

STORAGE NAME: h0371s1.utco.doc
DATE: March 23, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
UTILITIES AND TELECOMMUNICATIONS
ANALYSIS**

BILL #: CS/HB 371
RELATING TO: Electric Utility Service Interruptions
SPONSOR(S): Committee on Utilities and Telecommunications and Representative(s) Spratt

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) UTILITIES AND TELECOMMUNICATIONS (RIC) YEAS 12 NAYS 0
 - (2) JUDICIAL OVERSIGHT (SGC)
 - (3) COUNCIL FOR READY INFRASTRUCTURE
 - (4)
 - (5)
-

I. SUMMARY:

Immunity for the good-faith compliance of an electric utility to interrupt or disconnect service, in the course of adhering to a law enforcement order, does not exist in current law.

The bill creates section 768.138, Florida Statutes. It provides immunity to an electric utility, or utility personnel, that is directed by a law enforcement order to interrupt or disconnect electric service, for the purpose of aiding law enforcement personnel in the performance of their duties.

The bill takes effect upon becoming law.

On March 20, 2001, the Utilities and Telecommunications Committee adopted one amendment and made the bill a committee substitute. This amendment provided that an electric utility and its personnel must exercise reasonable care in their actions to assist law enforcement.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Pursuant to section 934.15, Florida Statutes, immunity is provided to a telephone company and to telephone company personnel that interfere with service in compliance with an order from law enforcement. The statute provides that the supervising law enforcement officer at the scene of an incident must have reasonable cause to believe:

- That a person is holding one or more hostages,
- That a person has barricaded herself or himself and taken a position of confinement to avoid apprehension,
- That there is the probability that a subject about to be arrested will resist with the use of weapons, or
- That a person has barricaded herself or himself and is armed and is threatening suicide.

The supervising officer may then order law enforcement or telephone company personnel to cut, reroute, or divert telephone lines for the purpose of preventing telephone communications between the suspect and any person other than a law enforcement officer or designee. This is to be accomplished, if such cutting, rerouting, or diverting of telephone lines is technically feasible and can be performed without endangering the lives of telephone company or other utility personnel. The good faith reliance by a telephone company on an oral or written order to cut, reroute, or divert telephone lines, given by a supervising law enforcement officer, under section 934.15, Florida Statutes, constitutes a complete defense to any civil, criminal, or administrative action arising from the order.

No law currently exists that requires uninterrupted electric service nor does a law exist providing immunity for interrupting electric service. The Florida Public Service Commission does require, by Rule 25-6.044, Florida Administrative Code, that each utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur shall attempt to restore service within the shortest time practicable consistent with safety.

Additionally, certain situations do exist, and are codified in Rule 25-6.105, Florida Administrative Code, where service by a utility may be refused or discontinued.

C. EFFECT OF PROPOSED CHANGES:

The bill creates section 768.138, Florida Statutes. It provides civil, criminal, and administrative immunity to an electric utility and its personnel, for good faith compliance with a law enforcement order to interrupt or disconnect service, for the purpose of aiding law enforcement in the performance of their duties.

D. SECTION-BY-SECTION ANALYSIS:

N/A.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Electric customers and third parties will be prohibited from bringing a cause of action against an electric company for injuries or property damage resulting from an intentional interruption of electric service based on an order from law enforcement. The potential for such a cause of action is uncertain under present law.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require cities or counties to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce revenue raising authority for any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not affect the amount of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 20, 2001, the Utilities and Telecommunications Committee adopted one amendment and made the bill a committee substitute. This amendment provided that an electric utility and its personnel must exercise reasonable care in their actions to assist law enforcement.

VII. SIGNATURES:

COMMITTEE ON UTILITIES AND TELECOMMUNICATIONS:

Prepared by:

Staff Director:

Wendy G. Holt

Patrick L. "Booter" Imhof