

CHAPTER 97-306

Committee Substitute for Senate Bill No. 1646

An act relating to the Underground Facility Damage Prevention and Safety Act; amending s. 556.101, F.S.; revising legislative intent; amending s. 556.102, F.S.; revising definitions; amending s. 556.103, F.S.; requiring membership in a specified corporation; requiring a report; amending s. 556.104, F.S.; requiring participation in a specified system; providing exceptions; amending s. 556.105, F.S.; providing an exception to the notification requirement; amending s. 556.106, F.S.; revising liability of an excavator to nonmember operators; amending s. 556.110, F.S.; providing for monthly assessments for operating costs; exempting member operators from certain assessments under certain circumstances; providing an effective date.

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

Section 1. Subsection (3) of section 556.101, Florida Statutes, is amended to read:

556.101 Short title; legislative intent.—

(3) It is the purpose of this act to:

(a) Aid the public by preventing injury to persons or property and the interruption of services resulting from damage to an underground facility caused by excavation or demolition operations.

(b) Create a not-for-profit corporation comprised of operators of underground facilities in this state to administer the provisions of this act.

(c) Fund the cost of administration entirely and exclusively by assessed contributions from the member operators.

It is not the purpose of this act to create liability for negligence on the part of any municipality or county operator of an underground facility which who elects to not participate in the one-call notification system created by this act.

Section 2. Subsections (7) and (9) of section 556.102, Florida Statutes, are amended to read:

556.102 Definitions.—As used in this act:

(7) “Member operator” means any person who furnishes or transports materials or services by means of an underground facility except a municipality or county that has elected not to participate in the one-call notification system in the manner set forth in s. 556.103(1) and who elects to participate as a member of the one-call notification center for any portion of the territory served by the person.

(9) "Underground facility" means any public or private personal property which is buried, placed below ground, or submerged on any member operator's right-of-way, easement, or permitted use which is being used or will be used in connection with the storage or conveyance of water; sewage; electronic, telephonic, or telegraphic communication; electric energy; oil; petroleum products; natural gas; optical signals; or other substances, and includes, but is not limited to, pipelines, pipes, sewers, conduits, cables, valves, and lines. For purposes of this act, a liquefied petroleum gas line regulated under chapter 527 is not an underground facility unless such line is subject to the requirements of Title 49, Code of Federal Regulations, adopted by the Department of Agriculture and Consumer Services, provided there is no encroachment on any member operator's right-of-way, easement, or permitted use. Petroleum storage systems subject to regulation pursuant to chapter 376 are not considered underground facilities for the purposes of this act unless the storage system is located on a member operator's right-of-way or easement. Storm drainage systems are not considered underground facilities.

Section 3. Subsection (1) of section 556.103, Florida Statutes, is amended and subsection (5) is added to that section to read:

556.103 Creation of the corporation; establishment of the board of directors; authority of the board; annual report.—

(1) The "Sunshine State One-Call of Florida, Inc." is hereby created as a not-for-profit corporation. Each ~~Any~~ operator of an underground facility in this state ~~shall~~ may be a member of the corporation and ~~shall~~ may use and participate in the system, except that a small city as defined in s. 120.52 may elect by January 1, 1998, not to participate in the system until January 1, 2003, through a written notification identifying any reasons for declining membership. The corporation shall be formed by June 1, 1993. The corporation shall administer the provisions of this act. The corporation shall exercise its powers through a board of directors established pursuant to this section.

(5) Beginning in 1998, the board of directors shall submit to the President of the Senate, the Speaker of the House of Representatives, and the Governor, not later than 60 days before the convening of each regular session of the Legislature, an annual progress report on the participation by municipalities and counties in the one-call notification system created by this chapter.

Section 4. Section 556.104, Florida Statutes, is amended to read:

556.104 One-call notification system.—The corporation shall establish a one-call toll-free telephone notification system which shall be operational by June 1, 1994. Any person who furnishes or transports materials or services by means of an underground facility in this state ~~shall~~ may elect to participate as a member operator of the system except that a small city as defined in s. 120.52 may elect not to participate in the system in the manner set forth in s. 556.103(1). The purpose of the system is to receive notification of planned excavation or demolition activities and to notify member operators

of such planned excavation or demolition activities. The system shall provide a single toll-free telephone number within this state which excavators can use to notify member operators of planned excavation or demolition activities.

Section 5. Subsection (4) of section 556.105, Florida Statutes, 1996 Supplement, is amended to read:

556.105 Procedures.—

(4) All member operators within the defined area of a proposed excavation or demolition shall be promptly notified through the system, except that member operators with state-owned underground facilities located within the right-of-way of a state highway need not be notified of excavation or demolition activities and are under no obligation to mark or locate such facilities.

Section 6. Paragraph (e) of subsection (2) of section 556.106, Florida Statutes, is amended to read:

556.106 Liability of the member operator, excavator, and system.—

(2)

(e) When an excavator knows or should know of the presence of an underground facility of a nonmember small city as defined in s. 120.52, he or she shall make reasonable efforts to contact the small city that person who owns or operates that facility prior to commencing an excavation or demolition, ~~regardless of whether that person is a member operator.~~

Section 7. Section 556.110, Florida Statutes, is amended to read:

556.110 Costs assessed among member operators.—Member operators shall proportionately share in the cost of operating the system through monthly assessments made upon each member operator. However, any member that receives fewer than 10 notifications in any month shall not be assessed for such month.

Section 8. This act shall take effect October 1, 1997.

Became a law without the Governor's approval June 4, 1997.

Filed in Office Secretary of State June 3, 1997.