information in compliance with HIPAA;
- The procedures for which the automated equipment is used has a recognized Current Procedural Terminology (CPT) code approved by the Centers for Medicare and Medicaid Services;
- The physical location of the automated equipment prominently displays the name and location of the individual that will read and interpret the information and data;
- The diagnostic information and data gathered by the automated equipment will be read and interpreted by an optometrist licensed under chapter 463 or a physician skilled in diseases of the human eye and licensed under chapter 458 or chapter 459; and,
- The owner or lessee of the automated equipment maintains liability insurance in amounts adequate to cover claims by individuals diagnosed or treated based on information and data generated by the automated equipment.

A prescription for spectacles or contact lenses may not be made based on telemedicine services or based solely on the refractive error of the human eye generated by a computer controlled device.

Section 6 creates s. 456.4506, F.S., to establish a requirement for the AHCA to reimburse for telemedicine services under Medicaid. Telemedicine services are to be reimbursed in the same manner and in an equivalent amount to Medicaid services provided in-person under parts III (Medicaid) and IV (Medicaid Managed Care) of chapter 409, F.S. An exception to this requirement is provided if the AHCA determines a service that is delivered through telemedicine is not cost effective or does not meet the clinical needs of recipients. If, after implementation, the AHCA documents this determination, then coverage for that particular service may be discontinued.

Before receipt of a telemedicine service, a Medicaid recipient or legal representative of the recipient must provide informed consent for telemedicine services. The recipient must be provided the opportunity to receive the same service through an in-person encounter.

Under this section, the reimbursement amount for Medicaid services delivered via telemedicine shall be negotiated between the parties; however, both the originating site and distant site should receive compensation based on the services rendered.

The AHCA is also required to submit a usage and cost report on telemedicine services in the Medicaid program. The report is due to the President of the Senate, Speaker of the House of Representatives, and the minority leaders by January 1, 2017.

This section relating to telemedicine services under the Medicaid program sunsets on June 30, 2017.

Section 7 amends s. 409.967(2)(c), F.S., to provide that a managed care plan may not use a telemedicine provider to meet the requirement that the plan maintain a nationwide network of providers in sufficient numbers to meet access standards for specific medical services for all recipients enrolled in the plan, unless the provider is licensed under chapter 458 or chapter 459, F.S.

Sections 8 and 9 amend ss. 627.645(3) and 641.185(1), F.S., to prohibit the denial of a claim for payment under a health insurance policy or a health maintenance organization on the basis of a medical necessity determination conducted via telemedicine unless the determination is made by a physician licensed under chapter 458 or chapter 459.

Section 10 provides an effective date of 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:

Telemedicine services are currently available in Florida. Health care technology companies that provide the equipment for these services may see an increase in demand from health care practitioners for new equipment and maintenance needs of any existing equipment.

C. Government Sector Impact:

For SB 70, which had a similar provision for telemedicine coverage of Medicaid services, the AHCA provided an indeterminate fiscal impact because the rulemaking in SB 70 had been delegated to the DOH and both costs and savings would be associated with the bill's provisions. The expected savings were based on possible efficiencies, improvements in disease management, and improved patient outcomes that resulted from telemedicine services.⁴¹

An increase in the services covered by telemedicine could also lead to an indeterminate increase in utilization and costs. SB 1646 broadens the number of services available through telemedicine.⁴²

The DOH stated in its analysis of SB 70 that a potential increase in Medicaid reimbursement funds for consultation and treatment under Medicaid could be achieved for the TB project. According to the DOH, the estimated revenue impact to the state would be \$103,190.⁴³

VI. Technical Deficiencies:

The terms “emergency services and care” and “emergency medical conditions” are defined in s. 456.4503(6), F.S., but are not used in the bill.⁴⁴

The act does not take effect until October 1, 2014, yet the telemedicine course is required to be offered by July 1, 2014 (s. 456.4503(8)(b)).⁴⁵

VII. Related Issues:

There are numerous other sections of state law that refer to “in person” or “face to face” requirements for certain medical services or health care related activities. While SB 1646 defines “in person” for purposes of the Florida Telemedicine Act, there are other usages of this phrase in statute.

⁴¹ Agency for Health Care Administration, *supra*, note 30, at 7.

⁴² *Id.*, p. 8.

⁴³ Florida Department of Health, *supra* note 26, at 5.

⁴⁴ At line 172 and 173 of CS/SB 1646.

⁴⁵ At line 194 of CS/SB 1646.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 456.4501, 456.4502, 456.4503, 456.4504, 456.4505, and 456.4506

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 April 1, 2014:

CS/SB 1646 provides that:

- Only a Florida licensed physician can deny a telemedicine encounter claim from Florida.
- Insurance claims for payment for a telemedicine encounter under a health insurance policy or a health maintenance organization may only be denied by a Florida licensed physician.
- Expands definition of telemedicine provider to include physician assistants, advanced registered nurse practitioners, or a pharmacist.
- Modifies other references to telemedicine practitioners in the Florida Telemedicine Act to incorporate these providers and their boards.
- Requires Florida license with exceptions for:
 - Consulting with a Florida licensed provider who holds the ultimate authority.
 - Consulting on an emergency basis.
- Requires that pertinent records be made available upon request of the state or affiliated organization responsible for providers.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
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The Committee on Communications, Energy, and Public Utilities (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 99 - 246
and insert:

(12) "Telemedicine provider" means a physician or physician assistant licensed under chapter 458 or chapter 459, an advanced registered nurse practitioner licensed under chapter 464, or a pharmacist licensed under chapter 465 who provides telemedicine services.

Section 3. Section 456.4503, Florida Statutes, is created



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11 to read:

12 456.4503 Telemedicine requirements.-

13 (1) An out-of-state physician, physician assistant,
14 advanced registered nurse practitioner, or pharmacist who
15 provides telemedicine across state lines to a patient physically
16 located in this state must have a Florida license to practice as
17 provided under chapter 458, chapter 459, chapter 464, or chapter
18 465.

19 (2) An out-of-state physician, physician assistant,
20 advanced registered nurse practitioner, or pharmacist is exempt
21 from subsection (1) if:

22 (a) The out-of-state physician, physician assistant,
23 advanced registered nurse practitioner, or pharmacist is
24 consulting with a telemedicine provider licensed to practice in
25 this state; and

26 (b) The telemedicine provider licensed in this state
27 retains ultimate authority and responsibility for the diagnosis,
28 treatment, and care of the patient located within this state.

29 (3) Consultations that occur on an emergency basis and that
30 are conducted via telemedicine are exempt from subsection (1).
31 The terms "emergency services and care" and "emergency medical
32 condition" have the same meanings as provided in s. 395.002.

33 (4) A health care provider or patient presenter acting
34 under the direction and supervision of a telemedicine provider
35 through the use of telemedicine may not be interpreted as
36 practicing without a license. However, the health care provider
37 must be trained in, educated on, and knowledgeable about the
38 procedure and technology and may not perform duties for which he
39 or she does not have sufficient training, education, and



507782

40 knowledge. Failure to have adequate training, education, and
41 knowledge is grounds for disciplinary action by the appropriate
42 board, or the department if there is no board, or the affiliated
43 regulatory entity for affiliated providers.

44 (5) Upon license renewal, a physician, physician assistant,
45 advanced registered nurse practitioner, or pharmacist practicing
46 telemedicine shall:

47 (a) Designate himself or herself as a telemedicine provider
48 on the practitioner profile; and

49 (b) Submit proof of successful completion of a course and
50 subsequent examination, approved by the board, on the standards
51 of practice in telemedicine. The course must consist of 2 web-
52 based contact hours. The first course and examination must be
53 offered by July 1, 2014, and shall be conducted at least
54 annually thereafter. The course and examination shall be
55 developed and offered by a statewide professional association
56 accredited to provide educational activities as designated by
57 the board. The board shall review and approve the content of the
58 initial course and examination if the board determines that the
59 course and examination adequately and reliably satisfy the
60 criteria set forth in this section. Annually thereafter, the
61 board shall review the course and examination and, if the board
62 determines that the content continues to adequately and reliably
63 satisfy the criteria set forth in this section, approve them.

64 Successful completion of the board-approved course and
65 examination may be used to satisfy 2 hours of continuing
66 education requirements for the biennial period during which the
67 board-approved course and examination are taken. A physician,
68 physician assistant, advanced registered nurse practitioner, or



507782

69 pharmacist who does not complete a board-approved course and
70 examination under this section may not provide telemedicine
71 services.

72 (6) Venue for a civil or administrative action initiated by
73 the telemedicine recipient, the department, or the appropriate
74 board shall be based on the location of the patient or shall be
75 in Leon County.

76 (7) The boards may adopt rules to administer the
77 requirements of this act and must repeal rules that are
78 inconsistent with this act, including rules that prohibit the
79 use of telemedicine in this state. The appropriate board may
80 also develop standards and adopt rules relating to requirements
81 for patient presenters. Such rules may not require the use of
82 patient presenters in telemedicine services if special skills or
83 training is not needed for a patient to participate in the
84 encounter.

85 Section 4. Section 456.4504, Florida Statutes, is created
86 to read:

87 456.4504 Telemedicine standards.-

88 (1) The standard of care as provided in s. 766.102 is the
89 same regardless of whether the physician, physician assistant,
90 advanced registered nurse practitioner, or pharmacist provides
91 health care services in person or by telemedicine. The
92 applicable board may adopt rules specifically related to the
93 standard of care for telemedicine.

94 (2) A telemedicine provider providing telemedicine services
95 under this act is responsible for the quality of the equipment
96 and technology employed and for its safe use. Telemedicine
97 equipment and advanced communications technology must, at a



507782

98 minimum, be able to provide the same information to the
99 telemedicine provider as the information that would be obtained
100 in an in-person encounter with a health care provider and must
101 enable the telemedicine provider to meet or exceed the
102 prevailing standard of care for the practice of the profession.

103 (3) The telemedicine provider is not required to conduct a
104 patient history or physical examination of the patient before
105 engaging in a telemedicine encounter if the telemedicine
106 provider conducts a patient evaluation sufficient to meet the
107 prevailing standard of care for the services provided.

108 (4) Before each telemedicine encounter, the identification
109 and location of the telemedicine provider and all other
110 individuals present via advanced communications technology who
111 will view the patient or the patient's information must be
112 identified to the patient.

113 (5) For the purposes of this act, the nonemergency
114 prescribing of a legend drug based solely on an electronic
115 questionnaire without a visual examination is considered a
116 failure to practice with the level of care, skill, and treatment
117 which is recognized by a reasonably prudent physician, physician
118 assistant, advanced registered nurse practitioner, or pharmacist
119 and is not authorized under this act.

120
121 ===== T I T L E A M E N D M E N T =====

122 And the title is amended as follows:

123 Delete lines 5 - 12

124 and insert:

125 s. 456.4503, F.S.; requiring specified practitioners
126 providing telemedicine services to patients in this



507782

127 state to be licensed in this state; requiring
128 pertinent records to be made available upon request;
129 providing certain exceptions for emergency services
130 and consultations; requiring other health care
131 providers to be supervised by a telemedicine provider;
132 providing continuing education requirements



692696

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
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The Committee on Communications, Energy, and Public Utilities (Garcia) recommended the following:

1 **Senate Amendment to Amendment (507782) (with title**
2 **amendment)**

3
4 Delete line 28
5 and insert:

6 treatment, and care of the patient located within this state; or
7 (c) If not licensed in this state:
8 1. Hold an unrestricted active license to practice
9 allopathic or osteopathic medicine in the state of the distant
10 site and that state's licensure requirements must meet or exceed



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11 those of this state under chapter 458 or chapter 459, as
12 determined by the appropriate board;
13 2. Maintain professional liability coverage that includes
14 coverage for telemedicine services, in an amount and manner
15 consistent with s. 458.320 and appropriate to the physician's
16 scope of practice and location;
17 3. Have one of the following:
18 a. Privileges at or be on the medical staff of an out-of-
19 state hospital affiliated with a Florida hospital licensed under
20 chapter 395; or
21 b. Affiliation with an out-of-state health insurer or
22 health plan that is also authorized to conduct business in this
23 state pursuant to chapter 627 or chapter 641; and
24 4. Practice in a state that authorizes Florida-licensed
25 physicians to provide telemedicine services to patients located
26 in that state without having to be licensed to practice medicine
27 in that state.
28 (2) An out-of-state physician authorized under paragraph
29 (1) (b) to provide telemedicine services to patients in this
30 state is subject to appropriate disciplinary action by the Board
31 of Medicine, the Board of Osteopathic Medicine, or a regulatory
32 entity in this state which has regulatory jurisdiction over the
33 hospital, insurer, or health plan affiliated with the physician
34 as described in subparagraph (1) (b) 3.
35 (3) A telemedicine provider and a hospital, insurer, or
36 health plan operating in this state which is affiliated with an
37 out-of-state provider as described in subparagraph (1) (b) 3.
38 shall make any pertinent records available upon request of the
39 board, the department, or other regulatory authority as



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40 applicable. Failure to comply with such request may result in
41 the revocation of the provider's license or imposition of a fine
42 by the applicable board; or, in the case of an affiliated
43 hospital, insurer, or health plan, a fine, license restriction,
44 or revocation of an affiliated entity's authorization to conduct
45 business in this state

46

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

48 And the title is amended as follows:

49 Delete line 132

50 and insert:

51 providing continuing education requirements; requiring
52 non-Florida licensed physicians to meet alternative
53 requirements;



483198

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/01/2014	.	
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The Committee on Communications, Energy, and Public Utilities
(Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 105 - 204

and insert:

(1) An out-of-state physician who provides telemedicine
across state lines to a patient physically located in this state
must have a Florida license to practice medicine as provided
under chapter 458 or chapter 459.

(2) An out-of-state physician is exempt from subsection (1)
if:



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11 (a) The out-of-state physician is consulting with a
12 physician licensed to practice medicine in this state; and

13 (b) The physician licensed in this state retains ultimate
14 authority and responsibility for the diagnosis, treatment, and
15 care of the patient located within this state.

16 (3) Physician consultations that occur on an emergency
17 basis and that are conducted via telemedicine are exempt from
18 subsection (1). The terms "emergency services and care" and
19 "emergency medical condition" have the same meanings as provided
20 in s. 395.002.

21 (4) A health care provider or patient presenter acting
22 under the direction and supervision of a physician through the
23 use of telemedicine may not be interpreted as practicing
24 medicine without a license. However, the health care provider
25 must be trained in, educated on, and knowledgeable about the
26 procedure and technology and may not perform duties for which he
27 or she does not have sufficient training, education, and
28 knowledge. Failure to have adequate training, education, and
29 knowledge is grounds for disciplinary action by the appropriate
30 board, or the department if there is no board, or the affiliated
31 regulatory entity for affiliated providers.

32 (5) Upon license renewal, a physician practicing
33 telemedicine shall:

34 (a) Designate himself or herself as a telemedicine provider
35 on the physician's practitioner profile; and

36 (b) Submit proof of successful completion of a course and
37 subsequent examination, approved by the board, on the standards
38 of practice in telemedicine. The course must consist of 2 web-
39 based contact hours. The first course and examination must be



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40 offered by July 1, 2014, and shall be conducted at least
41 annually thereafter. The course and examination shall be
42 developed and offered by a statewide professional association of
43 physicians in this state accredited to provide educational
44 activities designated for an American Medical Association
45 Physician's Recognition Award (AMA PRA) Category 1 Credit. The
46 board shall review and approve the content of the initial course
47 and examination if the board determines that the course and
48 examination adequately and reliably satisfy the criteria set
49 forth in this section. Annually thereafter, the board shall
50 review the course and examination and, if the board determines
51 that the content continues to adequately and reliably satisfy
52 the criteria set forth in this section, approve them. Successful
53 completion of the board-approved course and examination may be
54 used by a certified physician to satisfy 2 hours of continuing
55 education requirements for the biennial period during which the
56 board-approved course and examination are taken. A physician who
57 does not complete a board-approved course and examination under
58 this section may not provide telemedicine services.

59 (6) Venue for a civil or administrative action initiated by
60 the telemedicine recipient, the department, or the appropriate
61 board shall be based on the location of the patient or shall be
62 in Leon County.

63 (7) The boards may adopt rules to administer the

64
65 ===== T I T L E A M E N D M E N T =====

66 And the title is amended as follows:

67 Delete lines 7 - 9

68 and insert:



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69

licensed in this state; providing certain exceptions



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
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The Committee on Communications, Energy, and Public Utilities (Garcia) recommended the following:

Senate Amendment (with title amendment)

Between lines 360 and 361

insert:

Section 7. Subsection (3) is added to section 627.645, Florida Statutes, to read:

627.645 Denial of health insurance claims restricted.—

(3) A claim for payment under a health insurance policy for medical care or treatment may not be denied on the basis of a medical necessity determination conducted via telemedicine as



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11 defined in s. 456.4502 unless the determination is made by a
12 physician licensed under chapter 458 or chapter 459.

13 Section 8. Paragraph (m) is added to subsection (1) of
14 section 641.185, Florida Statutes, to read:

15 641.185 Health maintenance organization subscriber
16 protections.—

17 (1) With respect to the provisions of this part and part
18 III, the principles expressed in the following statements shall
19 serve as standards to be followed by the commission, the office,
20 the department, and the Agency for Health Care Administration in
21 exercising their powers and duties, in exercising administrative
22 discretion, in administrative interpretations of the law, in
23 enforcing its provisions, and in adopting rules:

24 (m) A health maintenance organization may not deny a claim
25 for payment for medical care or treatment on the basis of a
26 medical necessity determination conducted via telemedicine as
27 defined in s. 456.4502 unless the determination is made by a
28 physician licensed under chapter 458 or chapter 459.

29 Section 9. Paragraph (c) of subsection (2) of section
30 409.967, Florida Statutes, is amended to read:

31 409.967 Managed care plan accountability.—

32 (2) The agency shall establish such contract requirements
33 as are necessary for the operation of the statewide managed care
34 program. In addition to any other provisions the agency may deem
35 necessary, the contract must require:

36 (c) Access.—

37 1. The agency shall establish specific standards for the
38 number, type, and regional distribution of providers in managed
39 care plan networks to ensure access to care for both adults and



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40 children. Each plan must maintain a regionwide network of
41 providers in sufficient numbers to meet the access standards for
42 specific medical services for all recipients enrolled in the
43 plan. A plan may not use telemedicine providers as defined in s.
44 456.4502 to meet this requirement unless the provider is
45 licensed under chapter 458 or chapter 459. The exclusive use of
46 mail-order pharmacies may not be sufficient to meet network
47 access standards. Consistent with the standards established by
48 the agency, provider networks may include providers located
49 outside the region. A plan may contract with a new hospital
50 facility before the date the hospital becomes operational if the
51 hospital has commenced construction, will be licensed and
52 operational by January 1, 2013, and a final order has issued in
53 any civil or administrative challenge. Each plan shall establish
54 and maintain an accurate and complete electronic database of
55 contracted providers, including information about licensure or
56 registration, locations and hours of operation, specialty
57 credentials and other certifications, specific performance
58 indicators, and such other information as the agency deems
59 necessary. The database must be available online to both the
60 agency and the public and have the capability to compare the
61 availability of providers to network adequacy standards and to
62 accept and display feedback from each provider's patients. Each
63 plan shall submit quarterly reports to the agency identifying
64 the number of enrollees assigned to each primary care provider.

65 2. Each managed care plan must publish any prescribed drug
66 formulary or preferred drug list on the plan's website in a
67 manner that is accessible to and searchable by enrollees and
68 providers. The plan must update the list within 24 hours after



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69 making a change. Each plan must ensure that the prior
70 authorization process for prescribed drugs is readily accessible
71 to health care providers, including posting appropriate contact
72 information on its website and providing timely responses to
73 providers. For Medicaid recipients diagnosed with hemophilia who
74 have been prescribed anti-hemophilic-factor replacement
75 products, the agency shall provide for those products and
76 hemophilia overlay services through the agency's hemophilia
77 disease management program.

78 3. Managed care plans, and their fiscal agents or
79 intermediaries, must accept prior authorization requests for any
80 service electronically.

81
82 ===== T I T L E A M E N D M E N T =====

83 And the title is amended as follows:

84 Delete line 34

85 and insert:

86 providing for future repeal; amending ss. 627.645 and
87 641.185, F.S.; prohibiting the denial of a claim for
88 payment for medical services based on a medical
89 necessity determination conducted via telemedicine
90 unless the determination is made by a physician;
91 prohibiting a managed care plan under Medicaid from
92 using telemedicine providers that are not physicians;
93 providing an effective date.

By the Committee on Health Policy

588-02190A-14

20141646__

1 A bill to be entitled
2 An act relating to telemedicine; creating s. 456.4501,
3 F.S.; providing a short title; creating s. 456.4502,
4 F.S.; defining terms applicable to the act; creating
5 s. 456.4503, F.S.; requiring physicians providing
6 telemedicine services to patients in this state to be
7 licensed in this state or to meet alternative
8 requirements; requiring pertinent records to be made
9 available upon request; providing certain exceptions
10 for emergency services and consultations; requiring
11 other health care providers to be supervised by a
12 physician; providing continuing education requirements
13 for telemedicine providers; establishing venue;
14 providing applicability; authorizing the licensing
15 boards to adopt rules; creating s. 456.4504, F.S.;
16 providing standards and prohibitions for the provision
17 of telemedicine services; prohibiting nonemergency
18 prescribing of a legend drug without a physical
19 examination; prohibiting the prescription of a
20 controlled substance for chronic nonmalignant pain
21 using telemedicine; creating s. 456.4505, F.S.;
22 authorizing the use of telemedicine services in the
23 diagnosis and treatment of the human eye; providing
24 requirements for the use of automated equipment;
25 requiring the owner or lessee of the automated
26 equipment to maintain specified liability insurance
27 under certain circumstances; prohibiting prescriptions
28 for spectacles or contact lens based solely on the use
29 of an autorefractor; creating s. 456.4506, F.S.;

588-02190A-14

20141646__

30 providing requirements for reimbursement of
31 telemedicine services under the Medicaid program;
32 requiring a report to the Legislature on the usage and
33 costs of telemedicine in Medicaid by a certain date;
34 providing for future repeal; providing an effective
35 date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Section 456.4501, Florida Statutes, is created
40 to read:

41 456.4501 Short title.—Sections 456.4501-456.4506 may be
42 cited as the “Florida Telemedicine Act.”

43 Section 2. Section 456.4502, Florida Statutes, is created
44 to read:

45 456.4502 Definitions.—As used in this act, the term:

46 (1) “Act” means the Florida Telemedicine Act.

47 (2) “Advanced communications technology” means:

48 (a) Compressed digital interactive video, audio, or data
49 transmissions;

50 (b) Real-time synchronous video- or web-conferencing
51 communications;

52 (c) Secure web-based communications;

53 (d) Still-image capture or asynchronous store and forward;

54 (e) Health care service transmissions supported by mobile
55 devices (mHealth); or

56 (f) Other technology that facilitates access to health care
57 services or medical specialty expertise.

58 (3) “Distant site” means the location at which the

588-02190A-14

20141646__

59 telemedicine provider delivering the health care service is
60 located at the time the service is provided via telemedicine.

61 (4) "Encounter" means an examination, consultation,
62 monitoring, or other health care service.

63 (5) "Health care provider" means a health care practitioner
64 or out-of-state licensed individual who provides health care
65 services within the scope of his or her professional license.

66 (6) "In person" means that a patient is in the physical
67 presence of the health care provider without regard to whether
68 portions of the encounter are conducted by other providers.

69 (7) "Originating site" means the location of the patient
70 receiving telemedicine services, which site meets the standards
71 of this act as verified by the telemedicine provider.

72 (8) "Patient presenter" means an individual who has
73 clinical background training in the use of advanced
74 communications technology equipment and who is available at the
75 originating site to present the patient, manage the cameras or
76 equipment, and perform any hands-on activity necessary to
77 successfully complete the telemedicine encounter under the
78 direction and supervision of a telemedicine provider.

79 (9) "Store and forward" means the type of telemedicine
80 encounter that uses still images of patient data for rendering a
81 medical opinion or diagnosis. The term includes the asynchronous
82 transmission of clinical data from one site to another.

83 (10) "Telehealth" means the use of advanced communications
84 technology to provide access to health assessment, diagnosis,
85 intervention, consultation, supervision, and information across
86 distances. The term includes the use of remote patient-
87 monitoring devices that are used to collect and transmit data

588-02190A-14

20141646__

88 for telemonitoring and interpretation.

89 (11) "Telemedicine" means the practice of medicine through
90 the use of advanced communications technology by a telemedicine
91 provider at a distant site in compliance with federal and state
92 privacy and confidentiality requirements and encryption
93 standards. Services provided through telemedicine may include
94 patient assessment, diagnosis, consultation, treatment,
95 prescription of medicine, transfer of medical data, or other
96 medical-related services. The term does not include audio-only
97 calls, e-mail messages, or facsimile transmissions. Telemedicine
98 includes telehealth and telemonitoring.

99 (12) "Telemedicine provider" means a physician licensed
100 under chapter 458 or chapter 459 who provides telemedicine
101 services.

102 Section 3. Section 456.4503, Florida Statutes, is created
103 to read:

104 456.4503 Telemedicine requirements.—

105 (1) An out-of-state physician who provides telemedicine
106 across state lines to a patient physically located in this state
107 must:

108 (a) Have a Florida license to practice medicine as provided
109 under chapter 458 or chapter 459, except as provided under
110 subsection (2); or

111 (b) If not licensed in this state:

112 1. Hold an unrestricted active license to practice
113 allopathic or osteopathic medicine in the state of the distant
114 site and that state's licensure requirements must meet or exceed
115 those of this state under chapter 458 or chapter 459, as
116 determined by the appropriate board;

588-02190A-14

20141646__

117 2. Maintain professional liability coverage that includes
118 coverage for telemedicine services, in an amount and manner
119 consistent with s. 458.320 and appropriate to the physician's
120 scope of practice and location;

121 3. Have one of the following:

122 a. Privileges at or be on the medical staff of an out-of-
123 state hospital affiliated with a Florida hospital licensed under
124 chapter 395; or

125 b. Affiliation with an out-of-state health insurer or
126 health plan that is also authorized to conduct business in this
127 state pursuant to chapter 627 or chapter 641; and

128 4. Practice in a state that authorizes Florida-licensed
129 physicians to provide telemedicine services to patients located
130 in that state without having to be licensed to practice medicine
131 in that state.

132 (2) An out-of-state physician authorized under paragraph
133 (1) (b) to provide telemedicine services to patients in this
134 state is subject to appropriate disciplinary action by the Board
135 of Medicine, the Board of Osteopathic Medicine, or a regulatory
136 entity in this state which has regulatory jurisdiction over the
137 hospital, insurer, or health plan affiliated with the physician
138 as described in subparagraph (1) (b) 3.

139 (3) A telemedicine provider and a hospital, insurer, or
140 health plan operating in this state which is affiliated with an
141 out-of-state provider as described in subparagraph (1) (b) 3.
142 shall make any pertinent records available upon request of the
143 board, the department, or other regulatory authority as
144 applicable. Failure to comply with such request may result in
145 the revocation of the provider's license or imposition of a fine

588-02190A-14

20141646__

146 by the applicable board; or, in the case of an affiliated
147 hospital, insurer, or health plan, a fine, license restriction,
148 or revocation of an affiliated entity's authorization to conduct
149 business in this state.

150 (4) An out-of-state physician is not required to meet the
151 requirements of subsection (1) if:

152 (a) The out-of-state physician is consulting with a
153 physician licensed to practice medicine in this state; and

154 (b) The physician licensed in this state retains ultimate
155 authority and responsibility for the diagnosis, treatment, and
156 care of the patient located within this state.

157 (5) Physician consultations that occur on an emergency
158 basis and that are conducted via telemedicine are exempt from
159 subsection (1). "Emergency services and care" provided to
160 relieve an "emergency medical condition" have the same meaning
161 as provided in s. 395.002.

162 (6) A health care provider or patient presenter acting
163 under the direction and supervision of a physician through the
164 use of telemedicine may not be interpreted as practicing
165 medicine without a license. However, the health care provider
166 must be trained in, educated on, and knowledgeable about the
167 procedure and technology and may not perform duties for which
168 the provider does not have sufficient training, education, and
169 knowledge. Failure to have adequate training, education, and
170 knowledge is grounds for disciplinary action by the appropriate
171 board, or the department if there is no board, or the affiliated
172 regulatory entity for affiliated providers.

173 (7) Upon license renewal, a physician practicing
174 telemedicine shall:

588-02190A-14

20141646__

175 (a) Designate himself or herself as a telemedicine provider
176 on the physician's practitioner profile; and

177 (b) Submit proof of successful completion of a course and
178 subsequent examination, approved by the board, on the standards
179 of practice in telemedicine. The course must consist of 2 web-
180 based contact hours. The first course and examination must be
181 offered by July 1, 2014, and shall be conducted at least
182 annually thereafter. The course and examination shall be
183 developed and offered by a statewide professional association of
184 physicians in this state accredited to provide educational
185 activities designated for an American Medical Association
186 Physician's Recognition Award (AMA PRA) Category 1 credit. The
187 board shall review and approve the content of the initial course
188 and examination if the board determines that the course and
189 examination adequately and reliably satisfy the criteria set
190 forth in this section. The board shall annually thereafter
191 review and approve the course and examination if the board
192 determines that the content continues to adequately and reliably
193 satisfy the criteria set forth in this section. Successful
194 completion of the board-approved course and examination may be
195 used by a certified physician to satisfy 2 hours of continuing
196 education requirements for the biennial period during which the
197 board-approved course and examination are taken. A physician who
198 does not complete a board-approved course and examination under
199 this section may not provide telemedicine services.

200 (8) Venue for a civil or administrative action initiated by
201 the telemedicine recipient, the department, or the appropriate
202 board shall be based on the location of the patient or shall be
203 in Leon County.

588-02190A-14

20141646__

204 (9) The boards may adopt rules to administer the
205 requirements of this act and must repeal rules that are
206 inconsistent with this act, including rules that prohibit the
207 use of telemedicine in this state. The appropriate board may
208 also develop standards and adopt rules relating to requirements
209 for patient presenters. Such rules may not require the use of
210 patient presenters in telemedicine services if special skills or
211 training is not needed for a patient to participate in the
212 encounter.

213 Section 4. Section 456.4504, Florida Statutes, is created
214 to read:

215 456.4504 Telemedicine standards.—

216 (1) The standard of care as provided in s. 766.102 is the
217 same regardless of whether the physician provides health care
218 services in person or by telemedicine. The applicable board may
219 adopt rules specifically related to the standard of care for
220 telemedicine.

221 (2) A telemedicine provider providing telemedicine services
222 under this act is responsible for the quality of the equipment
223 and technology employed and for its safe use. Telemedicine
224 equipment and advanced communications technology must, at a
225 minimum, be able to provide the same information to the
226 telemedicine provider as the information that would be obtained
227 in an in-person encounter with a health care provider and must
228 enable the telemedicine provider to meet or exceed the
229 prevailing standard of care for the practice of the profession.

230 (3) The telemedicine provider is not required to conduct a
231 patient history or physical examination of the patient before
232 engaging in a telemedicine encounter if the telemedicine

588-02190A-14

20141646__

233 provider conducts a patient evaluation sufficient to meet the
234 prevailing standard of care for the services provided.

235 (4) Before each telemedicine encounter, the identification
236 and location of the telemedicine provider and all other
237 individuals present via advanced communications technology who
238 will view the patient or the patient's information must be
239 identified to the patient.

240 (5) For the purposes of this act, the nonemergency
241 prescribing of a legend drug based solely on an electronic
242 questionnaire without a visual examination is considered a
243 failure to practice medicine with the level of care, skill, and
244 treatment which is recognized by a reasonably prudent physician
245 or other authorized practitioner and is not authorized under
246 this act.

247 (6) A controlled substance may not be prescribed through
248 the use of telemedicine for chronic, nonmalignant pain.

249 (7) Medical records must be kept by each telemedicine
250 provider that participates in a patient telemedicine encounter
251 to the same extent as required for an in-person encounter under
252 state and federal law. Telemedicine providers are encouraged to
253 create electronic health records to document the encounter and
254 to transmit information in the most efficient manner possible.

255 (8) Any medical records generated, including records
256 maintained via video, audio, electronic, or other means, due to
257 a telemedicine encounter must conform to the confidentiality and
258 recordkeeping requirements of federal law and nationally
259 recognized health care accreditation organizations and the laws
260 and rules of this state, regardless of where the medical records
261 of a patient in this state are maintained.

588-02190A-14

20141646__

262 (9) Telemedicine technology used by a telemedicine provider
263 must be encrypted and must use a recordkeeping program to verify
264 each interaction.

265 (10) In those situations in which a telemedicine provider
266 uses telemedicine technology provided by a third-party vendor,
267 the telemedicine provider must:

268 (a) Require a business associate agreement with the third-
269 party vendor; and

270 (b) Ensure that the third-party vendor complies with the
271 administrative, physical, and technical safeguards and standards
272 set forth by the Health Information Technology for Economic and
273 Clinical Health (HITECH) Act and by federal regulations
274 implemented pursuant to HITECH.

275 Section 5. Section 456.4505, Florida Statutes, is created
276 to read:

277 456.4505 Telemedicine services to diagnose or treat the
278 human eye.—

279 (1) The use of automated equipment, including computer-
280 controlled devices, in the provision of telemedicine services to
281 diagnose or treat the human eye and its appendages, is
282 permissible if the following requirements are met at the time
283 the automated equipment is used:

284 (a) The automated equipment is approved by the United
285 States Food and Drug Administration for the intended use;

286 (b) The automated equipment is designed and operated in a
287 manner that provides any accommodation required by the federal
288 ADA Amendments Act of 2008;

289 (c) The automated equipment and accompanying technology
290 used for the collection and transmission of information and

588-02190A-14

20141646__

291 data, including photographs and scans, gathers and transmits
292 protected health information in compliance with the federal
293 Health Insurance Portability and Accountability Act;

294 (d) The procedure for which the automated equipment is used
295 has a recognized Current Procedural Terminology (CPT) code
296 approved by the Centers for Medicare and Medicaid Services;

297 (e) The physical location of the automated equipment
298 prominently displays the name and Florida license number of the
299 individual who will read and interpret the diagnostic
300 information and data, including photographs and scans;

301 (f) Diagnostic information and data, including photographs
302 and scans, gathered by the automated equipment is read and
303 interpreted by an optometrist licensed under chapter 463 or a
304 physician skilled in diseases of the human eye and licensed
305 under chapter 458 or chapter 459; and

306 (g) The owner or lessee of the automated equipment
307 maintains liability insurance in an amount adequate to cover
308 claims made by individuals diagnosed or treated based on
309 information and data, including photographs and scans, generated
310 by the automated equipment.

311 (2) A prescription for spectacles or contact lens may not
312 be made based on telemedicine services or based solely on the
313 refractive error of the human eye generated by a computer-
314 controlled device such as an autorefractor.

315 Section 6. Section 456.4506, Florida Statutes, is created
316 to read:

317 456.4506 Telemedicine services under Medicaid.-

318 (1) The Agency for Health Care Administration shall
319 reimburse for Medicaid services provided through telemedicine in

588-02190A-14

20141646__

320 the same manner and equivalent to Medicaid services provided in
321 person under parts III and IV of chapter 409, except as provided
322 in subsection (7).

323 (2) Telemedicine services reimbursed under Medicaid must
324 meet the standards and requirements of this act.

325 (3) Except as provided in subsection (7), the agency may
326 not require in-person contact between a telemedicine provider
327 and Medicaid recipient as a prerequisite for payment for
328 services appropriately provided through telemedicine in
329 accordance with generally accepted health care practices and
330 standards prevailing in the applicable health care community at
331 the time the services are provided.

332 (4) Before receipt of telemedicine services, a Medicaid
333 recipient or the legal representative of a Medicaid recipient
334 must provide informed consent for telemedicine services. A
335 Medicaid recipient shall also be provided the opportunity to
336 receive the same service through an in-person encounter.

337 (5) A Medicaid service that is provided through a fee-for-
338 service or managed care program may not be denied as a
339 creditable Medicaid service solely because that service is
340 provided through telemedicine.

341 (6) Reimbursement of telemedicine services under Medicaid
342 shall be the amount negotiated between the parties involved to
343 the extent permitted under state and federal law. Regardless of
344 the reimbursement methodology or amount, telemedicine providers
345 located at the originating site and the distant site should both
346 receive reimbursement based on the services rendered, if any,
347 during the telemedicine encounter.

348 (7) If, after implementation, the agency determines that

588-02190A-14

20141646__

349 the delivery of a particular service through telemedicine is not
350 cost-effective or does not adequately meet the clinical needs of
351 recipients and the determination has been documented, the agency
352 may discontinue Medicaid reimbursement for that telemedicine
353 service.

354 (8) The agency shall submit a report on the usage and
355 costs, including savings, if any, associated with the provision
356 of health care services through telemedicine under the Medicaid
357 program by January 1, 2017, to the President of the Senate, the
358 Speaker of the House of Representatives, and the minority
359 leaders of the Senate and the House of Representatives.

360 (9) This section is repealed June 30, 2017.

361 Section 7. 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.)

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

BILL: CS/SM 1174

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Gibson

SUBJECT: Power Plant Carbon Dioxide Emissions

DATE: March 27, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gudeman</u>	<u>Uchino</u>	<u>EP</u>	Fav/CS
2.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	Favorable

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SM 1174 urges the United States Congress to allow Florida to develop its own performance standards for regulating carbon dioxide emissions from existing coal-fired power plants, which take into account the unique policies, energy needs, resource mix, and economic priorities of the state.

II. Present Situation:

Congress passed the Clean Air Act (CAA) in 1970, with major revisions in 1977 and 1990.¹ The CAA requires the U.S. Environmental Protection Agency (EPA) to establish national ambient air quality standards for certain common and widespread pollutants based on the latest science.² The EPA has set air quality standards for six common “criteria pollutants”: particulate matter, ozone, sulfur dioxide, nitrogen dioxide, carbon monoxide, and lead.³ For these common pollutants, the law requires the EPA to establish health-based national air quality standards to protect people and the states are responsible for developing enforceable state implementation plans to meet the standards.⁴

¹ U.S. Environmental Protection Agency, Clean Air Act Requirements and History, <http://www.epa.gov/air/caa/requirements.html> (last visited Mar. 27, 2014).

² *Id.*

³ *Id.*

⁴ *Id.*

The Florida Department of Environmental Protection (DEP) is responsible for implementing air pollution programs that are in compliance with federal requirements. The DEP adopted Rule 62-204, F.A.C., which incorporates the CAA air pollution requirements by reference and identifies Florida's state implementation plan.⁵

Carbon dioxide is naturally present in the atmosphere as part of the Earth's carbon cycle (the natural circulation of carbon among the atmosphere, oceans, soil, plants, and animals).⁶ Carbon dioxide is not a pollutant but is a greenhouse gas of concern in connection with climate change.⁷ The main human activity that emits carbon dioxide is the combustion of fossil fuels (coal, natural gas, and oil) for energy and transportation.⁸ The combustion of fossil fuels to generate electricity is the largest single source of carbon dioxide emissions in the nation, accounting for about 38 percent of total U.S. carbon dioxide emissions and 32 percent of total U.S. greenhouse gas emissions in 2011.⁹ The type of fossil fuel used to generate electricity will emit different amounts of carbon dioxide, but to produce a given amount of electricity, burning coal will produce more carbon dioxide than oil or natural gas.¹⁰

In May 2010, the National Research Council (NRC), the operating arm of the National Academy of Sciences, published an assessment which concluded that "climate change is occurring, is caused largely by human activities, and poses significant risks for - and in many cases is already affecting - a broad range of human and natural systems."¹¹ The NRC stated that this conclusion is based on findings that are consistent with several other major assessments of the state of scientific knowledge on climate change.¹²

Under the CAA, the EPA is taking the following "initial common sense steps" to limit greenhouse gas pollution from large sources:

- EPA and the National Highway and Traffic Safety Administration between 2010 and 2012 issued the first national greenhouse gas emission standards and fuel economy standards for cars and light trucks, and for medium- and heavy-duty trucks.
- EPA and states in 2011 began requiring preconstruction permits that limit greenhouse gas emissions from large new stationary sources – such as power plants, refineries, cement plants, and steel mills – when they are built or undergo major modification.¹³

On June 25, 2013, the President released a Presidential Memorandum that recognized that the EPA had already begun rulemaking for new power plants and directed the EPA to issue

⁵ See Rule 62-204, F.A.C., see also EPA, *Florida State Implementation Plan*, <http://www.epa.gov/region4/air/sips/fl/contents.htm> (last visited Mar. 27, 2014).

⁶ U.S. Environmental Protection Agency, Overview of Greenhouse Gases, <http://www.epa.gov/climatechange/ghgemissions/gases/co2.html> (last visited Mar. 27, 2014).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ U.S. Environmental Protection Agency, Air Pollution Challenges: Climate Change, (citing National Research Council (2010), *Advancing the Science of Climate Change*, National Academy Press, Washington, D.C., p. 3) <http://www.epa.gov/air/caa/challenges.html> (last visited Mar. 27, 2014).

¹² *Id.*, (citing National Research Council (2010), *Advancing the Science of Climate Change*, National Academy Press, Washington, D.C., p. 286).

¹³ *Id.*

standards, regulations, or guidelines that address carbon dioxide emissions from existing, modified, and reconstructed coal-fired power plants. The EPA must finalize the rule by June 1, 2015, and the states must submit a state implementation plan to the EPA no later than June 30, 2016.¹⁴

In September 2013, the EPA proposed carbon “pollution” standards for new power plants built in the future, and began the process of engagement with states, stakeholders, and the public to establish carbon “pollution” standards for existing power plants.¹⁵

III. Effect of Proposed Changes:

The memorial contains 15 whereas clauses, several of which make reference to coal or coal-fueled power plants. The issue, however, is broader than coal. As noted above, combustion of any fossil fuel produces carbon dioxide, coal simply produces more per unit of electricity generated than natural gas or oil. Additionally, municipal solid waste or waste-to-energy power plants also produce carbon dioxide.¹⁶ The EPA rules will impact almost every type of facility producing electricity in Florida that meets any threshold criteria.¹⁷

The memorial urges the United State Congress to direct the EPA to take certain steps in developing guidelines for regulating carbon dioxide emissions from existing fossil-fueled electric generating units. These steps include:

- allowing state regulators to develop performance standards which take into account the unique policies, energy needs, resource mix, and economic priorities of the state;
- allowing Florida to set less stringent performance standards or longer compliance schedules; and
- giving Florida maximum flexibility to implement standards.

A copy of the memorial must be delivered to the President of the United States, EPA administrator, President of the United States Senate, Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United State Congress.

¹⁴ Memorandum to the Environmental Protection Agency from President Barak Obama, (June 25, 2013), *available at* <http://www.whitehouse.gov/the-press-office/2013/06/25/presidential-memorandum-power-sector-carbon-pollution-standards> (last visited Mar. 27, 2014).

¹⁵ U.S. Environmental Protection Agency, Air Pollution Challenges: Climate Change, <http://www.epa.gov/air/caa/challenges.html> (last visited Mar. 27, 2014).

¹⁶ US Environmental Protection Agency, Clean Energy, Air Emissions, <http://www.epa.gov/cleanenergy/energy-and-you/affect/air-emissions.html> (last visited March 28, 2014); *See*, also, Energy Recovery Council, Waste-to-Energy Reduces Greenhouse Gas Emissions, <http://energyrecoverycouncil.org/waste-energy-reduces-greenhouse-gas-emissions-a2966> (last visited March 28, 2014); Wheelabrator Technologies Inc., Climate, <http://www.wheelabratortechnologies.com/environment1/climate/> (last visited March 28, 2014).

¹⁷ Wind and geothermal produce negligible emissions in generating electricity because no fuels are combusted; however, Florida has very little of either, and no utility-scale wind turbines or what is commonly thought of as geothermal. Solar also produces negligible emissions, and Florida does have some solar, both utility owned and privately owned. Landfill gas used as a fuel to generate electricity, of which Florida has a small amount, does produce carbon dioxide, however, it is considered to be a part of the natural carbon cycle of the earth. Biomass, which Florida also has, also produces carbon dioxide emissions, which may not result in a net increase in carbon emissions if the biomass resources are managed sustainably, but it is not safe to assume biomass power plants are carbon neutral. US Environmental Protection Agency, Clean Energy, Air Emissions, <http://www.epa.gov/cleanenergy/energy-and-you/affect/air-emissions.html> (last visited March 28, 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 EPA's rules will require Florida's electric utilities to incur costs of compliance which will be passed on to the ratepayers. Reliability of the fuel supply and electricity supply, and fuel prices and price stability may also be impacted.^{18, 19} Florida already has a large reliance on natural gas as a generation fuel. Currently more than 65 percent of the electricity in Florida is generated from natural gas, with 21 percent generated from coal and oil. Peninsular Florida can only import approximately 3,800 megawatts of electricity from other states.²⁰

Additionally, Florida has unique weather, customer base, and high reliance on electricity for cooling and heating. Florida has the highest number of cooling degree days of any state in the continental U.S. Florida's customers rely more heavily on electricity to meet their energy needs, rather than the direct use of natural gas or other fuels, for cooling and heating. Approximately 85 percent of Florida's residential customers' energy needs are met with electricity. Residential consumers make up almost 89 percent of Florida's

¹⁸ The Florida Public Service Commission has written that it "is concerned that under the provisions of the proposed [Carbon Pollution Standard for New Power Plants] rule, electric utilities will be precluded from constructing coal-fired generation to meet future needs because the standard can be met solely with costly and unproven carbon capture and sequestration (CCS) technology. CCS at this time is costly and has not been adequately demonstrated on the scale necessary for deployment by the electric generation utility industry." Florida Public Service Commission, COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION, in the US Environmental Protection Agency's Docket ID No. EPA-HQ-OAR-2013-0495, page 1, <http://www.psc.state.fl.us/dockets/federal/PDFs/EPA-HQ-OAR-2013-495.pdf> (last visited March 28, 2014).

¹⁹ The PSC has also written about its concerns that the EPA may treat any modified plant as a new plant under the proposed rule. "Requiring modified plants to meet the proposed standards for new sources would necessitate the requirement of CSS installations at existing coal, oil, and some natural gas-fired plants." These expenses may be in addition to expenses necessary for "modification to meet the requirements of other EPA rules, including the Cross-State Air Pollution rule, the Mercury and Air Toxics rule, the Cooling Water Intake Structures rule, and the Coal Residuals rule." *Id.*, page 4.

²⁰ *Id.*

electricity customers, including a large population of senior citizens on fixed incomes.²¹ Each of these factors magnifies the impact of any increase in the cost of electricity.

If the memorial is successful, Florida electric utility customers should have a more reliable supply of electricity at lower costs relating to regulation of carbon emissions from existing fossil-fueled power plants than if the emission standards were set by the EPA.

C. Government Sector Impact:

If the memorial is successful, the Florida Department of Environmental Protection will be required to set performance standards for carbon dioxide emissions from existing fossil-fueled power plants. The Florida Public Service Commission should participate in this process due to its responsibility for planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

B. Amendments:

None.

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

²¹ *Id.*

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

592-03287-14

20141174c1

Senate Memorial

A memorial to the Congress of the United States,
urging Congress to direct the United States
Environmental Protection Agency to use specified
criteria in developing guidelines for regulating
carbon dioxide emissions from existing fossil-fueled
electric generating units.

WHEREAS, a reliable and affordable energy supply is vital
to Florida's economy and job growth, as well as the overall
interests of its citizens, and

WHEREAS, Florida supports an all-inclusive energy strategy
because it is in the best interest of the state and the nation,
and

WHEREAS, the United States has an abundant supply of coal
that provides economic and energy security benefits, including
affordable and reliable electricity, and

WHEREAS, carbon regulations for existing coal-fueled
electric generating units could threaten the affordability and
reliability of Florida's electricity supplies, and

WHEREAS, such regulations impose additional financial
burdens on electric generating units that have invested in
pollution controls to meet the recent mercury regulations of the
United States Environmental Protection Agency, and

WHEREAS, such burdens risk the closure of electric
generating units resulting in substantial job loss, and

WHEREAS, carbon dioxide emissions from coal-fueled electric
generating units in the United States represent only 3 percent
of global anthropogenic greenhouse gas emissions, and

592-03287-14

20141174c1

30 WHEREAS, the United States Energy Information
31 Administration projects that carbon dioxide emissions from the
32 nation's electric sector will be 14 percent below 2005 levels in
33 2020, and

34 WHEREAS, the United States Energy Information
35 Administration projects that carbon dioxide emissions from the
36 nation's coal-fueled electric generating units will be 19
37 percent below 2005 levels in 2020, and

38 WHEREAS, on June 25, 2013, the President of the United
39 States directed the United States Environmental Protection
40 Agency to issue standards, regulations, and guidelines to
41 address carbon dioxide emissions from new, existing, modified,
42 and reconstructed fossil-fueled electric generating units, and

43 WHEREAS, the President of the United States has recognized
44 that states will play a central role in establishing and
45 implementing carbon standards for existing electric generating
46 units, and

47 WHEREAS, the Clean Air Act requires the United States
48 Environmental Protection Agency to establish a procedure under
49 which each state must develop a plan for establishing and
50 implementing standards of performance for existing fossil-fueled
51 electric generating units within the state, and

52 WHEREAS, the Clean Air Act expressly allows states, in
53 developing and applying such standards of performance, to take
54 into consideration, among other factors, the remaining useful
55 life of an existing fossil-fueled electric generating unit to
56 which such standards apply, and

57 WHEREAS, the existing regulations of the United States
58 Environmental Protection Agency provide that states may adopt

592-03287-14

20141174c1

59 less stringent emissions standards or longer compliance
60 schedules than the agency's guidelines based on factors such as
61 unreasonable cost of control, physical impossibility of
62 installing necessary control equipment, or other factors that
63 make less stringent standards or longer compliance times
64 significantly more reasonable, and

65 WHEREAS, it is in the best interest of electricity
66 consumers in Florida to continue to benefit from reliable,
67 affordable electricity provided by coal-based electric
68 generating units, NOW, THEREFORE,

69

70 Be It Resolved by the Legislature of the State of Florida:

71

72 That the Congress of the United States is urged to direct
73 the United States Environmental Protection Agency, in developing
74 guidelines for regulating carbon dioxide emissions from existing
75 fossil-fueled electric generating units, to:

76 (1) Respect the primacy of Florida and rely on state
77 regulators to develop performance standards for carbon dioxide
78 emissions which take into account the unique policies, energy
79 needs, resource mix, and economic priorities of the state.

80 (2) Issue guidelines and approve state-established
81 performance standards that are based on reductions of carbon
82 dioxide emissions determined to be achievable by measures
83 undertaken at fossil-fueled electric generating units.

84 (3) Allow Florida to set less stringent performance
85 standards or longer compliance schedules for fossil-fueled
86 electric generating units.

87 (4) Give Florida maximum flexibility to implement carbon

592-03287-14

20141174c1

88 dioxide performance standards for fossil-fueled electric
89 generating units.

90 BE IT FURTHER RESOLVED that copies of this memorial be
91 dispatched to the President of the United States, to the
92 Administrator of the United States Environmental Protection
93 Agency, to the President of the United States Senate, to the
94 Speaker of the United States House of Representatives, and to
95 each member of the Florida delegation to the United States
96 Congress.



COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Please fill out the entire form and submit two copies to the committee/subcommittee administrative assistant at the meeting.

Type or Print Clearly

Bill Number: SB 1174 Meeting Date: 4-1-14

Fill in appropriate information:

PCB/PCS/Amendment # or Presentation/Workshop Topic: Carbon Dioxide Emissions

Committee/Subcommittee: Communications, Energy & Public Utilities

Name: Amy Datz

Title: Retired State Transportation Air Quality Program Manager

Address: 1130 Crestview Ave.

City: Tallahassee State/Zip: FL 32303

Phone Number: (850) 322-7599

Representing: Democratic Environmental Caucus of Fl. & Leon Co.

Registered Lobbyist: YES NO

State Employee: YES NO

I Wish To Speak: YES NO

I Have Been Requested to Speak: YES NO

Bill		Amendment	
Proponent <input checked="" type="checkbox"/>	Opponent <input type="checkbox"/>	Proponent <input type="checkbox"/>	Opponent <input type="checkbox"/>
Info Only <input type="checkbox"/>		Info Only <input type="checkbox"/>	

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-14 Meeting Date

Topic WAW SB1050

Bill Number 1050 (if applicable)

Name Katherine Pennington

Amendment Barcode (if applicable)

Job Title Legislative Director

Address 2540 Sumner Oak

Phone 413 69600

Tall Ar 32311 City State Zip

E-mail

Speaking: For Against Information Respond to Questions

Representing Public Service Commission

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

April 1st

Meeting Date

Topic Water Utility Bill

Bill Number 1050

(if applicable)

Name Chris Hansen

Amendment Barcode

(if applicable)

Job Title Ballard Partners

Address

Phone 577-0444

Street

Lalohasse FL 32301

City

State

Zip

E-mail

Speaking: For

Against

Information

Representing FL Rural Water Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

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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)

4-1-14
Meeting Date

Topic Wireless Communication Device Bill Number 1078
(if applicable)

Name MIKE FEWLESS Amendment Barcode _____
(if applicable)

Job Title CAPTAIN

Address 2500 W. COLONIAL DRIVE Phone 407-888-3889

CRUMBO FL 32804 E-mail Mike.fewless@cfl.senate.gov
City State Zip

Speaking: For Against Information

Representing FSA

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

04-01-14

Meeting Date

Topic Use of Wireless Communications Devices while driving Bill Number SB 1078 (if applicable)
Name H. Lee Moffitt Amendment Barcode (if applicable)
Job Title Attorney

Address 101 East Kennedy Blvd, Suite 4000 Phone 813-402-2880
Street City Tampa State FL Zip 33602
City Tampa State FL Zip 33602
E-mail lee.moffitt@arlaw.com

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

Representing AAA - The Auto Club Group; AutoNation

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date _____

Topic Carbon Dioxide Emissions Power Plants Bill Number 1174 (if applicable)

Name ANDRUS TRUJILLO Amendment Barcode _____ (if applicable)

Job Title STATE DIRECTOR

Address 14951 SW 82 LN #401 Phone 786-348-5771

Miami FL 33193 E-mail F.L.Trujillo@utn.edu
Street City State Zip

Speaking: For Against Information

Representing United Transportation Union

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic GH&B Regulation / Bill Number 1174 (if applicable)

Name Jeremy Susac Amendment Barcode _____ (if applicable)

Job Title Principal

Address 113 South Monroe St Phone 541-313-0979

Fallbush FL 3201
City State Zip

Speaking: For Against Information
Representing American Coalition for Clean Coal Electricity

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-2014
Meeting Date

Topic regulation of carbon dioxide emissions Bill Number CS for SM 1174
(if applicable)

Name Susan Colickman Amendment Barcode _____
(if applicable)

Job Title Florida Director

Address PO Box 310 Phone 727-595-2314

Indian Rocks Beach FL 33785 E-mail susan@cleanenergy.org
City State Zip

Speaking: For Against Information

Representing Southern Alliance for Clean Energy

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14

Meeting Date

Topic Carbon Dioxide Emissions

Bill Number 1174

(if applicable)

Name Tammy Perdue

Amendment Barcode

(if applicable)

Job Title General Counsel

Address 516 N. Adams St

Phone 850.224-7173

Tallahassee

Street

City

State

Zip

E-mail tperdue@a.f.com

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.

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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)

4-11-14
Meeting Date

Topic TeleMedicine Bill Number 1446

Name Phill's Oeters Amendment Barcode 507782
(if applicable)

Job Title U.R. Baptist Health

Address 6855 Red Rd Phone 305-205-2457

Coral Gables, FL E-mail phill.so@baptisthealth.net
Street City State Zip

Speaking: For Against Information

Representing _____

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date _____

Topic Telemedicine Bill Number SB 1646 (if applicable)
Name Allison Carvajal Amendment Barcode by Garcia 507792 (if applicable)

Job Title Consultant
Address 120 S. Monroe Phone 727-7087

TLH FL 32301
City State Zip

Speaking: For Against Information WAVE IN Support
Representing Florida Nurse Practitioner Network

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date _____

Topic Telemedicine Bill Number 1646

Name Stan W. Mitchell Amendment Barcode 507782
(if applicable)

Job Title Chair, FL Association of Nurse Practitioners
(if applicable)

Address 6294 NW Toney Rd. Phone 850-548-8301

Bristol FL 32321
City State Zip

Speaking: For Against Information

Representing FL Association of Nurse Practitioners

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

April 20 2014
Meeting Date

Topic Telemedicine Bill Number 1696
Name Susan Diaz Amendment Barcode 507782
(if applicable) (if applicable)

Job Title Lead Transplant PA
Address 175 Queen Victoria Ave Phone 904 710 9078
Street City Jax State FL Zip 32258
E-mail psu@meda.comcast.net

Speaking: For Against Information
Representing Florida Academy of Physician Assistants
Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Telemedicine Bill Number 1646
(if applicable)

Name Tammy Perdue Amendment Barcode _____
(if applicable)

Job Title General Counsel

Address 516 N. Adams St Phone 800-224-7173

Lakeland FL 32301 E-mail tperdue@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.

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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)

4/1/14
Meeting Date

Topic Telemedicine Bill Number 1646 (if applicable)

Name Alison Dudley Amendment Barcode 483198 (if applicable)

Job Title Pres, AB Dudley: ASCS 319958 (if applicable)

Address P.O. Box 428 Phone 850 539-1139

Tall City State 32302 Zip E-mail alisondudley@dudleyandassociates.com

Speaking: For Against Information

Representing Florida Radiological Society

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date April 1, 2014

Topic Telemedicine Bill Number 1646
Name Corinne Nixon Amendment Barcode 507782 (if applicable)
Job Title Lobbyist GAIA (if applicable)

Address 119 E Park Ave Phone (850) 222-2891
Street City E-mail Corinne.nixon@gmail.com
Tallahassee FL 32301 State Zip

Speaking: For Against Information

Representing Florida Academy of Physician Assistants

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: 4/11/14

Topic: Telemedicine Bill Number: 1646 (if applicable)
Name: Alisa Labolt Amendment Barcode: 507782 (if applicable)

Job Title: _____

Address: _____ Phone: _____

Street: FLA City: _____ State: _____ Zip: _____

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

Representing: Florida Nurses Association

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)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/14
Meeting Date
Lipstick support

Topic Telehealth Bill Number 1646
Name Chris Floyd Amendment Barcode 507782
(if applicable) (if applicable)

Job Title Consultant
Address 515 Danche Ave Phone 813-674-5117

Tampa, FL City State Zip 33606
E-mail Chris@CLFconsulting.com

Speaking: For Against Information
Representing FL Assoc of Nurse Practitioners

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4 | 1 | 20 | 14
Meeting Date

Topic TELEMEDICINE Bill Number 1646
Name MICHAEL JACKSON Amendment Barcode 507782 (if applicable)
Job Title EXECUTIVE VICE PRESIDENT CEO
Address GLENN N. ADAMS ST Phone 856 222-2400
TALPHASTER City State Zip E-mail MJACKSON@PHARMVIEW.COM

Speaking: For Against Information

Representing FLORIDA PHARMACY ASSOCIATION

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)

3 1

4/1/14 Meeting Date

Topic Telemedicine Bill Number 1646 (if applicable)
Name David Christian Amendment Barcode 507782 (if applicable)
Job Title VP - Government Affairs
Address 136 S. Brough St. Phone 850/521-1200
1a Melissa FL 32301 E-mail dchristian@flchamber.com
City State Zip

Speaking: [x] For [] Against [] Information

Representing FL Chamber of Commerce

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

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

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3

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14

Meeting Date

Topic Lines 5-8 Bill Number 1646
Name Chris Noland Amendment Barcode 483198 ^(if applicable) CWD
_(if applicable)

Job Title _____
Address 1000 Riverside Ave #111 Phone 904233-3051

Jacksonville, FL 32209 E-mail nolandc@fla.senate.gov
City State Zip

Speaking: For Against Information

Representing Florida Chapter, American College of Surgeons

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/11/14
Meeting Date

Topic Telemedicine Bill Number 1646
Name Holly Miller Amendment Barcode 483198 (w/d)
(if applicable) (if applicable)

Job Title Govt Affairs Counsel

Address _____ Phone 850.224.6496

Street _____ City _____ State _____ Zip _____
E-mail h.miller@amedical.org

Speaking: For Against Information

Representing FMA _____

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3

4/1/14
Meeting Date

Topic Telemedicine Bill Number SB 1646
Name Jennifer Hinson Amendment Barcode 319958
(if applicable) (if applicable)

Job Title Director, Gov't Affairs
Address 205 S Monroe Phone 510-5276

City WAVE State FL Zip 32110
E-mail Jennifer.hinson@wellcare.com

Speaking: For Against Information
Representing WellCare Health Plans

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)

4/1/14
Meeting Date

Topic Tolemedicine Bill Number SB 1648 (if applicable)

Name Larry Gonzalez Amendment Barcode _____ (if applicable)

Job Title General Counsel FSNP*

Address 223 S. Gadsden St. Phone 850-570-6307

Tallahsee City State FL Zip 32301 E-mail larrygonz@earthlink.net

Speaking: For Against Information
Representing *Florida Society of Health-System Pharmacists

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Telemedicine Bill Number 1646
Name Holly Miller Amendment Barcode 319958
(if applicable) (if applicable)

Job Title Govt Affairs Counsel
Address _____ Phone 850 224 6496

City _____ State _____ Zip _____
E-mail hmiller@amedical.org

Speaking: For Against Information

Representing FMA

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Telemedicine Bill Number 1646 (if applicable)
Name Alisa LaToff Amendment Barcode _____ (if applicable)
Job Title _____

Address _____ Phone _____
Street
City _____ State _____ Zip _____
E-mail _____

Speaking: For Against Information
Representing Florida Nurses Association

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

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

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CourtSmart Tag Report

Room: SB 301
Caption: Communications, Energy, and Public Utilities Committee

Case:

Type:
Judge:

Started: 4/1/2014 9:37:44 AM

Ends: 4/1/2014 10:36:32 AM

Length: 00:58:49

9:38:10 AM Recording Paused
9:38:12 AM Recording Resumed
9:38:22 AM Call to Order
9:38:26 AM Roll call vote
9:38:29 AM quorum present
9:38:33 AM TAB 1- SB 1050
9:38:39 AM Delete All Amendment BC 714954 Introduced
9:38:53 AM SB 1050 Introduced by Senator Hays
9:41:06 AM Sen. Simpson
9:43:09 AM Sen. Evers -Questions regarding the bill
9:43:26 AM Sen. Hays responds
9:43:48 AM Chris Hansen waives in support- FL. rural water assoc.
9:43:56 AM Katherine Pennington (psc) responds to Sen. Evers Questions
9:48:38 AM Sen. Simpson speaks regarding a related bill (SB 272)
9:50:22 AM Sen. Evers and Sen. Simpson compare the two bills
9:52:00 AM Sen. Flores acknowledges the comparable bills and encourages conversation to differentiate
9:52:34 AM Katherine Pennington responds to conversation
9:53:31 AM Sen. Evers responds
9:53:44 AM Amendment standsadopted
9:53:57 AM Sen. Hays closes on bill
9:54:24 AM Roll Call Vote
9:54:36 AM CS/SB 1050 favorable
9:54:39 AM TAB 2
9:54:45 AM SB 1078
9:54:51 AM Sen. Soto explains bill
9:55:15 AM Sen. Flores question
9:55:23 AM Sen. Soto responds
9:55:32 AM Mike Fewless waives in support
9:55:44 AM H. Lee Moffitt waives in support
9:56:14 AM Sen. Gibson - question
9:56:19 AM Sen. Soto responds
9:56:38 AM Sen. Abruzzo commends Sen. Soto on bill
9:56:54 AM Sen. Soto closes on bill
9:57:10 AM Roll Call Vote
9:57:26 AM SB 1078 Reported Favorable
9:57:32 AM TAB 4
9:57:54 AM CS/SM1174
9:58:13 AM Sen. Gibson introduces memorial
9:59:06 AM Andres Trujillo - United Transportation Union- waives in support
9:59:21 AM Jeremy Susac- ACCCE- waives in support
9:59:31 AM Susan Glickman - Southern Alliance for Clean Energy- speaks against bill
10:04:24 AM Tammy Perdue waives in support on behalf of Associated Industries of FL.
10:04:30 AM Amy Datz speaks for the bill
10:05:50 AM Sen. Evers applauds Sen. Gibson for introducing bill
10:07:01 AM Sen. Gibson closes on CS/SM 1174
10:08:05 AM Roll Call Vote
10:08:21 AM CS/SM 1174 reported favorable
10:08:25 AM TAB 3
10:08:31 AM SB 1646 Introduced
10:08:43 AM Sen. Bean Explains the bill
10:11:18 AM Late filed Amendment BC 507782- by Garcia- Introduced
10:11:37 AM Sen. Garcia explains amendment

10:12:57 AM Amendment TP
10:13:04 AM Late filed amendment -BC 483198 introduced
10:13:17 AM Amendment BC 483198 waithdrawn
10:13:18 AM Late filed amendment- BC 319958 by Sen. Garcia Introduced and Explained
10:14:25 AM Sen. Hukill - Questions on the amendment
10:14:49 AM Sen. Garcia responds
10:15:41 AM Sen. Bean responds
10:16:22 AM Sen. Hukill
10:16:47 AM Jennifer Hinson - Wellcare Helth Plans waives in support
10:16:54 AM Barry G.
10:17:00 AM Holly Miller waives in support
10:17:04 AM Alisa L. waives
10:17:17 AM Allsion D.
10:17:32 AM Amendment 319958 Adopted
10:17:53 AM Sen. Bean explains why the amendment is being amended
10:19:36 AM Sen. Gibson speaks on amended bill
10:20:07 AM Sen. Bean responds
10:20:30 AM A handwritten amendment is being drafted
10:20:52 AM Sen. Hukill questions the amendment 507782
10:21:05 AM Late filed amendment to amendment 507782 introduced
10:21:22 AM Sen. Gibson
10:21:46 AM Sen. Bean responds
10:22:12 AM Sen. Gibson
10:22:38 AM Sen. Evers questions the financial responsibility of Dr.
10:22:47 AM Sen. Bean responds
10:23:35 AM Sen. Flores responds
10:24:11 AM Sen. Flores clarifies we are on A/A
10:24:22 AM Sen. Hukill on A/A
10:24:55 AM Sen. Bean responds to question on A/A
10:25:35 AM A/A - two objections
10:25:53 AM Vote on A/A
10:26:06 AM A/A Adopted
10:26:35 AM Amendment Adopted
10:26:39 AM On Bill
10:26:43 AM David Christian speaks on behalf on FL. Chamber of Commerce in support of the bill
10:27:47 AM Phillis Oeters speaks in favor of the bill
10:27:51 AM Allison Carvajal waives
10:27:57 AM Stan Whittaker- FL. Assoc of Nurse Practioners- waives in support
10:28:03 AM Susan D waives
10:28:07 AM Gorinne Mixon waives in support of the bill - FL. Academy of Physician Assistants
10:28:12 AM Alisa LaPolf waives in support on behalf of FL. Nurses Association
10:28:17 AM Chris Floyd waives in support on behalf of FL. Assoc. of Nurse Pract.
10:28:23 AM Michael Jackson waives in support on behalf of FL. Pharmacy Assoc.
10:28:29 AM Tammy Perdue speaks on the bill- Assoc Industries of FL.
10:29:28 AM Sen. Hukill questions the bill
10:29:48 AM Sen. Bean responds
10:31:31 AM Sen. Evers does not support the bill as is
10:32:29 AM Sen. Hukill does not support the bill as is
10:33:04 AM Sen. Garcia speaks
10:34:59 AM Chair Flores appreciates the introduction of the bill
10:35:21 AM Sen. Garcia moves CS
10:35:25 AM Motion adopted
10:35:34 AM Staff is given right to make technical changes
10:35:39 AM Sen. Bean closes
10:36:06 AM Roll Call Vote
10:36:20 AM CS /SB 1646 favorable
10:36:23 AM Moves to rise