



Energy & Utilities Subcommittee MEETING PACKET

**Tuesday, March 22, 2011
212 Knott Building
8:30 AM – 11:30 AM**

**Dean Cannon
Speaker**

**Clay Ford
Chair**



The Florida House of Representatives

Staff Affairs Committee

Energy & Utilities Subcommittee

Dean Cannon
Speaker

Clay Ford
Chair

AGENDA

March 22, 2011

8:30 a.m. – 11:30 a.m.

212 Knott Building (Webster Hall)

Opening Remarks by Chair Ford

Consideration of the following bills:

HB 887 - Taxation of Communications Services

Representative Dorworth

HB 1231 – Telecommunications

Representative Horner

Discussion regarding the safety of Florida's Nuclear Power Plants

- Art Stall representing Florida Power & Light
- Jerry Paul, President and Managing Member of Capitol Energy Communications, LLC, former Principal Deputy Administrator of the U.S. National Nuclear Security Administration

Closing Remarks by Chair Ford

Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 887 Taxation of Communications Services

SPONSOR(S): Dorworth

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1198

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|------------------------------------|--------|-------------------|--|
| 1) Energy & Utilities Subcommittee | | Helping <i>CH</i> | Collins <i>JBC</i> |
| 2) Finance & Tax Committee | | | |
| 3) State Affairs Committee | | | |

SUMMARY ANALYSIS

Chapter 202, F.S., provides that sales of communications services, except direct-to-home satellite service, are subject to a state communications services tax (CST), a gross receipt tax, and a local CST. Federal law prohibits direct-to-home satellite service sales from being subject to a local CST. Direct-to-home satellite sales are subject to a different state CST rate and gross receipt tax than that of other communications services sales. The local and state communications services taxes are collected by communications services dealers and remitted to the Department of Revenue (DOR), who distributes the proceeds to the appropriate jurisdictions.

The DOR is required to make available, in an electronic format or otherwise, the tax amounts and brackets applicable to each taxable sale so that the tax collected is not less than allowed by statute. To clarify the law, the DOR has created proposed Rule 12A-19.021, F.A.C. The purpose of the proposed rule is to make available the tax amounts and brackets applicable to each taxable sale of communications services. To accomplish this, the proposed rule provides that a Communications Services Tax Due Calculator be available on the DOR's website. The proposed rule provides that any communications services tax resulting in a fraction of a cent to be rounded to the next whole cent.

The bill modifies the law, requiring the DOR to provide tax amounts and brackets based on a rounding algorithm. The algorithm must compute taxable sales to the third decimal place and round up to the next whole cent whenever the third decimal place is greater than four.

The bill provides that a dealer may compute the taxes on an item or invoice basis and that the DOR must allow application of the rounding algorithm to the combined state and local taxes. The DOR must allow, but may not require, a dealer to collect these taxes based on a bracket system.

The bill provides that amendments made by the bill are intended to be remedial in nature and apply retroactively. However, these amendments do not provide a basis for an assessment of any tax not paid, or create a right to a refund of any tax paid before July 1, 2011.

According to the DOR, most large communications services dealers currently use a traditional rounding method, as described in the bill, to calculate state and local communications services taxes. Therefore, the impact to state and local government should be insignificant. (See Fiscal Analysis & Economic Impact Statement section for impact on the private sector.)

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation:

Chapter 202, F.S., provides that sales of communications services,¹ except direct-to-home satellite service,² are subject to a state communications services tax (CST), gross receipt tax, and a local CST. Federal law prohibits direct-to-home satellite sales from being subject to a local CST. Direct-to-home satellite service sales are subject to a different CST rate and gross receipt tax than that of other communications services sales. The collected local and state communications services taxes are remitted to the Department of Revenue (DOR), who distributes the proceeds to the appropriate jurisdictions.³

The state CST is set at a rate of 6.65 percent.⁴ The gross receipt tax is set at a rate of 2.37 percent plus an additional .15 percent, subject to exemption as provided by rule 12A-19.041, F.A.C., for a combined rate of 2.52 percent.⁵ Thus, the state CST and gross receipt tax are combined at a rate of 9.17 percent. Local CST rates vary by location, as provided in s. 202.20(1), F.S., and can be found by selecting the "Jurisdiction Rate Table" link at http://dor.myflorida.com/dor/taxes/local_tax_rates.html. Direct-to-home satellite service sales are subject to a state CST at a rate of 10.8 percent⁶ and a gross receipt tax of 2.37 percent⁷ for a combined rate of 13.17 percent.

Pursuant to s. 202.12, F.S., these taxes are computed on the sale price of each taxable sale of communications services. Section 202.16(3), F.S., requires the DOR to make available, in an electronic format or otherwise, the tax amounts and brackets applicable to each taxable sale, so that the tax collected does not result in a tax rate less than the tax rates imposed as provided above.

To clarify s. 202.16(3), F.S., the DOR created proposed Rule 12A-19.021, F.A.C. The proposed rule provides that a Communications Services Tax Due Calculator be available on the DOR's website for the purposes of making available the tax bracket applicable for each taxable sale of communications services.⁸ The proposed rule establishes that a tax calculated resulting in a fraction of a cent, shall be rounded up to the next whole cent.⁹ If a traditional rounding method were to be utilized, many transactions would round down, resulting in a tax that is less than the rate imposed by statute.¹⁰

¹ For purposes of chapter 202, F.S., "communications services" is defined in s. 202.11(2), F.S., as "the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added."

² For purposes of chapter 202, F.S., direct-to-home satellite service is defined in 47 U.S.C. s. 303(v) as the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite.

³ Section 202.18, F.S.

⁴ Section 202.12(1)(a), F.S.

⁵ Section 203.01(1)(b), F.S.

⁶ Section 202.12(1)(b), F.S.

⁷ Section 203.01(1)(b), F.S.

⁸ http://dor.myflorida.com/dor/rules/pdf/12a-19-021_nopr.pdf

⁹ <http://dor.myflorida.com/dor/rules/pdf/12a-19021serc.pdf>

¹⁰ *Id.*

Effects of Proposed Changes:

The bill modifies s. 202.16(3), F.S., requiring the DOR to provide tax amounts and brackets based on a rounding algorithm. The algorithm must compute taxable sales to the third decimal place and round up to the next whole cent whenever the third decimal place is greater than four.

Example:

When a tax is computed resulting in an amount of \$10.055, the amount shall be rounded up to \$10.06. If a tax is computed resulting in an amount of 10.054, the amount shall be rounded down to \$10.05.

The bill provides that a dealer may compute the taxes on an item or invoice basis and that the DOR must allow application of the rounding algorithm to the combined state and local taxes described above. The DOR must allow, but may not require, a dealer to collect these taxes based on a bracket system.

The bill states that amendments made in the bill are intended to be remedial in nature and apply retroactively. However, these amendments do not provide a basis for an assessment of any tax not paid, or create a right to a refund of any tax paid, under s. 202.16, F.S., before July 1, 2011.

B. SECTION DIRECTORY:

Section 1. Amends s. 212.16(3), F.S., to provide that tax calculations be based on a rounding algorithm.

Section 2. Provides that the amendments made to s. 212.16(3), F.S., are remedial in nature and apply retroactively.

Section 3. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the DOR, most large communications services dealers currently compute state CST based on a traditional rounding method, as described in the bill, therefore, the fiscal impact should be insignificant.

2. Expenditures:

The DOR estimates it would cost \$4,800 to modify the SUNTAX system to effectively implement the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the DOR, most large communications services dealers currently compute local CST based on a traditional rounding method, as described in the bill, therefore, the fiscal impact should be insignificant.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To determine the fiscal impact of the proposed rule, the DOR requested cost estimates from some taxpayers. One response was received which was from a large communications services tax dealer, which indicated that there would be a one-time cost of \$2.02 million to program their system to round, as required by the proposed rule. According to the DOR, passage of the bill would prompt the DOR to not adopt the proposed rule, thereby not imposing a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that a dealer "may compute the taxes," however, these taxes are required by law.

The bill also provides that a dealer may compute the rounding algorithm to the total local and state taxes. This conflicts with s. 202.35(4), F.S., which requires dealers to separately state and identify the state communications services tax from the local communications services tax.

The Department of Revenue notes that it is unclear whether it is the sponsor's intent to give dealers the option to compute taxes based on the bracket system. The current bill allows a dealer to use the traditional rounding method, but is not required to do so.

Staff was informed that an amendment will be offered by the sponsor to address concerns identified in the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to taxation of communications services;
 3 amending s. 202.16, F.S.; requiring tax amounts and
 4 brackets made available to communications services dealers
 5 by the Department of Revenue for computing the
 6 communication services tax to be based on a rounding
 7 algorithm; specifying mathematical criteria for the
 8 rounding algorithm; authorizing a communications services
 9 dealer to compute the tax on an item or an invoice basis;
 10 requiring the department to allow application of the
 11 rounding algorithm to certain aggregated state and local
 12 taxes; directing the department to allow, but not require,
 13 a dealer to collect taxes on communications services based
 14 on a bracket system; providing construction; providing for
 15 retroactive application; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Subsection (3) of section 202.16, Florida
 20 Statutes, is amended to read:

21 202.16 Payment.—The taxes imposed or administered under
 22 this chapter and chapter 203 shall be collected from all dealers
 23 of taxable communications services on the sale at retail in this
 24 state of communications services taxable under this chapter and
 25 chapter 203. The full amount of the taxes on a credit sale,
 26 installment sale, or sale made on any kind of deferred payment
 27 plan is due at the moment of the transaction in the same manner
 28 as a cash sale.

29 (3) (a) Notwithstanding the rate of tax on the sale of
 30 communications services imposed pursuant to this chapter and
 31 chapter 203, the department shall make available in an
 32 electronic format or otherwise the tax amounts and brackets
 33 applicable to each taxable sale based on a rounding algorithm
 34 that meets the following criteria:

35 1. Tax computation must be carried to the third decimal
 36 place.

37 2. The tax must be rounded to a whole cent using a method
 38 that rounds up to the next cent whenever the third decimal place
 39 is greater than four.

40 (b) A dealer may compute the tax due on a taxable sale on
 41 an item or an invoice basis, and the department must allow
 42 application of the rounding algorithm to the aggregated state
 43 and local taxes imposed under this chapter and chapter 203. The
 44 department must allow, but may not require, a dealer to collect
 45 the tax based on a bracket system ~~such that the tax collected~~
 46 ~~results in a tax rate no less than the tax rate imposed pursuant~~
 47 ~~to this chapter and chapter 203.~~

48 Section 2. The amendments made by this act to section
 49 202.16, Florida Statutes, are intended to be remedial in nature
 50 and apply retroactively. The amendments do not provide a basis
 51 for an assessment of any tax not paid, or create a right to a
 52 refund of any tax paid, under section 202.16, Florida Statutes,
 53 before July 1, 2011.

54 Section 3. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 887 (2011)

Strike-All Amendment to HB 887.

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee
3 Representative(s) Dorworth offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (3) of section 202.16, Florida
8 Statutes, is amended to read:

9 202.16 Payment.—The taxes imposed or administered under
10 this chapter and chapter 203 shall be collected from all dealers
11 of taxable communications services on the sale at retail in this
12 state of communications services taxable under this chapter and
13 chapter 203. The full amount of the taxes on a credit sale,
14 installment sale, or sale made on any kind of deferred payment
15 plan is due at the moment of the transaction in the same manner
16 as a cash sale.

17 (3) (a) A dealer must compute the tax due on a sale of
18 communications services imposed pursuant to this chapter and

Strike-All Amendment to HB 887.

19 chapter 203 based on a rounding algorithm that meets the
20 following criteria:

21 1. The tax computation must be carried to the third decimal
22 place.

23 2. The tax must be rounded to a whole cent using a method
24 that rounds up to the next cent whenever the third decimal place
25 is greater than four.

26 (b) A dealer may elect to compute the tax due on a sale of
27 communications services on an item or an invoice basis.

28 (c) The rounding algorithm must be applied to the local
29 communications services tax imposed pursuant to this chapter
30 separately from its application to the communications services
31 tax imposed pursuant to s. 202.12 and gross receipts tax
32 pursuant to s. 203.01.

33 (d) A dealer may elect to apply the rounding algorithm to
34 the communications services taxes imposed pursuant to ss. 202.12
35 and 203.01 in one of the following manners:

36 1. Apply the rounding algorithm to the combined
37 communications services tax imposed pursuant to ss. 202.12 and
38 203.01.

39 2. Apply the rounding algorithm separately to the
40 communications services tax imposed pursuant to s. 202.12(1)(a)
41 and gross receipt tax imposed pursuant to ss. 203.01(1)(b)2. and
42 3.

43 3. Apply the rounding algorithm to the combined taxes
44 imposed pursuant to ss. 202.12(1)(a) and 203.01(1)(b)3., as
45 allowed by s. 203.001, and apply the rounding algorithm

Strike-All Amendment to HB 887.

46 separately to the gross receipts tax pursuant to s.

47 203.01(1)(b)2.

48 (e) A dealer is not required to collect the tax based on a
49 bracket system. Notwithstanding the rate of tax on the sale of
50 communications services imposed pursuant to this chapter and
51 chapter 203, the department shall make available in an
52 electronic format or otherwise the tax amounts and brackets
53 applicable to each taxable sale such that the tax collected
54 results in a tax rate no less than the tax rate imposed pursuant
55 to this chapter and chapter 203.

56 Section 2. This act is intended to be remedial in nature
57 and applies retroactively. This act does not provide a basis for
58 an assessment of any tax not paid or create a right to a refund
59 or credit of any tax paid under s. 202.16, Florida Statutes,
60 before July 1, 2011.

61 Section 3. This act shall take effect July 1, 2011.

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63

64

65

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

66

Remove the entire title and insert:

67

A bill to be entitled

68

An act relating to communications services tax;

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amending s. 202.16, F.S.; requiring that a dealer

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compute the communications services tax based on a

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rounding algorithm; providing criteria; providing for

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application of the tax; providing options to the

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dealer for applying the rounding algorithm; providing

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 887 (2011)

Strike-All Amendment to HB 887.

74 that a dealer is not required to collect the tax based
75 on a bracket system; removing the provision requiring
76 the Department of Revenue to make available tax
77 amounts and applicable brackets; providing that the
78 provisions of the act are remedial in nature and apply
79 retroactively; providing that the act does not provide
80 a basis for assessment of any tax not paid or create a
81 right to certain refunds or credits; providing an
82 effective date.

83

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1231 Telecommunications
SPONSOR(S): Horner and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1524

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|--------|-------------------|--|
| 1) Energy & Utilities Subcommittee | | Keating <i>CK</i> | Collins <i>JBC</i> |
| 2) Rulemaking & Regulation Subcommittee | | | |
| 3) State Affairs Committee | | | |

SUMMARY ANALYSIS

Florida's regulatory framework for local telephone service, or "local exchange service," is codified in Chapter 364, F.S. This chapter establishes the Public Service Commission's ("PSC") jurisdiction to regulate telecommunication services.

In 1995, the Legislature opened local telephone markets to competition on January 1, 1996. The 1995 law allowed an incumbent local exchange company to elect "price regulation" instead of traditional rate-of-return regulation, making it subject to price caps on basic service and nonbasic service. This law retained the PSC's jurisdiction over service quality issues and granted it new authority to address consumer issues in the transition to a sufficiently competitive market. After changes to the law in 2009, local exchange companies remain subject to the price regulation scheme adopted in 1995, with slight modifications to the caps, though only basic service is now subject to service quality oversight by the PSC. According to the PSC, approximately four percent of local service customers are considered basic service customers now.

The bill substantially repeals and amends several sections of Chapter 364, F.S., to do the following:

- Remove the PSC's regulatory oversight of basic local telecommunications service and nonbasic service, including service quality and price regulation.
- Remove the PSC's regulatory oversight of intrastate interexchange services, operator services, and shared tenant services.
- Remove the PSC's authority to provide certain consumer education materials and to adopt rules concerning certain billing practices.
- Promote the adoption of broadband services without the need for government subsidies.
- Consolidate existing provisions related to the PSC's oversight of carrier-to-carrier relationships for purposes of ensuring fair and effective competition among telecommunications service providers.
- Replace the requirement that telecommunications service providers obtain from the PSC a certificate of necessity with a requirement that such providers obtain from the PSC a certificate of authority to provide service and establish the criteria for obtaining such a certificate.
- Remove rate caps on pay telephone services.
- Delete obsolete language and make conforming changes.

The bill will reduce state expenditures as a result of removing several components of the PSC's regulatory oversight of telecommunications services. The PSC estimates a recurring reduction of 11 full-time equivalent positions (FTEs) in FY 2011-2012 and an additional 2 FTEs in FY 2012-2013, with a reduction in recurring expenditures of \$703,659 in FY 2011-2012 and \$807,378 thereafter. The bill will reduce regulatory requirements imposed upon local exchange companies and competitive local exchange companies, which will likely lead to reduced regulatory compliance costs and a more competitively neutral regulatory scheme.

The bill appears to expand an existing public records exemption.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Regulatory History and Current Law

Florida's regulatory framework for local telephone service, or "local exchange service," is codified in Chapter 364, F.S. This chapter establishes the Public Service Commission's ("PSC") jurisdiction to regulate telecommunication services.

In 1995, the Legislature found that competition for the provision of local exchange service would be in the public interest and opened local telephone markets to competition on January 1, 1996.¹ Specifically, the Legislature found that:

... the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications services, encourage technological innovation, and encourage investment in telecommunications infrastructure.

The law sought to establish a competitive market by granting competitive local exchange companies ("CLECs") access to the existing telecommunications network. This was accomplished by requiring: (1) interconnection between incumbent and competitive local exchange service providers; and (2) unbundling and resale of incumbents' network features, functions, and capabilities on terms negotiated by the parties or, absent agreement, by the PSC.² The law did not impose any form of rate regulation on these new market entrants but did grant the PSC authority to set service quality criteria and resolve service complaints with regard to basic local exchange service offered by these companies.³ The law required incumbent local exchange companies ("ILECs") to serve as carriers-of-last-resort.⁴

In addition, the 1995 law allowed an incumbent local exchange company to elect "price regulation" instead of traditional rate-of-return regulation, effective the later of January 1, 1996, or when a competitive company received a certificate to provide local exchange service in the incumbent's service territory.⁵ Under price regulation, the law capped an ILEC's rates for basic local telecommunications service (defined as flat-rate, single-line residential service) for three to five years depending on the number of lines served by the company. Upon expiration of the applicable price cap period, the law permitted the ILEC to adjust its basic service rates once in any twelve-month period in an amount no more than the change in inflation less 1 percent.⁶ The law provided greater pricing flexibility for non-basic services (defined as anything other than basic services) by allowing price increases of up to 6% in a 12-month period until a competitive provider began serving in an exchange area, at which time the price for any nonbasic service could be increased up to 20% in a 12-month period. The law contained provisions to prevent anti-competitive pricing⁷ and maintained the PSC's authority to oversee service quality.

Since that time, the Legislature has amended Chapter 364, F.S., on several occasions, most notably:

¹ Ch. 95-403, L.O.F.

² Sections 14-16, ch. 95-403, L.O.F.

³ *Id.* In addition, the law provided the PSC oversight with respect to these services to ensure "the fair treatment of all telecommunications providers in the telecommunications marketplace."

⁴ Section 7, ch. 95-403, L.O.F.

⁵ Sections 9-10, ch. 95-403, L.O.F.

⁶ Section 9, ch. 95-403, L.O.F.

⁷ *Id.*

- In 2003, the Tele-Competition Innovation and Infrastructure Act,⁸ among other things, provided a mechanism to remove the support for ILECs' basic local service rates provided by intrastate access fees.⁹ The law permitted an ILEC, upon PSC approval, to raise basic service rates and offset the increased revenues with a reduction in revenues attributed to reduced intrastate access fees.¹⁰ This arrangement often is referred to as "rate rebalancing." Pursuant to this law, the PSC granted rate rebalancing requests made by BellSouth (now AT&T), Verizon, and Embarq, allowing for stepped changes – increases in basic service rates and decreases in intrastate access fees – over a period of three to four years.¹¹
- In 2007, after some of the stepped rate changes authorized by the PSC had become effective, the Legislature halted any further changes. As part of the Consumer Choice Act of 2007, the Legislature terminated the rate rebalancing scheme created in the 2003 law and held rates for basic service and network access service at the levels in effect immediately prior to July 1, 2007.¹² The law permitted changes to these basic service rates pursuant to the price regulation scheme adopted in 1995; that is, an ILEC could adjust its basic service rates once in any twelve-month period in an amount no more than the change in inflation less 1 percent.
- In 2009, the Consumer Choice and Protection Act¹³ made several changes to the regulatory framework for telecommunications services. Among other things, the law changed the definitions of basic service and nonbasic service and removed the PSC's jurisdiction to address service quality issues for nonbasic service. Basic service was redefined to include only flat-rate, single-line residential service. Business class service and multi-line residential service were no longer identified as basic services. Nonbasic service was redefined to include basic service combined with any nonbasic service or unregulated service. Thus, under the law, customers who received flat-rate residential service in combination with features like call waiting or caller ID, or other services like broadband or video, were no longer considered to be basic service customers.

The 2009 law reduced the allowed price increases for nonbasic services to a maximum of 10% in a 12-month period, for exchange areas with at least one competitive provider. Further, the law extended the existing basic service price cap to those services reclassified by the law from basic to nonbasic service. The law did not modify the price caps for basic service.

Today, incumbent local exchange carriers remain subject to the price regulation scheme adopted in 1995, as modified in 2009. Only basic service is subject to service quality oversight by the PSC. As of January 1, 2009, ILECs are no longer required to serve as carriers-of-last-resort under Florida law.¹⁴ Although this state requirement has expired, ILECs remain subject to a similar requirement under federal law.¹⁵

Competitive local exchange carriers remain subject to minimal PSC regulation. A CLEC offering basic local services must provide an option for flat-rate pricing for those services. Basic local service provided by a CLEC must include access to operator services, '911' services, and relay services for the

⁸ Ch. 2003-32, L.O.F.

⁹ Section 15, ch. 2003-32, L.O.F. Intrastate access fees (referred to as "intrastate switched network access rates" in the law) are the rates charged by a local exchange company for other telecommunications companies to originate and terminate intrastate traffic on its network. *Intrastate* access fees have historically been higher than similar fees charged for originating and terminating *interstate* traffic and have supported rates for basic service.

¹⁰ *Id.*

¹¹ PSC Order No. PSC-03-1469-FOF-TL, issued December 24, 2003, upheld in *Crist v. Jaber*, 908 So.2d 426 (Fla. 2005). The PSC denied Alltel Florida, Inc.'s (now Windstream) petition pursuant to this statute. PSC Order No. PSC-06-0036-FOF-TL, issued January 10, 2006.

¹² Sections 10, 12, and 13, ch. 2007-29, L.O.F.

¹³ Ch. 2009- 226, L.O.F.

¹⁴ Section 364.025, F.S. (2010)

¹⁵ Florida Public Service Commission presentation to the Florida House of Representatives Committee on Utilities & Telecommunications, December 13, 2007, "Telecommunications Carrier-Of-Last-Resort Obligation."

hearing impaired.¹⁶ In addition, the PSC may set service quality criteria and resolve service complaints with regard to basic local exchange service offered by these companies.¹⁷

In addition to local exchange service, Chapter 364, F.S., establishes regulatory oversight for other telecommunications services, including operator services, shared tenant services, and pay telephone services. Further, the law provides the PSC jurisdiction to address wholesale issues between telecommunications service providers, oversee implementation of the Lifeline program in Florida, review certain mergers and acquisitions involving ILECs, certificate certain service providers wishing to do business in Florida, adopt rules to prevent the unauthorized change of a customer's telecommunications service, and address numbering issues and billing complaints.

Florida does not regulate the rates and service quality associated with certain types of telecommunications services. In 2005, the Legislature explicitly exempted intrastate interexchange telecommunications services (i.e., intrastate long distance service), broadband services, voice-over-Internet-protocol ("VoIP") services, and wireless telecommunications services from PSC oversight, to the extent such oversight is not authorized by federal law.¹⁸ In 2009, the Legislature re-emphasized these exemptions.

Status of Competition

On August 1, 2008, the PSC issued its Report on the Status of Competition in the Telecommunications Industry as of December 31, 2007 ("2008 Competition Report"). In the 2008 Competition Report, the PSC found that while service provided by ILECs was still the leading telecommunications choice for Florida households, cable telephony, wireless, and VoIP were gaining mainstream acceptance as alternatives.¹⁹

On August 1, 2010, the PSC issued its Report on the Status of Competition in the Telecommunications Industry as of December 31, 2009 ("2010 Competition Report"). In the 2010 Competition Report, the PSC found:

Florida's communications market continues to exhibit competitive characteristics. Estimates of wireless-only households have increased from prior years, and in the most recent reporting period, Florida cable companies expanded the number of VoIP customers served. These facts, coupled with continued residential access line losses by ILECs, suggest an active market for voice communications services in many areas of Florida.²⁰

In the 2010 Competition Report, the PSC notes that since 2001, traditional wireline access lines for both ILECs and CLECs have declined 38 percent, from 12 million in 2001 to 7.5 million in December 2009. Residential access line losses account for 4.3 million of this total, and business access line losses comprise the remainder. The report attributes the decline in residential access lines primarily to the increase of wireless-only households and VoIP services in lieu of traditional wireline service. The report also attributes a portion of the decline to recent economic conditions. Further, the report suggests that bundled pricing packages and the influence of services such as broadband, video, and mobility on the selection of a voice service provider are contributing to the decline.²¹

According to the PSC's competition report, at least one CLEC reported providing wireline residential service in 232 of Florida's 277 exchange areas, and at least one CLEC reported providing wireline business service in 255 of the 277 exchanges.²² Because wireless and VoIP service providers are not

¹⁶ Section 364.337 (2), F.S. (2010)

¹⁷ Section 364.337(5), F.S. (2010)

¹⁸ Section 11, ch. 2005-132, L.O.F.

¹⁹ 2008 Competition Report, p. 9.

²⁰ 2010 Competition Report, p. 5.

²¹ 2010 Competition Report, p. 23.

²² 2010 Competition Report, Appendix C.

subject to PSC jurisdiction, the PSC is unable to compel providers of these services to submit market data for purposes of its report. Thus, wireless and/or VoIP providers may be offering residential or business service in those exchanges where no CLEC reported providing wireline service.

Proposed Changes

The bill substantially repeals and amends several sections of Chapter 364, F.S., to do the following:

- Remove the PSC's regulatory oversight of basic local telecommunications service and nonbasic service, including service quality and price regulation.
- Remove the PSC's regulatory oversight of intrastate interexchange services, operator services, and shared tenant services.
- Remove the PSC's authority to provide certain consumer education materials and to adopt rules concerning certain billing practices.
- Promote the adoption of broadband services without the need for government subsidies.
- Consolidate existing provisions related to the PSC's oversight of carrier-to-carrier relationships for purposes of ensuring fair and effective competition among telecommunications service providers.
- Replace the requirement that telecommunications service providers obtain from the PSC a certificate of necessity with a requirement that such providers obtain from the PSC a certificate of authority to provide service and establish the criteria for obtaining such a certificate.
- Remove rate caps on pay telephone services.
- Delete obsolete language and make conforming changes.

Each of these items is discussed in greater detail below.

Legislative Intent

Present Situation

In the 1995 law opening local exchange service markets to competition, the Legislature indicated its intent to transition from monopoly provision of such service in Florida to a competitive market, stating:

The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure. The Legislature further finds that the transition from the monopoly provision of local exchange service to the competitive provision thereof will require appropriate regulatory oversight to protect consumers and provide for the development of fair and effective competition, but nothing in this chapter shall limit the availability to any party of any remedy under state or federal antitrust laws. The Legislature further finds that changes in regulations allowing increased competition in telecommunications services could provide the occasion for increases in the telecommunications workforce; therefore, it is in the public interest that competition in telecommunications services lead to a situation that enhances the high-technological skills and the economic status of the telecommunications workforce.²³

In that law, the Legislature went on to state its intent with respect to the PSC's exercise of jurisdiction over telecommunications matters. As modified by that law, the current statement of intent reads:

²³ Ch. 2003-32, L.O.F.

The commission shall exercise its exclusive jurisdiction in order to:

- (a) Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.
- (b) Encourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services.
- (c) Protect the public health, safety, and welfare by ensuring that monopoly services provided by telecommunications companies continue to be subject to effective price, rate, and service regulation.
- (d) Promote competition by encouraging innovation and investment in telecommunications markets and by allowing a transitional period in which new and emerging technologies are subject to a reduced level of regulatory oversight.
- (e) Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory restraints.
- (f) Eliminate any rules or regulations which will delay or impair the transition to competition.
- (g) Ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint.
- (h) Recognize the continuing emergence of a competitive telecommunications environment through the flexible regulatory treatment of competitive telecommunications services, where appropriate, if doing so does not reduce the availability of adequate basic local telecommunications service to all citizens of the state at reasonable and affordable prices, if competitive telecommunications services are not subsidized by monopoly telecommunications services, and if all monopoly services are available to all competitors on a nondiscriminatory basis.
- (i) Continue its historical role as a surrogate for competition for monopoly services provided by local exchange telecommunications companies.²⁴

This intent language is reflected in s. 364.01, F.S.

Effect of Proposed Changes

The bill removes most of the legislative intent language identified above, but retains and amends one sentence from the existing language. The amended statement now reads:

The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and has provided customers with freedom of choice, encouraged the introduction of new telecommunications service, encouraged technological innovation, and encouraged investment in telecommunications infrastructure.

The bill's changes to the legislative intent language in s. 364.01, F.S., suggest that the transition to a sufficiently competitive market has been achieved. The changes also appear to reflect the bill's removal of the PSC's remaining regulatory oversight of local exchange service. Further, the current language in s. 364.01, F.S., that expresses intent to ensure that all providers of telecommunications services are treated fairly, is transferred to a separate section of law that expresses the PSC's authority to certain disputes among telecommunications service providers.

²⁴ *Id.*

Definitions

Present Situation

Section 364.02, F.S., provides definitions applicable to Chapter 364. Among other terms, this section defines the following:

- “Basic local telecommunications service” is defined in subsection (1). Pursuant to that definition, basic service must include, among other things, an alphabetical directory listing (i.e., a phone book).
- “Monopoly service” is defined in subsection (9)
- “Operator service” is defined in subsection (11)
- “Operator service provider” is defined in subsection (12)
- “VoIP” is defined in subsection (14) as “voice-over-Internet protocol as that term is defined in federal law.”

Effect of Proposed Changes

The bill amends the definition of basic local telecommunications service by removing the provision of an alphabetical directory listing as an element of basic service. Thus, a company could choose to continue offering directory listings, to offer directory listings for a separate charge, or not to offer directory listings at all. Listings could also be obtained online.

The bill removes the definitions of the terms “monopoly service,” “operator service,” and “operator service provider.” The bill strikes all instances of the term “monopoly service,” thus a definition for the term appears unnecessary. Further, the bill repeals all PSC oversight of operator services and operator service providers, though it does not affect some provisions of Chapter 364, F.S., that refer to operator services.

The bill amends the definition of “VoIP” by deleting the general reference to federal law and replacing it with a more detailed definition that closely tracks federal law.

Retail Services Subject to PSC Regulation

Present Situation

Local Exchange Service Provided by an ILEC

Local exchange service provided by an ILEC is divided into two categories: basic and nonbasic. “Basic local telecommunications service” (or “basic service”) is defined in s. 364.02(1), F.S., as voice-grade, single-line, flat-rate residential local exchange service.²⁵ “Nonbasic service” is defined in s. 364.02(10), F.S., as any telecommunications service provided by a local exchange telecommunications company other than basic telecommunications service, a local interconnection service as described in section 364.16, F.S., or a network access service as described in section 364.163, F.S. In addition, any combination of basic service along with a nonbasic service or unregulated service is nonbasic service.²⁶

Pricing for basic service is governed by s. 364.051(2), F.S., which provides that the price for basic service may only be increased once in any 12 month period by an amount not to exceed the change in

²⁵Under s. 366.02(1), F.S., basic local telecommunications service must provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing (i.e., touchtone), and access to emergency services such as “911,” all locally available interexchange (i.e., long distance) companies, directory assistance, operator services, relay services, and an alphabetical directory listing.

²⁶Section 366.02(9), F.S.

inflation²⁷ less one percent. In addition, a flat-rate pricing option for basic local service is required and mandatory measured service (e.g., per minute pricing) for basic local service may not be imposed.

Pricing and terms for nonbasic service are governed by s. 364.051(5), F.S. Prices for nonbasic services are limited to increases of 6 percent in any 12 month period when no competitor is present and 10 percent in any 12 month period if there is a competitor providing local telephone service. The price for any service that was treated as basic service before July 1, 2009, may not be increased by more than the amount allowed for basic service. A flat-rate pricing option for multi-line business local exchange service is required and mandatory measured service for multi-line business local exchange service may not be imposed.

Under s. 364.15, F.S., the PSC, upon complaint or on its own motion, may direct a local service provider to make repairs, improvements, changes, additions, or extensions to its facilities used in the provision of basic service. The PSC does not have authority to direct local service providers to take such actions with respect to facilities used in the provision of nonbasic service. Because many of the same facilities are used to provide both basic and nonbasic service, it appears that the PSC's authority in this regard extends to most of the facilities of local service providers.

Special Provisions for Small ILECs

Current law provides special procedures for the regulation of small local exchange companies in s. 364.052, F.S. Small local exchange companies are defined as ILECs that had fewer than 100,000 access lines in service on July 1, 1995.²⁸ Pursuant to this law, the PSC has adopted less stringent reporting requirements for small ILECs.

Local Exchange Service Provided by a CLEC

Competitive local exchange companies are subject to minimal PSC regulation pursuant to s. 364.337, F.S. A CLEC offering basic local services must provide an option for flat-rate pricing for those services. Basic local service provided by a CLEC must include access to operator services, '911' services, and relay services for the hearing impaired. In addition, the PSC may set service quality criteria and resolve service complaints with regard to basic local exchange service offered by these companies.

Intrastate Interexchange Service

Section 364.02(14), F.S., defines the term "Telecommunications company." This subsection exempts intrastate interexchange telecommunications companies²⁹ from the definition but specifies other provisions of law that apply to such companies, including:

- Section 364.04, F.S., requiring the publication of rate schedules.
- Section 364.10(3)(a) and (d), F.S., requiring the publication of schedules providing each company's current Lifeline benefits and exemptions.
- Section 364.163, F.S., prohibiting such companies from instituting any intrastate connection fee or any similarly named fee.
- Section 364.285, F.S., authorizing the PSC to impose certain penalties upon entities subject to its jurisdiction.
- Section 364.501, F.S., requiring each telecommunications company with underground fiber optic facilities to operate, or be a member of, a one-call cable location notification system.
- Section 364.603, F.S., related to the unauthorized changing of a subscriber's telecommunications service.
- Section 364.604, F.S., providing requirements with respect to billing practices.

²⁷ Inflation for the purpose of the section is measured by change in the Gross Domestic Product Fixed 1987 Weights Price Index.

²⁸ Section 364.052(1), F.S.

²⁹ "Intrastate interexchange telecommunications companies" are defined in s. 364.02(7), F.S., as entities that provide intrastate interexchange telecommunications service, known more simply as intrastate long distance service.

This subsection also requires that intrastate interexchange telecommunications companies provide the PSC with current contact information as deemed necessary by the PSC.

Pay Telephone Service

Section 364.3375, F.S., provides that a person, except for an ILEC, wishing to provide pay telephone service must first obtain a certificate of public convenience and necessity from the PSC. In addition, this section limits a pay telephone service provider's maximum rate for local coin calls to a rate equivalent to the local coin rate of the ILEC in that serving that area. Further, this section provides that a pay telephone provider shall not obtain services from an operator service provider unless such operator service provider has obtained a certificate of public convenience and necessity from the PSC.

Operator Service

Section 364.3376, F.S., provides that a person, except for an ILEC, wishing to provide operator service must first obtain a certificate of public convenience and necessity from the PSC. All intrastate operator service providers are subject to the PSC's jurisdiction and must render operator services pursuant to schedules published or filed as required by s. 364.04. Current law imposes specific operational and billing requirements upon operator service providers and grants the PSC authority to adopt requirements for the provision of operator services. Further, the law prohibits an operator service provider from blocking or preventing an end user's access to the end user's operator service provider of choice. To help enforce this prohibition, the law requires the PSC to conduct random, no-notice compliance investigations of operator services providers and call aggregators operating within the state.

Shared Tenant Service

Section 364.339, F.S., provides the PSC with exclusive jurisdiction to authorize the provision of any shared tenant service which duplicates or competes with local service provided by an existing local exchange telecommunications company and is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company. Shared tenant service arrangements can occur, for example, in large commercial buildings or complexes. Other shared tenant facilities include airports and some local government arrangements. A person wishing to provide shared tenant service must first obtain a certificate of public convenience and necessity from the PSC.

Services Exempt from PSC Jurisdiction

Under s. 364.011, F.S., the following services are exempt from oversight by the PSC, except to the extent specified in Chapter 364, F.S., or specifically authorized by federal law: intrastate interexchange telecommunications services (i.e., intrastate long distance service), broadband services, voice-over-Internet-protocol ("VoIP") services, and wireless telecommunications services.

Effect of Proposed Changes

The bill amends s. 364.011, F.S., to add the following services to the list of services exempt from PSC jurisdiction:

- Basic service
- Nonbasic service

Further, the bill repeals ss. 364.051, 364.052, and 364.337, F.S., eliminating the price regulation caps for basic and nonbasic service offered by any ILEC and eliminating the requirements that a flat-rate pricing option for basic service be offered by any local exchange company and a flat-rate pricing option for multi-line business service be offered by an ILEC. Simply put, the bill removes all regulation of prices for local exchange service.

The bill also repeals s. 364.15, F.S., thus eliminating the PSC's authority to compel repairs for purposes of securing adequate service or facilities for basic service. As a result, the PSC would not regulate the service quality for any local exchange company.

The bill does not require that a local exchange company provide basic service.

The bill amends s. 364.02(14), F.S., to remove the requirement that intrastate interexchange telecommunications companies be subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, F.S. In addition, the bill eliminates the requirement that these companies provide the PSC with current contact information as deemed necessary by the PSC. The effect of these changes is to remove the PSC's limited jurisdiction over these companies.

The bill amends s. 364.3375, F.S., to replace the requirement that pay telephone service providers obtain a certificate of public convenience and necessity with a requirement that such service providers obtain a certificate of authority, which is discussed in greater detail below. Further, the bill eliminates the rate cap applicable to pay telephone service providers.

The bill repeals s. 364.3376, F.S., thus eliminating PSC oversight of operator services and removing any statutory operational and billing requirements from those providers.

The bill repeals s. 364.339, F.S., thus eliminating the PSC's jurisdiction over shared tenant services.

The bill removes the exception to PSC jurisdiction over exempt services in instances where such jurisdiction is specifically authorized by federal law. According to the PSC, it has relied upon this exception as the basis for its authority to designate wireless carriers in Florida as "eligible telecommunications carriers," or "ETCs," for purposes of receiving support from the federal universal service fund (USF). The USF supports Lifeline and Link-up programs for low-income customers and expansion of service into high-cost areas. The PSC asserts that without state authority to designate wireless ETCs in Florida, that authority would default to the Federal Communications Commission.

Universal Service

Present Situation

Section 364.025, F.S., establishes the concept of universal service in Florida law, stating:

For the purposes of this section, the term "universal service" means an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas. It is the intent of the Legislature that universal service objectives be maintained after the local exchange market is opened to competitively provided services. It is also the intent of the Legislature that during this transition period the ubiquitous nature of the local exchange telecommunications companies be used to satisfy these objectives.

The law required ILECs to serve as "carriers-of-last-resort" during this transition period, furnishing basic service within a reasonable time period to any person requesting the service within the company's service territory. This requirement expired on January 1, 2009. The law required the PSC to adopt an interim universal service mechanism for a transitional period not to exceed January 1, 2009, and required that the Legislature to establish a permanent mechanism by that time. To date, no permanent state universal service mechanism has been adopted.

Federal law identifies the goals of universal service as: promoting the availability of quality services at just, reasonable and affordable rates for all consumers; increasing nationwide access to advanced telecommunications services; advancing the availability of such services to all consumers, including

those in low income, rural, insular, and high cost areas at rates that are reasonably comparable to those charged in urban areas; increasing access to telecommunications and advanced services in schools, libraries and rural health care facilities; and providing equitable and non-discriminatory contributions from all providers of telecommunications services to the fund supporting universal service programs.³⁰ The Federal Communications Commission (FCC) established four programs to meet these goals: the High-Cost program; the Low-Income program; the Schools and Libraries program; and the Rural Health Care program. These programs are funded by the federal Universal Service Fund. Telecommunications providers must contribute to the fund through an assessment on their interstate and international revenues.

Effect of Proposed Changes

The bill repeals s. 364.025, F.S. Most of the section appears to be obsolete, as the carrier-of-last-resort obligation has expired and the date for establishing a permanent universal service mechanism has passed.

It is not clear whether a state definition of universal service is necessary. Currently, there is no explicit authority granted to the PSC to create an intrastate universal service fund. Further, a statutory obligation to provide telecommunications service in the state does not exist, but, according to the PSC, it is unclear whether there are areas in the state where only a single provider is available or where no providers are available. In addition, the federal Universal Service Fund is currently under review by the FCC for potential reform. In its review, the FCC has sought comments on whether priority for future Universal Service Fund support could be based on whether states have intrastate universal service funds.

Certification of Service Providers

Present Situation

Section 364.33, F.S., provides that, in general, a person may not begin the construction or operation of any telecommunications facility for the purpose of providing telecommunications services to the public or acquire ownership or control in any facility in any manner without prior PSC approval. This approval comes through a certificate of necessity granted by the PSC. However, a certificate of necessity or control thereof may be transferred from a person holding a certificate, its parent or an affiliate to another person holding a certificate, its parent or an affiliate, and a person holding a certificate, its parent or an affiliate may acquire ownership or control of a telecommunications facility through the acquisition, transfer, or assignment of majority organizational control or controlling stock ownership of a person holding a certificate without prior approval of the commission.

Section 364.335, F.S., establishes the information required from each applicant for a certificate of necessity, which may include a detailed inquiry into the ability of the applicant to provide service, a detailed inquiry into the territory and facilities involved, and a detailed inquiry into the existence of service from other sources within geographical proximity to the territory applied for. Further, an applicant must file with the PSC schedules showing all rates for service of every kind furnished by it and all rules and contracts relating to such service. An application fee may be required by the PSC in an amount not to exceed \$500. The applicant must also submit an affidavit that it has given proper notice of its application. If the PSC grants the requested certificate, any person who would be substantially affected by the requested certification may, within 21 days after the granting of such certificate, file a written objection requesting a hearing. Also, the PSC may hold a hearing on its own motion to determine whether the grant of a certificate is in the public interest.

Section 364.337, F.S., requires that CLECs and intrastate interexchange telecommunications service providers obtain a certificate of authority from the PSC. The PSC will grant a certificate of authority upon a showing that an applicant has sufficient technical, financial, and managerial capability to provide

³⁰ http://www.fcc.gov/wcb/tapd/universal_service/

the service in the geographic area it proposes to serve. Section 364.3375, F.S., requires that pay telephone service providers obtain a certificate of public convenience and necessity from the PSC.

Effect of Proposed Changes

The bill amends s. 364.33, F.S., to provide that either a certificate of necessity or a certificate of authority is required to provide telecommunications service to the public in Florida. The bill provides that the PSC shall cease to provide certificates of necessity after July 1, 2011, though existing certificates of necessity would remain valid. The bill provides that the transfer of a certificate of necessity or authority from the certificateholder's parent company or affiliate or to another person holding a certificate, or its parent company or affiliate, may occur without prior approval of the PSC, provided that notice of the transfer is provided to the PSC within 60 days after completion of the transfer. The transferee assumes the rights and obligations conferred by the certificate.

The bill also amends s. 364.335, F.S., to establish the process and requirement for obtaining a certificate of authority to provide telecommunications service to the public in Florida. The bill deletes the application requirements for a certificate of necessity. The bill requires that an applicant for a certificate of authority provide certain identifying information, including: the applicant's official name and, if different, any name under which the applicant will do business; the street address of the principal place of business of the applicant; the federal employer identification number or the Department of State's document number; and the name, address, and telephone number of an officer, partner, owner, member, or manager as a contact person for the applicant to whom questions or concerns may be addressed. The bill requires that the applicant submit information demonstrating its managerial, technical, and financial ability to provide telecommunications service, including an attestation to the accuracy of the information provided.

The bill provides that the PSC shall grant a certificate of authority to provide telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. The applicant must ensure continued compliance with applicable business formation, registration, and taxation provisions of law, and may terminate its certificate by providing notice to the PSC.

The bill repeals s. 364.337, F.S. CLECs and intrastate interexchange telecommunications service providers would still be required to obtain a certificate of authority from the PSC, subject to the amended requirements of s. 364.335, F.S., as discussed above. Likewise, pay telephone service providers would be required to obtain certificates of authority subject to these amended requirements.

Competitive Pricing / Consumer Education and Assistance

Present Situation

Section 364.04, F.S., requires every telecommunications company to publish its rates and tolls through electronic or physical means. Section 364.08, F.S., makes it unlawful for a telecommunications company to charge any compensation other than the charge specified in its schedule on file or otherwise published and in effect at that time. Section 364.10(1), F.S., prohibits a telecommunications company from making or giving any undue or unreasonable preference or advantage to any person or locality, or to subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.

In addition, chapter 364, F.S., contains several provisions related to consumer education, assistance, and protection, in particular the following:

- Section 364.0251, F.S., was established in 1995 to facilitate the transition from a regulated monopoly system to a competitive market for local exchange service through consumer education.
- Section 364.0252, F.S., was established in 1998 to require the PSC to "expand its current consumer information program to inform consumers of their rights as customers of competitive

telecommunications services and . . . assist customers in resolving any billing and service disputes that customers are unable to resolve directly with the company.” In addition, this section emphasizes informing consumers concerning the availability of the Lifeline and Link-Up Programs.

- Section 364.3382, F.S., requires local exchange companies to disclose to residential customers the lowest cost option when service is requested and to advise customers annually of the price of each service option they have selected.
- Section 364.603, F.S., grants the PSC authority to adopt rules to prevent the unauthorized changing of a subscriber’s telecommunications service (“slamming”) and to resolve complaints of anticompetitive behavior concerning a local preferred carrier freeze.
- Section 364.604, F.S., directs companies to provide detailed bills and a toll-free number that must be answered by a customer service representative or a voice response unit; provides that a customer is not liable for any charges for services that the customer did not order (“cramming”); and grants the PSC authority to develop implementing rules.
- Section 364.19, F.S., grants the PSC authority to regulate the terms of contracts between a telecommunications company and its customers.
- Section 364.27, F.S., authorizes the PSC to investigate interstate rates, fares, charges, classifications, or rules of practice of message transfer that take place in the state and that the PSC views as excessive or discriminatory, and to provide its findings to the FCC.

Effect of Proposed Changes

The bill amends s. 364.04, F.S., to expressly provide that the PSC has no jurisdiction over the content or form of published rate schedules and to allow telecommunications companies to enter into contracts establishing rates and charges that differ from its published schedules or to offer service not included in its schedules or to meet competitive offerings with respect to specific geographic markets and customers. The bill repeals ss. 364.10(1), F.S. and s. 364.08, F.S. The effect of these changes, taken together, is to reflect the bill’s repeal of any rate regulation over local exchange service and to allow telecommunications companies the flexibility to offer competitively priced services.

The bill repeals s. 364.0251, F.S. Because this provision was established in 1995 to educate consumers concerning the transition from a regulated monopoly system to a competitive market for local exchange service, this provision may be obsolete.

The bill also repeals s. 364.0252, F.S., thus removing the PSC’s authority to assist customers in resolving billing and service disputes with those companies and services it regulates. This repeal appears to reflect the bill’s removal of the PSC’s regulatory authority over most retail services, as described above, and treats disputes involving companies and services currently regulated by the PSC on par with disputes involving unregulated companies and services. Under Section 364.01(3), F.S., communications activities not regulated by the PSC remain subject to Florida’s generally applicable business regulation and deceptive trade practices and consumer protection laws. Customers who can no longer resolve complaints through the PSC may be able to use the non-binding dispute resolution process generally available through the Department of Agriculture and Consumer Services. Unresolved complaints may require judicial action to resolve.

In addition, by repealing s. 364.0252, F.S., the bill appears to remove the PSC’s authority to continue its efforts to inform customers of the availability of Lifeline and Link-Up programs, which include the publication and distribution of printed materials and the organization and conduct of outreach events. Under Section 364.10(3)(g)1., F.S., the PSC, in a cooperative effort with other state agencies, the Office of Public Counsel, and telecommunications companies that provide Lifeline services, can assist in developing procedures to promote participation in these programs.

The bill repeals s. 364.3382, F.S., thus eliminating the requirement that local exchange companies disclose to residential customers the lowest cost option when service is requested and advise customers annually of the price of each service option they have selected. This repeal appears to reflect the bill’s removal of the PSC’s regulatory authority over most retail services, as described above,

and treats customer relations for companies and services currently regulated by the PSC on par with customer relations for unregulated companies and services.

The bill repeals s. 364.603, F.S., but creates an identical provision in s. 364.16, F.S. Thus, the PSC will continue to have authority to adopt rules and resolve complaints regarding the unauthorized changing of a subscriber's telecommunications service, referred to as "slamming".

The bill repeals s. 364.604, F.S., thus eliminating the requirement that billing parties provide detailed bills and a toll-free number that must be answered by a customer service representative or a voice response unit and removing the provision stating that a customer is not liable for any charges for services that the customer did not order, ("cramming"). The bill also removes the requirement in this section that billing parties provide a free blocking option to a customer to block 900 or 976 telephone calls.

The bill repeals s. 364.19, F.S., thus removing the PSC's authority to regulate the terms of contracts between a telecommunications company and its customers. This repeal appears to reflect the bill's removal of the PSC's regulatory authority over most retail services, as described above, and treats customer relations for companies and services currently regulated by the PSC on par with customer relations for unregulated companies and services. The PSC anticipates that service contracts may take on greater importance in the wireline market, similar to their prevalence in the wireless market.

The bill repeals s. 364.27, F.S., thus removing the PSC's authority to investigate interstate rates, fares, charges, classifications, or rules of practice of message transfer that take place in the state and that the PSC views as excessive or discriminatory. The PSC indicates that it has not conducted investigations of interstate rates in recent memory.

Competitive Market Oversight

Present Situation

Chapter 364, F.S., directs the PSC to promote competition. In addition, it grants the PSC authority to resolve disputes among telecommunications service providers for various purposes. As noted above, s. 364.01(4)(g), F.S., states the Legislature's intent that the PSC ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint.

Section 364.16, F.S., gives the PSC authority to ensure that, where possible, a telecommunications company provides local interconnection and access to any other telecommunications company. Section 364.161, F.S., requires each ILEC to unbundle all of its network features, functions, and capabilities, including access to signaling databases, systems and routing processes, and offer them to any other telecommunications provider for resale to the extent technically and economically feasible. Section 364.162, F.S., provides procedures for the negotiation and regulatory review of agreements for interconnection and resale. Section 364.163, F.S., states that a local exchange telecommunications company must file tariffs for any network access services it offers.

Section 364.058, F.S., authorizes the PSC to conduct limited proceedings to consider any matter within its jurisdiction and requires that the PSC implement an expedited process to facilitate the quick resolution of disputes between telecommunications companies.

Section 364.3381, F.S., prohibits an ILEC from subsidizing nonbasic service with revenues received for basic service. It also gives the PSC continuing oversight over cross-subsidization, predatory pricing, and other similar anticompetitive behaviors.

Section 364.386, F.S., directs the PSC to collect data from local exchange service providers for use in preparing an annual report to the Legislature on the status of competition in the telecommunications industry and a detailed exposition of the following:

- The overall impact of local exchange telecommunications competition on the continued availability of universal service.
- The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.
- The ability of consumers to obtain functionally equivalent services at comparable rates, terms, and conditions.
- The overall impact of price regulation on the maintenance of reasonably affordable and reliable high-quality telecommunications services.
- What additional services, if any, should be included in the definition of basic local telecommunications services, taking into account advances in technology and market demand.
- Any other information and recommendations which may be in the public interest.

Effect of Proposed Changes

The bill rewrites section 364.16, F.S., relating to local interconnection, unbundling, and resale. The bill repeals ss. 364.161, 364.162, and 364.3381, F.S., and consolidates the relevant portions of those sections. The bill describes the PSC's authority to oversee carrier-to-carrier relationships and to prevent anticompetitive behavior, including, but not limited to, the resale of services, number portability, dialing parity, access to rights of way, access to poles and conduits, and reciprocal compensation. It also authorizes the PSC to arbitrate and enforce interconnection agreements in accordance with 47 U.S.C. ss. 251 and 252 and applicable orders and rules of the FCC.

In addition, the bill incorporates into s. 364.16, F.S., provisions substantially similar to those in existing s. 364.603, F.S. (related to the unauthorized changing of a customer's telecommunications service) and s. 364.058, F.S. (related to limited and expedited proceedings for disputes between companies). Accordingly, the bill repeals ss. 364.058 and 364.603, F.S.

The bill amends s. 364.386, F.S., to modify what the PSC is required to address in its annual competition report to the Legislature. First, the bill removes the requirement that the PSC address the overall impact of local exchange telecommunications competition on the availability of universal service. Second, the bill requires the PSC to address the overall impact of competition, rather than price regulation, on the maintenance of reasonably affordable and reliable high-quality telecommunications services. Third, the bill replaces the requirement that the PSC provide suggestions for what other services should be included in the definition of basic local service with a requirement to include a listing and short description of any carrier disputes.

In addition, the bill limits the quantitative portion of the PSC's data requests for purposes of the annual competition report prepared pursuant to s. 364.386, F.S. Specifically, the bill limits the data that must be provided to the PSC to a copy of the FCC Form 477 that was filed with the FCC which contains Florida specific data. The language requires the Commission to accept similar information if the Form 477 is not available and deletes the requirement for companies to file data by exchange. According to the PSC, the lack of exchange level access line data will restrict its ability to identify competitive impacts on a regional or locality basis and also the ability of the report to identify areas of the state that may not have competitive options.

Miscellaneous Provisions

Present Situation

A number of provisions in Chapter 364, F.S., relate generally to the PSC's regulatory oversight of telecommunications service. These provisions, excluding those already discussed in this analysis, include the following:

- Section 364.015, F.S., which authorizes the PSC to petition the circuit court for an injunction against violations of PSC orders or rules in connection with the impairment of a telecommunications company's operations or service.

- Section 364.016, F.S., which authorizes the PSC to assess a telecommunications company for reasonable travel costs associated with reviewing the records of the telecommunications company and its affiliates when such records are kept out of state.
- Section 364.057, F.S., which allows the PSC to approve experimental or transitional rates it determines to be in the public interest for any telecommunications company to test marketing strategies.
- Section 364.059, F.S., which provides procedures for seeking a stay of the effective date of a price reduction for a basic local telecommunications service by a company that has elected to have its basic local telecommunications services treated the same as its nonbasic services.
- Section 364.06, F.S., which provides that when companies have agreed to joint rates, tolls, contracts, or charges, one company must file the rate tariff and if each of the others files sufficient evidence of concurrence, they do not have to file copies of the rate tariff.
- Section 364.063, F.S., which requires that the PSC put in writing any order adjusting general increases or reductions of the rates of a telecommunications company within 20 days after the official vote of the commission. The PSC must also, within that 20-day period, mail a copy of the order to the clerk of the circuit court of each county in which customers are served who are affected by the rate adjustment.
- Section 364.07, F.S., which requires every telecommunications company to file with the PSC a copy of any contract with any other telecommunications company or with any other entity relating in any way to the construction, maintenance, or use of a telecommunications facility or service by, or rates and charges over and upon, any such telecommunications facility. This section also authorizes the PSC to review, and disapprove, contracts for joint provision of intrastate interexchange service.
- Section 364.16(4), F.S., which requires, for purposes of assuring that consumers have access to different local exchange service providers without having to give up the consumer's existing local telephone number, that all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and are in accordance with national assignment guidelines. This subsection also requires the establishment of temporary number portability by January 1, 1996, and permanent portability as soon as possible after development of national standards, with the PSC resolving disputes over rates, terms, and conditions for such arrangements.
- Section 364.183, F.S., which grants the PSC authority to have access to certain types of records of a local exchange telecommunications company and its affiliated companies, including its parent company, and to require a telecommunications company to file records, reports or other data and to retain such information for a designated period of time.
- Section 364.185, F.S., which authorizes the PSC to, during all reasonable hours, enter upon any premises occupied by any telecommunications company and set up and use thereon all necessary apparatus and appliances for the purpose of making investigations, inspections, examinations, and tests.
- Section 364.345, F.S., which requires each telecommunications company to provide adequate and efficient service to the territory described in its certificate within a reasonable time. It also prohibits, in general, a telecommunications company from selling, assigning, or transferring its certificate or any portion thereof without a determination by the PSC that the proposed sale, assignment, or transfer is in the public interest and the approval of the PSC.
- Section 364.37, F.S., which authorizes the PSC to make any order and prescribe any terms and conditions that are just and reasonable if any person, in constructing or extending a telecommunications facility, unreasonably interferes or is about to unreasonably interfere with any telecommunications facility or service of any other person, or if a controversy arises between any two or more persons with respect to the territory professed to be served by each.
- Section 364.385, F.S., which provides savings clauses related to the effects of the law that opened local service to competition in 1995 on certificates, rates, proceedings, and orders prior to January 1, 1996, the effective date of that act.
- Section 364.501, F.S., which requires all telecommunications companies with underground fiber optic facilities to operate their own, or be a member of a, one-call cable location notification system providing telephone numbers which are to be called by excavating contractors and the

general public for the purpose of notifying the telecommunications company of such person's intent to engage in excavating or any other similar work.

- Section 364.503, F.S., which requires a local exchange telecommunications company or a cable television company which is merging with or acquiring an ownership interest of greater than 5 percent in the other type of company to give 60 days' notice to the Florida Public Service Commission and the Department of Legal Affairs of the Office of the Attorney General.
- Sections 364.506 - 364.516, F.S., make up the Education Facilities Infrastructure Improvement Act. Section 364.506, F.S., titles these sections; s. 364.507, F.S, provides legislative findings and intent; s. 364.508, F.S., provides definitions; s. 364.515, F.S., provides for funding of advanced telecommunications services by submitting a technology-needs request to the Department of Management Services no later than July 1, 1997; and s. 364.516, F.S., provides for penalties.

Effect of Proposed Changes

The bill repeals the following sections of Chapter 364, F.S., which are made unnecessary or obsolete by provisions of the bill that remove the PSC's existing regulatory oversight: ss. 364.057; 364.06; 364.063; 364.07; 364.185; 364.345; and 364.385(1), (2), and (3).

The bill repeals s. 364.059, F.S. This section is no longer operative and is obsolete.

The bill repeals s. 364.015, F.S., removing the PSC's ability to seek injunctive relief relating to enforcement matters.

The bill repeals s. 364.016, F.S., removing the PSC's ability to assess a company for reasonable travel costs associated with reviewing the records of the telecommunications company and its affiliates when such records are kept out of state. According to the PSC, it has drastically reduced the instances where the records of the company are subject to review. The PSC states that the primary areas where record review remains necessary are for financial audits of Regulatory Assessment Fee (RAF) filings and operational audits of wholesale processes. Operational audits may involve interviewing management and observing wholesale operations centers, typically located out of state. The PSC notes that it has conducted approximately five RAF audits annually and two operational audits in the last five years. The PSC estimates that if it is required to incur travel expense to review out of state records, travel expense could increase as much as \$10,000 per year, approximately \$2,000 per audit.

The bill repeals s. 364.16(4), F.S. This subsection provides a basis for the PSC to oversee numbering issues, such as area code exhaustion and number assignment in accordance with national guidelines. According to the PSC, Florida will soon be required by the North American Numbering Council to initiate procedures to address the imminent exhaustion of the 850 area code. It is not clear whether the PSC would be able to address these issues if this subsection is repealed.

The bill amends s. 364.183(1), F.S., to remove the PSC's access to affiliate or parent company records of a local exchange company. Access to such records was relevant in a rate base regulatory structure to prevent cross-subsidization. According to the PSC, such access is no longer relevant under the bill. The bill also amends this subsection to eliminate the PSC's authority to compel a carrier to submit records in a form specified by the PSC and to retain information for a designated period of time. According to the PSC, absent this authority, it would be unable to obtaining data needed to produce its annual competition report in a format that facilitates compilation. Further, the PSC asserts that it relies upon this provision in its oversight duties relating to interconnection matters and Lifeline. As an example, the PSC notes that when carriers lodge complaints or request new services of a local exchange telecommunications carrier, the PSC may require the carrier to provide periodic records or reports of various activities for a finite period.

The bill also amends s. 364.183(3)(f), F.S., to include employee compensation, duties, qualifications, and responsibilities in the definition of proprietary confidential business information. Thus, the bill appears to expand an existing public records exemption. As discussed below, a separate bill may be

necessary to achieve this expansion in conformance with the requirements of Section 24, Article I, of the Florida Constitution.

The bill repeals s. 364.37, F.S., removing the PSC's authority to address controversies over service territories. The PSC states that it has not addressed any service territory disputes relating to telecommunications companies in recent memory. The repeal of this section appears to reflect the general transition from a regulated monopoly environment, with defined service territories, to an open, competitive market.

The bill repeals s. 364.501, F.S. The repeal of this section will likely have no effect because the Sunshine State One-Call of Florida program created under chapter 556, F.S., requires the participation of "any person who furnishes or transports materials or services by means of an underground facility."

The bill repeals s. 364.503, F.S., thus eliminating the requirement that 60-day notice be provided to the PSC and the Department of Legal Affairs for certain mergers and acquisitions between local exchange telecommunications companies and cable television companies.

The bill repeals ss. 364.506 - 364.516, F.S., which make up the Education Facilities Infrastructure Improvement Act. Under this act, an eligible facility, or a group of eligible facilities based on geographic proximity, may submit, no later than July 1, 1997, a technology-needs request to the Department of Management Services.

Broadband Adoption

Present Situation

In 2009, the Legislature created s. 364.0135, F.S., to promote the deployment and adoption of broadband Internet service throughout Florida through a coordinated statewide effort. The law authorizes the Department of Management Services to work collaboratively with Enterprise Florida, Inc., state agencies, local governments, private businesses, and community organizations for mapping and deployment of broadband Internet services in the state. The American Recovery and Reinvestment Act of 2009 provided \$7.2 billion for broadband mapping and deployment, and the law allows DMS to draw down these federal funds to help establish universal broadband in the state.

The law requires funds received by DMS for this purpose to be focused on expanding broadband in rural, unserved, and underserved communities through grant programs. The department is charged with conducting a needs assessment of broadband and developing maps that identify unserved areas, underserved areas, and broadband transmission speeds in the state. Under the law, priority for grants is provided to projects that:

- Provide access to broadband education, awareness, training, access, equipment, and support to libraries, schools, colleges and universities, health care providers, and community organizations.
- Encourage investments in primarily unserved areas to provide consumers a choice of broadband service.
- Work toward establishing affordable and sustainable broadband service in the state.
- Facilitate the development of applications, programs, and services, including telework, telemedicine, and e-learning that increase the usage and demand for broadband services.

Effect of Proposed Changes

The bill amends the intent of s. 364.0135, F.S., to promoting "sustainable adoption" of broadband Internet service, which is defined in the bill as "the ability for communications service providers to offer broadband services in all areas of the state by encouraging adoption and utilization levels that allow for these services to be offered in the free market absent the need for governmental subsidy."

In establishing the priority of projects for purposes of awarding grants, the bill removes from the priority list those projects that "encourage investment in primarily unserved areas to give consumers a choice of more than one broadband Internet service provider." In its place, the bill establishes as a priority those projects that "encourage sustainable adoption of broadband in primarily unserved areas by removing barriers to entry, such as unreasonably high pole-attachment rates." It is not clear who would determine whether pole-attachment rates are unreasonably high for purposes of awarding grants or how such grants would be used to address pole-attachment rates as a barrier to entry. According to the PSC, the Federal Communications Commission is the default authority over pole attachment rates, terms, and conditions.

In addition, the bill replaces the requirement that the DMS collaborative conduct a needs assessment of broadband Internet service with a requirement that it monitor the adoption of such service.

Finally, the bill provides that any rule, contract, grant, or other activity undertaken by DMS must ensure that all entities are in compliance with applicable federal or state laws, rules, and regulations, including those applicable to private entities providing communications services for hire and the requirements of s. 350.81, F.S. (concerning communications services provided by government entities).

Conforming Changes

The bill amends ss. 196.012(6), 199.183(1)(b), 212.08(6), 290.007(8), 350.0605(3), 364.105, 364.32, and 489.103(5), F.S., to conform statutory cross-references.

B. SECTION DIRECTORY:

Section 1. Creates the "Regulatory Reform Act."

Section 2. Amends s. 364.01, F.S., revising legislative intent with respect to the jurisdiction of the Florida Public Service Commission.

Section 3. Amends s. 364.011, F.S., providing that certain basic and nonbasic telecommunication services are exempt from the jurisdiction of the Public Service Commission.

Section 4. Amends s. 364.012, F.S., requiring local exchange telecommunications companies to provide unbundled access to network elements.

Section 5. Amends s. 364.0135, F.S., providing legislative intent relating to the sustainable adoption of broadband Internet service; providing a definition of "sustainable adoption" as it relates to broadband Internet services; removing obsolete legislative intent; authorizing the Department of Management Services to work collaboratively with, and to receive staffing support and other resources from, Enterprise Florida, Inc., state agencies, local governments, private businesses, and community organizations to encourage sustainable adoption of broadband Internet services; authorizing the department to adopt rules.

Section 6. Repeals s. 364.015, F.S., relating to injunctive relief.

Section 7. Repeals s. 364.016, F.S., relating to travel costs of the commission.

Section 8. Amends s. 364.02, F.S., removing definitions for "monopoly service," "operator service," and "operator service provider," and adding a definition for "VoIP."

Section 9. Repeals s. 364.025, F.S., relating to uniform telecommunications service.

Section 10. Repeals s. 364.0251, F.S., relating to a telecommunications consumer information program.

- Section 11.** Repeals s. 364.0252, F.S., relating to the expansion of consumer information programs.
- Section 12.** Amends s. 364.04, F.S., providing that the commission has no jurisdiction over the content, form, or format of rate schedules published by a telecommunications company; providing that a telecommunications company may undertake certain activities.
- Section 13.** Repeals s. 364.051, F.S., relating to price regulation.
- Section 14.** Repeals s. 364.052, F.S., relating to regulatory methods for small local exchange telecommunications companies.
- Section 15.** Repeals s. 364.057, F.S., relating to experimental and transitional rates.
- Section 16.** Repeals s. 364.058, F.S., relating to limited proceedings.
- Section 17.** Repeals s. 364.059, F.S., relating to procedures for seeking a stay of proceedings.
- Section 18.** Repeals s. 364.06, F.S., relating to joint rates, tolls, and contracts.
- Section 19.** Repeals s. 364.063, F.S., relating to rate adjustment orders.
- Section 20.** Repeals s. 364.07, F.S., relating to intrastate interexchange service contracts.
- Section 21.** Repeals s. 364.08, F.S., relating to unlawful charges against consumers.
- Section 22.** Amends s. 364.10, F.S., removing obsolete provisions; requiring an eligible telecommunications carrier to provide a Lifeline Assistance Plan to qualified residential subscribers.
- Section 23.** Repeals s. 364.15, F.S., relating to repairs, improvements, and additions to telecommunication facilities.
- Section 24.** Amends s. 364.16, F.S., relating to interconnection, unbundling, and resale of telecommunication services; requiring the commission to, upon request, arbitrate and enforce interconnection agreements; prohibiting a telecommunications company from knowingly delivering traffic for which terminating access service charges would otherwise apply; authorizing the commission to adopt rules to prevent the unauthorized changing of a subscriber's telecommunications service; removing obsolete provisions relating to local exchange telecommunications companies.
- Section 25.** Repeals s. 364.161, F.S., relating to unbundling and resale of telecommunication services
- Section 26.** Repeals s. 364.162, F.S., relating to negotiated prices for interconnection services.
- Section 27.** Amends s. 364.163, F.S., conforming provisions to changes made by the act.
- Section 28.** Amends s. 364.183, F.S., revising provisions relating to access of the commission to certain records of a telecommunications company.
- Section 29.** Repeals s. 364.185, F.S., relating to relating to powers of the commission to investigate and inspect any premises of a telecommunications company.
- Section 30.** Repeals s. 364.19, F.S., relating to regulation of telecommunication contracts.
- Section 31.** Repeals s. 364.27, F.S., relating to powers and duties as to interstate rates.
- Section 32.** Amends s. 364.33, F.S., relating to the certificate of authority; prohibiting a person from providing any telecommunications service to the public without a certificate of necessity or a certificate

of authority issued by the commission; providing that, after a specified date, the commission will no longer issue certificates of necessity.

Section 33. Amends s. 364.335, F.S., requiring an applicant to provide certain information when applying for a certificate of authority; describing the criteria necessary to be granted a certificate of authority; authorizing a telecommunications company to terminate a certificate of authority.

Section 34. Repeals s. 364.337, F.S., relating to competitive local exchange companies.

Section 35. Amends s. 364.3375, F.S., relating to pay telephone service providers; requiring pay telephone providers to obtain a certificate of authority from the commission.

Section 36. Repeals s. 364.3376, F.S., relating to operator services.

Section 37. Repeals s. 364.3381, F.S., relating to cross-subsidization.

Section 38. Repeals s. 364.3382, F.S., relating to cost disclosures.

Section 39. Repeals s. 364.339, F.S., relating to shared tenant services.

Section 40. Repeals s. 364.345, F.S., relating to certificates for territories served.

Section 41. Repeals s. 364.37, F.S., relating to powers of the commission relating to service territories.

Section 42. Amends s. 364.385, F.S., removing obsolete provisions relating to saving clauses.

Section 43. Amends s. 364.386, F.S., revising the content to be included in the report to be filed with the Legislature.

Section 44. Repeals s. 364.501, F.S., relating to the prevention of damages to underground telecommunication facilities.

Section 45. Repeals s. 364.503, F.S., relating to mergers or acquisitions.

Section 46. Repeals s. 364.506, F.S., relating to a short title for education facilities.

Section 47. Repeals s. 364.507, F.S., relating to legislative intent for advanced telecommunication services to eligible facilities.

Section 48. Repeals s. 364.508, F.S., relating to definitions.

Section 49. Repeals s. 364.515, F.S., relating to infrastructure investments.

Section 50. Repeals s. 364.516, F.S., relating to penalties for failing to provide advanced telecommunication services.

Section 51. Repeals s. 364.601, F.S., relating to the short title for telecommunication consumer protections.

Section 52. Repeals s. 364.602, F.S., relating to definitions.

Section 53. Repeals s. 364.603, F.S., relating to the methodology for protecting consumers for changing telecommunication providers.

Section 54. Repeals s. 364.604, F.S., relating to billing procedures to inform and protect the consumer.

Section 55. Amends s. 196.012, F.S., revising cross-references to conform to changes made by the act.

Section 56. Amends s. 199.183, F.S., revising cross-references to conform to changes made by the act.

Section 57. Amends s. 212.08, F.S., revising cross-references to conform to changes made by the act.

Section 58. Amends s. 290.007, F.S., revising cross-references to conform to changes made by the act.

Section 59. Amends s. 350.0605, F.S., revising cross-references to conform to changes made by the act.

Section 60. Amends s. 364.105, F.S., revising cross-references to conform to changes made by the act.

Section 61. Amends s. 364.32, F.S., revising cross-references to conform to changes made by the act.

Section 62. Amends s. 489.103, F.S., revising cross-references to conform to changes made by the act.

Section 63. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will reduce state expenditures as a result of removing several components of the PSC's regulatory oversight of telecommunications services. The PSC estimates a recurring reduction of 11 full-time equivalent positions (FTEs) in FY 2011-2012 and an additional 2 FTEs in FY 2012-2013, with a reduction in recurring expenditures of \$703,659 in FY 2011-2012 and \$807,378 thereafter. The PSC also estimates a reduction in non-recurring expenditures of \$42,296 in FY 2011-2012 and \$7,796 in FY 2012-2013.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce regulatory requirements imposed upon local exchange companies and competitive local exchange companies. As a result, these companies will likely benefit from reduced regulatory compliance costs. Further, the bill should create a more competitively neutral regulatory scheme for

these companies as compared to competing providers of telecommunications services, such as cable, wireless, and broadband service.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

Section 24(a), Article I, of the Florida Constitution provides that “[e]very person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution.” Further, Section 24(c), Article I, of the Florida Constitution provides, in pertinent part:

This section shall be self-executing. The legislature, however, may provide by general law passed by a two-thirds vote of each house for the exemption of records from the requirements of subsection (a) . . . provided that such law shall state with specificity the public necessity justifying the exemption and shall be no broader than necessary to accomplish the stated purpose of the law. . . . Laws enacted pursuant to this subsection shall contain only exemptions from the requirements of subsections (a) or (b) and provisions governing the enforcement of this section, and shall relate to one subject.

Under current law, a person that submits records to the PSC may claim that the records are “proprietary confidential business information.” Upon such a claim, the records must be kept confidential and exempt from disclosure as public records. Current law provides that “proprietary confidential business information” includes, among other things, “[e]mployee personnel information unrelated to compensation, duties, qualifications, or responsibilities.” The bill strikes the qualifying clause from this provision, treating all employee personnel information as proprietary confidential business information. Thus, the bill appears to expand this existing public records exemption. To achieve this expansion in conformance with the requirements of Section 24, Article I, of the Florida Constitution, a separate bill may be necessary.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill sponsor has indicated his intent to offer amendments:

- To restore the language stricken on lines 917-918 of the bill, thereby not expanding the existing public records exemption for certain employee personnel information.
- To restore the PSC’s authority to assess a telecommunications company for reasonable travel costs associated with reviewing records of the company kept out of state, except for affiliate records.
- To restore the definitions of “operator service” and “operator service provider” as references for the continuing use of those terms in Chapter 364, F.S.
- To restore the PSC’s ability to administer the system by which telecommunications companies obtain telephone numbers.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

29 telecommunications consumer information program, and the
 30 expansion of consumer information programs, respectively;
 31 amending s. 364.04, F.S.; providing that the commission
 32 has no jurisdiction over the content, form, or format of
 33 rate schedules published by a telecommunications company;
 34 providing that a telecommunications company may undertake
 35 certain activities; repealing ss. 364.051, 364.052,
 36 364.057, 364.058, 364.059, 364.06, 364.063, 364.07, and
 37 364.08, F.S., relating to price regulation, regulatory
 38 methods for small local exchange telecommunications
 39 companies, experimental and transitional rates, limited
 40 proceedings, procedures for seeking a stay of proceedings,
 41 joint rates, tolls, and contracts, rate adjustment orders,
 42 intrastate interexchange service contracts, and unlawful
 43 charges against consumers, respectively; amending s.
 44 364.10, F.S.; removing obsolete provisions; requiring an
 45 eligible telecommunications carrier to provide a Lifeline
 46 Assistance Plan to qualified residential subscribers;
 47 repealing s. 364.15, F.S., relating to repairs,
 48 improvements, and additions to telecommunication
 49 facilities; amending s. 364.16, F.S., relating to
 50 interconnection, unbundling, and resale of
 51 telecommunication services; requiring the commission to,
 52 upon request, arbitrate and enforce interconnection
 53 agreements; prohibiting a telecommunications company from
 54 knowingly delivering traffic for which terminating access
 55 service charges would otherwise apply; authorizing the
 56 commission to adopt rules to prevent the unauthorized

57 | changing of a subscriber's telecommunications service;
 58 | removing obsolete provisions relating to local exchange
 59 | telecommunications companies; repealing ss. 364.161 and
 60 | 364.162, F.S., relating to unbundling and resale of
 61 | telecommunication services and negotiated prices for
 62 | interconnection services, respectively; amending s.
 63 | 364.163, F.S.; conforming provisions to changes made by
 64 | the act; amending s. 364.183, F.S.; revising provisions
 65 | relating to access of the commission to certain records of
 66 | a telecommunications company; repealing ss. 364.185,
 67 | 364.19, and 364.27, F.S., relating to powers of the
 68 | commission to investigate and inspect any premises of a
 69 | telecommunications company, regulation of
 70 | telecommunication contracts, and powers and duties as to
 71 | interstate rates, respectively; amending s. 364.33, F.S.,
 72 | relating to the certificate of authority; prohibiting a
 73 | person from providing any telecommunications service to
 74 | the public without a certificate of necessity or a
 75 | certificate of authority issued by the commission;
 76 | providing that, after a specified date, the commission
 77 | will no longer issue certificates of necessity; amending
 78 | s. 364.335, F.S.; requiring an applicant to provide
 79 | certain information when applying for a certificate of
 80 | authority; describing the criteria necessary to be granted
 81 | a certificate of authority; authorizing a
 82 | telecommunications company to terminate a certificate of
 83 | authority; repealing s. 364.337, F.S., relating to
 84 | competitive local exchange companies; amending s.

85 364.3375, F.S., relating to pay telephone service
 86 providers; requiring pay telephone providers to obtain a
 87 certificate of authority from the commission; repealing
 88 ss. 364.3376, 364.3381, 364.3382, 364.339, 364.345, and
 89 364.37, F.S., relating to operator services, cross-
 90 subsidization, cost disclosures, certificates for
 91 territories served, shared tenant services, and powers of
 92 the commission relating to service territories,
 93 respectively; amending s. 364.385, F.S.; removing obsolete
 94 provisions relating to saving clauses; amending s.
 95 364.386, F.S.; revising the content to be included in the
 96 report to be filed with the Legislature; repealing ss.
 97 364.501, 364.503, 364.506, 364.507, 364.508, 364.515,
 98 364.516, 364.601, 364.602, 364.603, and 364.604, F.S.,
 99 relating to the prevention of damages to underground
 100 telecommunication facilities, mergers or acquisitions, a
 101 short title for education facilities, legislative intent
 102 for advanced telecommunication services to eligible
 103 facilities, definitions, infrastructure investments,
 104 penalties for failing to provide advanced
 105 telecommunication services, the short title for
 106 telecommunication consumer protections, definitions, the
 107 methodology for protecting consumers for changing
 108 telecommunication providers, and billing procedures to
 109 inform and protect the consumer, respectively; amending
 110 ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.105,
 111 364.32, and 489.103, F.S.; revising cross-references to
 112 conform to changes made by the act; providing an effective

113 date.

114

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

116

117 Section 1. This act may be cited as the "Regulatory Reform
 118 Act."

119 Section 2. Section 364.01, Florida Statutes, is amended to
 120 read:

121 364.01 Powers of commission, legislative intent.—

122 (1) The Florida Public Service Commission shall exercise
 123 over and in relation to telecommunications companies the powers
 124 conferred by this chapter.

125 (2) It is the legislative intent to give exclusive
 126 jurisdiction in all matters set forth in this chapter to the
 127 Florida Public Service Commission in regulating
 128 telecommunications companies, and such preemption shall
 129 supersede any local or special act or municipal charter where
 130 any conflict of authority may exist. However, ~~the provisions of~~
 131 this chapter does ~~shall~~ not affect the authority and powers
 132 granted in s. 166.231(9) or s. 337.401.

133 (3) Communications activities that are not regulated by
 134 the Florida Public Service Commission, ~~including, but not~~
 135 ~~limited to, VoIP, wireless, and broadband,~~ are subject to this
 136 state's generally applicable business regulation and deceptive
 137 trade practices and consumer protection laws, as enforced by the
 138 appropriate state authority or through actions in the judicial
 139 system. This chapter does not limit the availability to any
 140 party of any remedy or defense under state or federal antitrust

141 laws. The Legislature finds that the competitive provision of
 142 telecommunications services, including local exchange
 143 telecommunications service, is in the public interest and has
 144 provided ~~will provide~~ customers with freedom of choice,
 145 encouraged ~~encourage~~ the introduction of new telecommunications
 146 service, encouraged ~~encourage~~ technological innovation, and
 147 encouraged ~~encourage~~ investment in telecommunications
 148 infrastructure. ~~The Legislature further finds that the~~
 149 ~~transition from the monopoly provision of local exchange service~~
 150 ~~to the competitive provision thereof will require appropriate~~
 151 ~~regulatory oversight to protect consumers and provide for the~~
 152 ~~development of fair and effective competition, but nothing in~~
 153 ~~this chapter shall limit the availability to any party of any~~
 154 ~~remedy under state or federal antitrust laws. The Legislature~~
 155 ~~further finds that changes in regulations allowing increased~~
 156 ~~competition in telecommunications services could provide the~~
 157 ~~occasion for increases in the telecommunications workforce;~~
 158 ~~therefore, it is in the public interest that competition in~~
 159 ~~telecommunications services lead to a situation that enhances~~
 160 ~~the high-technological skills and the economic status of the~~
 161 ~~telecommunications workforce. The Legislature further finds that~~
 162 ~~the provision of voice-over-Internet protocol (VoIP) free of~~
 163 ~~unnecessary regulation, regardless of the provider, is in the~~
 164 ~~public interest.~~

165 ~~(4) The commission shall exercise its exclusive~~
 166 ~~jurisdiction in order to:~~

167 ~~(a) Protect the public health, safety, and welfare by~~
 168 ~~ensuring that basic local telecommunications services are~~

169 ~~available to all consumers in the state at reasonable and~~
 170 ~~affordable prices.~~

171 ~~(b) Encourage competition through flexible regulatory~~
 172 ~~treatment among providers of telecommunications services in~~
 173 ~~order to ensure the availability of the widest possible range of~~
 174 ~~consumer choice in the provision of all telecommunications~~
 175 ~~services.~~

176 ~~(c) Protect the public health, safety, and welfare by~~
 177 ~~ensuring that monopoly services provided by telecommunications~~
 178 ~~companies continue to be subject to effective price, rate, and~~
 179 ~~service regulation.~~

180 ~~(d) Promote competition by encouraging innovation and~~
 181 ~~investment in telecommunications markets and by allowing a~~
 182 ~~transitional period in which new and emerging technologies are~~
 183 ~~subject to a reduced level of regulatory oversight.~~

184 ~~(e) Encourage all providers of telecommunications services~~
 185 ~~to introduce new or experimental telecommunications services~~
 186 ~~free of unnecessary regulatory restraints.~~

187 ~~(f) Eliminate any rules or regulations which will delay or~~
 188 ~~impair the transition to competition.~~

189 ~~(g) Ensure that all providers of telecommunications~~
 190 ~~services are treated fairly, by preventing anticompetitive~~
 191 ~~behavior and eliminating unnecessary regulatory restraint.~~

192 ~~(h) Recognize the continuing emergence of a competitive~~
 193 ~~telecommunications environment through the flexible regulatory~~
 194 ~~treatment of competitive telecommunications services, where~~
 195 ~~appropriate, if doing so does not reduce the availability of~~
 196 ~~adequate basic local telecommunications service to all citizens~~

HB 1231

2011

197 ~~of the state at reasonable and affordable prices, if competitive~~
 198 ~~telecommunications services are not subsidized by monopoly~~
 199 ~~telecommunications services, and if all monopoly services are~~
 200 ~~available to all competitors on a nondiscriminatory basis.~~

201 ~~(i) Continue its historical role as a surrogate for~~
 202 ~~competition for monopoly services provided by local exchange~~
 203 ~~telecommunications companies.~~

204 Section 3. Section 364.011, Florida Statutes, is amended
 205 to read:

206 364.011 Exemptions from commission jurisdiction.—The
 207 following services are exempt from oversight by the commission,
 208 except to the extent delineated in this chapter ~~or specifically~~
 209 ~~authorized by federal law:~~

- 210 (1) Intrastate interexchange telecommunications services.
- 211 (2) Broadband services, regardless of the provider,
 212 platform, or protocol.
- 213 (3) VoIP.
- 214 (4) Wireless telecommunications, including commercial
 215 mobile radio service providers.
- 216 (5) Basic service.
- 217 (6) Nonbasic services.

218 Section 4. Subsection (2) of section 364.012, Florida
 219 Statutes, is amended to read:

220 364.012 Consistency with federal law.—

221 (2) This chapter does not limit or modify the duties of a
 222 local exchange telecommunications company ~~carrier~~ to provide
 223 unbundled access to network elements or the commission's
 224 authority to arbitrate and enforce interconnection agreements to

225 | the extent that those elements are required under 47 U.S.C. ss.
 226 | 251 and 252, and under any regulations issued by the Federal
 227 | Communications Commission at rates determined in accordance with
 228 | the standards established by the Federal Communications
 229 | Commission pursuant to 47 C.F.R. ss. 51.503-51.513, inclusive of
 230 | any successor regulation or successor forbearance of regulation.

231 | Section 5. Section 364.0135, Florida Statutes, is amended
 232 | to read:

233 | 364.0135 Promotion of broadband adoption ~~deployment~~.—

234 | (1) The Legislature finds that the sustainable adoption of
 235 | broadband Internet service is critical to the economic and
 236 | business development of the state and is beneficial for
 237 | libraries, schools, colleges and universities, health care
 238 | providers, and community organizations. The term "sustainable
 239 | adoption" means the ability for communications service providers
 240 | to offer broadband services in all areas of the state by
 241 | encouraging adoption and utilization levels that allow for these
 242 | services to be offered in the free market absent the need for
 243 | governmental subsidy. ~~The Legislature further finds that~~
 244 | ~~barriers exist to the statewide deployment of broadband Internet~~
 245 | ~~service, especially in rural, unserved, or underserved~~
 246 | ~~communities. The Legislature therefore intends to promote the~~
 247 | ~~efficient and effective deployment of broadband Internet service~~
 248 | ~~throughout the state through a coordinated statewide effort.~~

249 | (2) The Department of Management Services is authorized to
 250 | work collaboratively with, and to receive staffing support and
 251 | other resources from, Enterprise Florida, Inc., state agencies,
 252 | local governments, private businesses, and community

253 organizations to:

254 (a) Monitor the adoption of ~~Conduct a needs assessment of~~
 255 broadband Internet service in collaboration with communications
 256 service providers, including, but not limited to, wireless and
 257 wireline Internet service providers, to develop geographical
 258 information system maps at the census tract level that will:

259 1. Identify geographic gaps in broadband services,
 260 including areas unserved by any broadband provider and areas
 261 served by a single broadband provider;

262 2. Identify the download and upload transmission speeds
 263 made available to businesses and individuals in the state, at
 264 the census tract level of detail, using data rate benchmarks for
 265 broadband service used by the Federal Communications Commission
 266 to reflect different speed tiers; and

267 3. Provide a baseline assessment of statewide broadband
 268 deployment in terms of percentage of households with broadband
 269 availability.

270 (b) Create a strategic plan that has goals and strategies
 271 for increasing the use of broadband Internet service in the
 272 state.

273 (c) Build and facilitate local technology planning teams
 274 or partnerships with members representing cross-sections of the
 275 community, which may include, but are not limited to,
 276 representatives from the following organizations and industries:
 277 libraries, K-12 education, colleges and universities, local
 278 health care providers, private businesses, community
 279 organizations, economic development organizations, local
 280 governments, tourism, parks and recreation, and agriculture.

281 (d) Encourage the use of broadband Internet service,
 282 especially in the rural, unserved, and underserved communities
 283 of the state through grant programs having effective strategies
 284 to facilitate the statewide deployment of broadband Internet
 285 service. For any grants to be awarded, priority must be given to
 286 projects that:

287 1. Provide access to broadband education, awareness,
 288 training, access, equipment, and support to libraries, schools,
 289 colleges and universities, health care providers, and community
 290 support organizations.

291 2. Encourage the sustainable adoption of broadband in
 292 primarily unserved areas by removing barriers to entry, such as
 293 unreasonably high pole-attachment rates ~~investments in primarily~~
 294 ~~unserved areas to give consumers a choice of more than one~~
 295 ~~broadband Internet service provider.~~

296 3. Work toward encouraging investments in establishing
 297 affordable and sustainable broadband Internet service in
 298 unserved areas of the state.

299 4. Facilitate the development of applications, programs,
 300 and services, including, but not limited to, telework,
 301 telemedicine, and e-learning to increase the usage of, and
 302 demand for, broadband Internet service in the state.

303 (3) The department may apply for and accept federal funds
 304 for purposes of this section, as well as gifts and donations
 305 from individuals, foundations, and private organizations.

306 (4) The department may ~~is authorized to~~ enter into
 307 contracts necessary or useful to carry out the purposes of this
 308 section.

309 (5) The department may ~~is authorized to~~ establish any
 310 committee or workgroup to administer and carry out the purposes
 311 of this section.

312 (6) The department may ~~is authorized to~~ adopt rules
 313 necessary to carry out the purposes of this section. Any rule,
 314 contract, grant, or other activity undertaken by the department
 315 shall ensure that all entities are in compliance with any
 316 applicable federal or state laws, rules, and regulations,
 317 including, but not limited to, those applicable to private
 318 entities providing communications services for hire and the
 319 requirements of s. 350.81, ~~including, without limitation, the~~
 320 ~~authority to establish definitions of terms pertinent to this~~
 321 ~~section.~~

322 Section 6. Section 364.015, Florida Statutes, is repealed.

323 Section 7. Section 364.016, Florida Statutes, is repealed.

324 Section 8. Section 364.02, Florida Statutes, is amended to
 325 read:

326 364.02 Definitions.—As used in this chapter, the term:

327 (1) "Basic local telecommunications service" means voice-
 328 grade, single-line, flat-rate residential local exchange service
 329 that provides dial tone, local usage necessary to place
 330 unlimited calls within a local exchange area, dual tone
 331 multifrequency dialing, and access to the following: emergency
 332 services such as "911," all locally available interexchange
 333 companies, directory assistance, operator services, and relay
 334 ~~services, and an alphabetical directory listing.~~ For a local
 335 exchange telecommunications company, the term includes any
 336 extended area service routes, and extended calling service in

337 | existence or ordered by the commission on or before July 1,
 338 | 1995.

339 | (2) "Broadband service" means any service that consists of
 340 | or includes the offering of the capability to transmit or
 341 | receive information at a rate that is not less than 200 kilobits
 342 | per second and either:

- 343 | (a) Is used to provide access to the Internet; or
- 344 | (b) Provides computer processing, information storage,
 345 | information content, or protocol conversion in combination with
 346 | the service.

347 |
 348 | The definition of broadband service does not include any
 349 | intrastate telecommunications services that have been tariffed
 350 | with the commission on or before January 1, 2005.

351 | (3) "Commercial mobile radio service provider" means a
 352 | commercial mobile radio service provider as defined by and
 353 | pursuant to 47 U.S.C. ss. 153(27) and 332(d).

354 | (4) "Commission" means the Florida Public Service
 355 | Commission.

356 | (5) "Competitive local exchange telecommunications
 357 | company" means any company certificated by the commission to
 358 | provide local exchange telecommunications services in this state
 359 | on or after July 1, 1995.

360 | (6) "Corporation" includes a corporation, company,
 361 | association, or joint stock association.

362 | (7) "Intrastate interexchange telecommunications company"
 363 | means any entity that provides intrastate interexchange
 364 | telecommunications services.

365 (8) "Local exchange telecommunications company" means any
 366 company certificated by the commission to provide local exchange
 367 telecommunications service in this state on or before June 30,
 368 1995.

369 ~~(9) "Monopoly service" means a telecommunications service~~
 370 ~~for which there is no effective competition, either in fact or~~
 371 ~~by operation of law.~~

372 (9)~~(10)~~ "Nonbasic service" means any telecommunications
 373 service provided by a local exchange telecommunications company
 374 other than a basic local telecommunications service, a local
 375 interconnection, resale, or unbundling pursuant to arrangement
 376 ~~described in s. 364.16, or a network access service described in~~
 377 s. 364.163. Any combination of basic service along with a
 378 nonbasic service or an unregulated service is nonbasic service.

379 ~~(11) "Operator service" includes, but is not limited to,~~
 380 ~~billing or completion of third-party, person-to-person, collect,~~
 381 ~~or calling card or credit card calls through the use of a live~~
 382 ~~operator or automated equipment.~~

383 ~~(12) "Operator service provider" means a person who~~
 384 ~~furnishes operator service through a call aggregator.~~

385 (10)~~(13)~~ "Service" is to be construed in its broadest and
 386 most inclusive sense. The term "service" does not include
 387 broadband service or voice-over-Internet protocol service for
 388 purposes of regulation by the commission. Nothing herein shall
 389 affect the rights and obligations of any entity related to the
 390 payment of switched network access rates or other intercarrier
 391 compensation, if any, related to voice-over-Internet protocol
 392 service. Notwithstanding s. 364.013, and the exemption of

393 services pursuant to this subsection, the commission may
 394 arbitrate, enforce, or approve interconnection agreements, and
 395 resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or
 396 any other applicable federal law or regulation. With respect to
 397 the services exempted in this subsection, regardless of the
 398 technology, the duties of a local exchange telecommunications
 399 company are only those that the company is obligated to extend
 400 or provide under applicable federal law and regulations.

401 (11)~~(14)~~ "Telecommunications company" includes every
 402 corporation, partnership, and person and their lessees,
 403 trustees, or receivers appointed by any court whatsoever, and
 404 every political subdivision in the state, offering two-way
 405 telecommunications service to the public for hire within this
 406 state by the use of a telecommunications facility. The term
 407 "telecommunications company" does not include:

408 (a) An entity that provides a telecommunications facility
 409 exclusively to a certificated telecommunications company;

410 (b) An entity that provides a telecommunications facility
 411 exclusively to a company which is excluded from the definition
 412 of a telecommunications company under this subsection;

413 (c) A commercial mobile radio service provider;

414 (d) A facsimile transmission service;

415 (e) A private computer data network company not offering
 416 service to the public for hire;

417 (f) A cable television company providing cable service as
 418 defined in 47 U.S.C. s. 522; or

419 (g) An intrastate interexchange telecommunications
 420 company.

421
 422 However, each commercial mobile radio service provider and each
 423 intrastate interexchange telecommunications company shall
 424 continue to be liable for any taxes imposed under chapters 202,
 425 203, and 212 ~~and any fees assessed under s. 364.025.~~ Each
 426 intrastate interexchange telecommunications company shall
 427 continue to be subject to s. ss. 364.04, 364.10(3)(a) and (d),
 428 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall
 429 ~~provide the commission with the current information as the~~
 430 ~~commission deems necessary to contact and communicate with the~~
 431 ~~company,~~ and shall continue to pay intrastate switched network
 432 access rates or other intercarrier compensation to the local
 433 exchange telecommunications company or the competitive local
 434 exchange telecommunications company for the origination and
 435 termination of interexchange telecommunications service.

436 ~~(12)-(15)~~ "Telecommunications facility" includes real
 437 estate, easements, apparatus, property, and routes used and
 438 operated to provide two-way telecommunications service to the
 439 public for hire within this state.

440 ~~(13)-(16)~~ "VoIP" means any service that:

441 (a) Enables real-time, two-way voice communications that
 442 originate from or terminate to the user's location in Internet
 443 Protocol or any successor protocol;

444 (b) Uses a broadband connection from the user's location;
 445 and

446 (c) Permits users generally to receive calls that
 447 originate on the public switched telephone network and to
 448 terminate calls to the public switched telephone network ~~the~~

449 ~~voice-over-Internet protocol as that term is defined in federal~~
 450 ~~law.~~

451 Section 9. Section 364.025, Florida Statutes, is repealed.

452 Section 10. Section 364.0251, Florida Statutes, is
 453 repealed.

454 Section 11. Section 364.0252, Florida Statutes, is
 455 repealed.

456 Section 12. Section 364.04, Florida Statutes, is amended
 457 to read:

458 364.04 Schedules of rates, tolls, rentals, and charges;
 459 filing; public inspection.-

460 (1) Every telecommunications company shall publish through
 461 electronic or physical media schedules showing the rates, tolls,
 462 rentals, and charges of that company for service to be offered
 463 performed within the state. The commission shall have no
 464 jurisdiction over the content or form or format of such
 465 published schedules. A telecommunications company may, as an
 466 option, file the published schedules with the commission or
 467 publish its schedules through other reasonably publicly
 468 accessible means, including on a website. A telecommunications
 469 company that does not file its schedules with the commission
 470 shall inform its customers where a customer may view the
 471 telecommunications company's schedules.

472 (2) This chapter does not prohibit a telecommunications
 473 company from:

474 (a) Entering into contracts establishing rates, tolls,
 475 rentals, and charges that differ from its published schedules or
 476 offering services that are not included in its published

477 schedules; or

478 (b) Meeting competitive offerings in a specific geographic
 479 market or to a specific customer.

480 (3) This section does not apply to the rates, terms, and
 481 conditions established pursuant to 47 U.S.C. ss. 251 and 252.
 482 ~~The schedules shall plainly state the places telecommunications~~
 483 ~~service will be rendered and shall also state separately all~~
 484 ~~charges and all privileges or facilities granted or allowed and~~
 485 ~~any rules or regulations or forms of contract which may in~~
 486 ~~anywise change, affect, or determine any of the aggregate of the~~
 487 ~~rates, tolls, rentals, or charges for the service rendered.~~

488 Section 13. Section 364.051, Florida Statutes, is
 489 repealed.

490 Section 14. Section 364.052, Florida Statutes, is
 491 repealed.

492 Section 15. Section 364.057, Florida Statutes, is
 493 repealed.

494 Section 16. Section 364.058, Florida Statutes, is
 495 repealed.

496 Section 17. Section 364.059, Florida Statutes, is
 497 repealed.

498 Section 18. Section 364.06, Florida Statutes, is repealed.

499 Section 19. Section 364.063, Florida Statutes, is
 500 repealed.

501 Section 20. Section 364.07, Florida Statutes, is repealed.

502 Section 21. Section 364.08, Florida Statutes, is repealed.

503 Section 22. Section 364.10, Florida Statutes, is amended
 504 to read:

505 364.10 ~~Undue advantage to person or locality prohibited;~~
 506 Lifeline service.-

507 ~~(1) A telecommunications company may not make or give any~~
 508 ~~undue or unreasonable preference or advantage to any person or~~
 509 ~~locality or subject any particular person or locality to any~~
 510 ~~undue or unreasonable prejudice or disadvantage in any respect~~
 511 ~~whatsoever.~~

512 (1)(2)(a) ~~The prohibitions of subsection (1)~~
 513 ~~notwithstanding,~~ An eligible telecommunications carrier shall
 514 provide a Lifeline Assistance Plan to qualified residential
 515 subscribers, as defined in the eligible telecommunications
 516 carrier's published schedules ~~a commission-approved tariff or~~
 517 ~~price list,~~ and a preferential rate to eligible facilities as
 518 ~~provided for in part II.~~ For the purposes of this section, the
 519 term "eligible telecommunications carrier" means a
 520 telecommunications company, as defined by s. 364.02, which is
 521 designated as an eligible telecommunications carrier by the
 522 commission pursuant to 47 C.F.R. s. 54.201.

523 (b) An eligible telecommunications carrier shall offer a
 524 consumer who applies for or receives Lifeline service the option
 525 of blocking all toll calls or, if technically capable, placing a
 526 limit on the number of toll calls a consumer can make. The
 527 eligible telecommunications carrier may not charge the consumer
 528 an administrative charge or other additional fee for blocking
 529 the service.

530 (c) An eligible telecommunications carrier may not collect
 531 a service deposit in order to initiate Lifeline service if the
 532 qualifying low-income consumer voluntarily elects toll blocking

533 or toll limitation. If the qualifying low-income consumer elects
 534 not to place toll blocking on the line, an eligible
 535 telecommunications carrier may charge a service deposit.

536 (d) An eligible telecommunications carrier may not charge
 537 Lifeline subscribers a monthly number-portability charge.

538 (e)1. An eligible telecommunications carrier must notify a
 539 Lifeline subscriber of impending termination of Lifeline service
 540 if the company has a reasonable basis for believing that the
 541 subscriber no longer qualifies. Notification of pending
 542 termination must be in the form of a letter that is separate
 543 from the subscriber's bill.

544 2. An eligible telecommunications carrier shall allow a
 545 subscriber 60 days following the date of the pending termination
 546 letter to demonstrate continued eligibility. The subscriber must
 547 present proof of continued eligibility. An eligible
 548 telecommunications carrier may transfer a subscriber off of
 549 Lifeline service, pursuant to its tariff, if the subscriber
 550 fails to demonstrate continued eligibility.

551 3. The commission shall establish procedures for such
 552 notification and termination.

553 (f) An eligible telecommunications carrier shall timely
 554 credit a consumer's bill with the Lifeline Assistance credit as
 555 soon as practicable, but no later than 60 days following receipt
 556 of notice of eligibility from the Office of Public Counsel or
 557 proof of eligibility from the consumer.

558 (2)~~(3)~~(a) Each local exchange telecommunications company
 559 that has more than 1 million access lines and that is designated
 560 as an eligible telecommunications carrier shall, and any

561 commercial mobile radio service provider designated as an
 562 eligible telecommunications carrier pursuant to 47 U.S.C. s.
 563 214(e) may, upon filing a notice of election to do so with the
 564 commission, provide Lifeline service to any otherwise eligible
 565 customer or potential customer who meets an income eligibility
 566 test at 150 percent or less of the federal poverty income
 567 guidelines for Lifeline customers. Such a test for eligibility
 568 must augment, rather than replace, the eligibility standards
 569 established by federal law and based on participation in certain
 570 low-income assistance programs. Each intrastate interexchange
 571 telecommunications company shall file or publish a schedule
 572 providing at a minimum the intrastate interexchange
 573 telecommunications company's ~~carrier's~~ current Lifeline benefits
 574 and exemptions to Lifeline customers who meet the income
 575 eligibility test set forth in this subsection. The Office of
 576 Public Counsel shall certify and maintain claims submitted by a
 577 customer for eligibility under the income test authorized by
 578 this subsection.

579 (b) Each eligible telecommunications carrier subject to
 580 this subsection shall provide to each state and federal agency
 581 providing benefits to persons eligible for Lifeline service
 582 applications, brochures, pamphlets, or other materials that
 583 inform the persons of their eligibility for Lifeline, and each
 584 state agency providing the benefits shall furnish the materials
 585 to affected persons at the time they apply for benefits.

586 ~~(c) Any local exchange telecommunications company customer~~
 587 ~~receiving Lifeline benefits shall not be subject to any~~
 588 ~~residential basic local telecommunications service rate~~

589 ~~increases authorized by s. 364.164 until the local exchange~~
 590 ~~telecommunications company reaches parity as defined in s.~~
 591 ~~364.164(5) or until the customer no longer qualifies for the~~
 592 ~~Lifeline benefits established by this section or s. 364.105, or~~
 593 ~~unless otherwise determined by the commission upon petition by a~~
 594 ~~local exchange telecommunications company.~~

595 (c)~~(d)~~ An eligible telecommunications carrier may not
 596 discontinue basic local telecommunications ~~exchange~~ telephone
 597 service to a subscriber who receives Lifeline service because of
 598 nonpayment by the subscriber of charges for nonbasic services
 599 billed by the telecommunications company, including long-
 600 distance service. A subscriber who receives Lifeline service
 601 shall pay all applicable basic local telecommunications ~~exchange~~
 602 service fees, including the subscriber line charge, E-911,
 603 telephone relay system charges, and applicable state and federal
 604 taxes.

605 (d)~~(e)~~ An eligible telecommunications carrier may not
 606 refuse to connect, reconnect, or provide Lifeline service
 607 because of unpaid toll charges or nonbasic charges other than
 608 basic local telecommunications ~~exchange~~ service.

609 (e)~~(f)~~ An eligible telecommunications carrier may require
 610 that payment arrangements be made for outstanding debt
 611 associated with basic local telecommunications ~~exchange~~ service,
 612 subscriber line charges, E-911, telephone relay system charges,
 613 and applicable state and federal taxes.

614 (f)~~(g)~~ An eligible telecommunications carrier may block a
 615 Lifeline service subscriber's access to all long-distance
 616 service, except for toll-free numbers, and may block the ability

617 to accept collect calls when the subscriber owes an outstanding
 618 amount for long-distance service or amounts resulting from
 619 collect calls. However, the eligible telecommunications carrier
 620 may not impose a charge for blocking long-distance service. The
 621 eligible telecommunications carrier shall remove the block at
 622 the request of the subscriber without additional cost to the
 623 subscriber upon payment of the outstanding amount. An eligible
 624 telecommunications carrier may charge a service deposit before
 625 removing the block.

626 (g)~~(h)~~1. By December 31, 2010, each state agency that
 627 provides benefits to persons eligible for Lifeline service shall
 628 undertake, in cooperation with the Department of Children and
 629 Family Services, the Department of Education, the commission,
 630 the Office of Public Counsel, and telecommunications companies
 631 designated eligible telecommunications carriers providing
 632 Lifeline services, the development of procedures to promote
 633 Lifeline participation. The departments, the commission, and the
 634 Office of Public Counsel may exchange sufficient information
 635 with the appropriate eligible telecommunications carriers and
 636 any commercial mobile radio service provider electing to provide
 637 Lifeline service under paragraph (a), such as a person's name,
 638 date of birth, service address, and telephone number, so that
 639 the carriers can identify and enroll an eligible person in the
 640 Lifeline and Link-Up programs. The information remains
 641 confidential pursuant to s. 364.107 and may only be used for
 642 purposes of determining eligibility and enrollment in the
 643 Lifeline and Link-Up programs.

644 2. If any state agency determines that a person is

645 eligible for Lifeline services, the agency shall immediately
 646 forward the information to the commission to ensure that the
 647 person is automatically enrolled in the program with the
 648 appropriate eligible telecommunications carrier. The state
 649 agency shall include an option for an eligible customer to
 650 choose not to subscribe to the Lifeline service. The Public
 651 Service Commission and the Department of Children and Family
 652 Services shall, no later than December 31, 2007, adopt rules
 653 creating procedures to automatically enroll eligible customers
 654 in Lifeline service.

655 3. By December 31, 2010, the commission, the Department of
 656 Children and Family Services, the Office of Public Counsel, and
 657 each eligible telecommunications carrier offering Lifeline and
 658 Link-Up services shall convene a Lifeline Workgroup to discuss
 659 how the eligible subscriber information in subparagraph 1. will
 660 be shared, the obligations of each party with respect to the use
 661 of that information, and the procedures to be implemented to
 662 increase enrollment and verify eligibility in these programs.

663 (h)~~(i)~~ The commission shall report to the Governor, the
 664 President of the Senate, and the Speaker of the House of
 665 Representatives by December 31 each year on the number of
 666 customers who are subscribing to Lifeline service and the
 667 effectiveness of any procedures to promote participation.

668 (i)~~(j)~~ The commission shall adopt rules to administer this
 669 section.

670 Section 23. Section 364.15, Florida Statutes, is repealed.

671 Section 24. Section 364.16, Florida Statutes, is amended
 672 to read:

673 364.16 ~~Connection of lines and transfers; Local~~
 674 ~~interconnection, unbundling, and resale; telephone number~~
 675 ~~portability.~~-

676 (1) The Legislature finds that the competitive provision
 677 of local exchange service requires appropriate regulatory
 678 oversight of carrier-to-carrier relationships to provide for the
 679 development of fair and effective competition.

680 (2) It is the intent of the Legislature that in resolving
 681 disputes, the commission shall treat all providers of
 682 telecommunications services fairly by preventing anticompetitive
 683 behavior.

684 (3) The commission shall, upon request, arbitrate and
 685 enforce interconnection agreements pursuant to 47 U.S.C. ss. 251
 686 and 252 and the Federal Communications Commission's orders and
 687 regulations implementing those sections. The commission has the
 688 authority to resolve disputes among carriers concerning
 689 violations of this chapter and under the authority conferred by
 690 federal law to resolve such disputes, including, but not limited
 691 to, federal law addressing resale of services, number
 692 portability, dialing parity, access to rights of way, access to
 693 poles and conduits, and reciprocal compensation. However, this
 694 section does not confer jurisdiction on the commission for
 695 matters that are exempt from commission jurisdiction under ss.
 696 364.011 and 364.013.

697 (4) A telecommunications company may not knowingly deliver
 698 traffic, for which terminating access service charges would
 699 otherwise apply, through a local interconnection arrangement
 700 without paying the appropriate charges for such terminating

701 access service. Any party having a substantial interest may
 702 petition the commission for an investigation of any suspected
 703 violation of this subsection. If any telecommunications company
 704 knowingly violates this subsection, the commission has
 705 jurisdiction to arbitrate bona fide complaints arising from the
 706 requirements of this subsection and shall, upon such complaint,
 707 have access to all relevant customer records and accounts of any
 708 telecommunications company.

709 (5) The commission shall adopt rules to prevent the
 710 unauthorized changing of a subscriber's telecommunications
 711 service. Such rules shall be consistent with the
 712 Telecommunications Act of 1996, provide for specific
 713 verification methodologies, provide for the notification to
 714 subscribers of the ability to freeze the subscriber's choice of
 715 carriers at no charge, allow for a subscriber's change to be
 716 considered valid if verification was performed consistent with
 717 commission rules, provide remedies for violations of the rules,
 718 and allow for the imposition of other penalties available under
 719 this chapter. The commission shall resolve on an expedited basis
 720 any complaints of anticompetitive behavior concerning a local
 721 preferred carrier freeze. The telecommunications company that is
 722 asserting the existence of a local preferred carrier freeze,
 723 which is the subject of a complaint, has the burden of proving
 724 through competent evidence that the subscriber did in fact
 725 request the freeze.

726 (6) Upon petition, the commission may conduct a limited or
 727 expedited proceeding to consider and act upon any matter under
 728 this section. The commission shall determine the issues to be

729 considered during such a proceeding and may grant or deny any
 730 request to expand the scope of the proceeding to include other
 731 matters. The commission shall implement an expedited process to
 732 facilitate the quick resolution of disputes between
 733 telecommunications companies. The process implemented by the
 734 commission shall, to the greatest extent feasible, minimize the
 735 time necessary to reach a decision on a dispute. The commission
 736 may limit the use of the expedited process based on the number
 737 of parties, the number of issues, or the complexity of the
 738 issues. For any proceeding conducted pursuant to the expedited
 739 process, the commission shall make its determination within 120
 740 days after a petition is filed or a motion is made. The
 741 commission shall adopt rules to administer this subsection.

742 ~~(1) Whenever the commission finds that connections between~~
 743 ~~any two or more local exchange telecommunications companies,~~
 744 ~~whose lines form a continuous line of communication or could be~~
 745 ~~made to do so by the construction and maintenance of suitable~~
 746 ~~connections at common points, can reasonably be made and~~
 747 ~~efficient service obtained, and that such connections are~~
 748 ~~necessary, the commission may require such connections to be~~
 749 ~~made, may require that telecommunications services be~~
 750 ~~transferred, and may prescribe through lines and joint rates and~~
 751 ~~charges to be made, used, observed, and in force in the future~~
 752 ~~and fix the rates and charges by order to be served upon the~~
 753 ~~company or companies affected.~~

754 ~~(2) Each competitive local exchange telecommunications~~
 755 ~~company shall provide access to, and interconnection with, its~~
 756 ~~telecommunications services to any other provider of local~~

757 ~~exchange telecommunications services requesting such access and~~
 758 ~~interconnection at nondiscriminatory prices, terms, and~~
 759 ~~conditions. If the parties are unable to negotiate mutually~~
 760 ~~acceptable prices, terms, and conditions after 60 days, either~~
 761 ~~party may petition the commission and the commission shall have~~
 762 ~~120 days to make a determination after proceeding as required by~~
 763 ~~s. 364.162(2) pertaining to interconnection services.~~

764 ~~(3) Each local exchange telecommunications company shall~~
 765 ~~provide access to, and interconnection with, its~~
 766 ~~telecommunications facilities to any other provider of local~~
 767 ~~exchange telecommunications services requesting such access and~~
 768 ~~interconnection at nondiscriminatory prices, rates, terms, and~~
 769 ~~conditions established by the procedures set forth in s.~~
 770 ~~364.162.~~

771 ~~(a) No local exchange telecommunications company or~~
 772 ~~competitive local exchange telecommunications company shall~~
 773 ~~knowingly deliver traffic, for which terminating access service~~
 774 ~~charges would otherwise apply, through a local interconnection~~
 775 ~~arrangement without paying the appropriate charges for such~~
 776 ~~terminating access service.~~

777 ~~(b) Any party with a substantial interest may petition the~~
 778 ~~commission for an investigation of any suspected violation of~~
 779 ~~paragraph (a). In the event any certificated local exchange~~
 780 ~~service provider knowingly violates paragraph (a), the~~
 781 ~~commission shall have jurisdiction to arbitrate bona fide~~
 782 ~~complaints arising from the requirements of this subsection and~~
 783 ~~shall, upon such complaint, have access to all relevant customer~~
 784 ~~records and accounts of any telecommunications company.~~

785 ~~(4) In order to assure that consumers have access to~~
 786 ~~different local exchange service providers without being~~
 787 ~~disadvantaged, deterred, or inconvenienced by having to give up~~
 788 ~~the consumer's existing local telephone number, all providers of~~
 789 ~~local exchange services must have access to local telephone~~
 790 ~~numbering resources and assignments on equitable terms that~~
 791 ~~include a recognition of the scarcity of such resources and are~~
 792 ~~in accordance with national assignment guidelines. Each local~~
 793 ~~exchange provider, except small local exchange~~
 794 ~~telecommunications companies under rate of return regulation,~~
 795 ~~shall provide a temporary means of achieving telephone number~~
 796 ~~portability. The parties, under the direction of the commission,~~
 797 ~~shall set up a number portability standards group by no later~~
 798 ~~than September 1, 1995, for the purposes of investigation and~~
 799 ~~development of appropriate parameters, costs, and standards for~~
 800 ~~number portability. If the parties are unable to successfully~~
 801 ~~negotiate the prices, terms, and conditions of a temporary~~
 802 ~~number portability solution, the commission shall establish a~~
 803 ~~temporary number portability solution by no later than January~~
 804 ~~1, 1996. Each local exchange service provider shall make~~
 805 ~~necessary modifications to allow permanent portability of local~~
 806 ~~telephone numbers between certificated providers of local~~
 807 ~~exchange service as soon as reasonably possible after the~~
 808 ~~development of national standards. The parties shall negotiate~~
 809 ~~the prices, terms, and conditions for permanent telephone number~~
 810 ~~portability arrangements. In the event the parties are unable to~~
 811 ~~satisfactorily negotiate the prices, terms, and conditions,~~
 812 ~~either party may petition the commission and the commission~~

813 ~~shall, after opportunity for a hearing, set the rates, terms,~~
 814 ~~and conditions. The prices and rates shall not be below cost.~~
 815 ~~Number portability between different certificated providers of~~
 816 ~~local exchange service at the same location shall be provided~~
 817 ~~temporarily no later than January 1, 1996.~~

818 (7)~~(5)~~ When requested, each certificated
 819 telecommunications company shall provide access to any poles,
 820 conduits, rights-of-way, and like facilities that it owns or
 821 controls to any local exchange telecommunications company or
 822 competitive local exchange telecommunications company pursuant
 823 to reasonable rates and conditions mutually agreed to which do
 824 not discriminate between similarly situated companies.

825 Section 25. Section 364.161, Florida Statutes, is
 826 repealed.

827 Section 26. Section 364.162, Florida Statutes, is
 828 repealed.

829 Section 27. Section 364.163, Florida Statutes, is amended
 830 to read:

831 364.163 Network access services.—For purposes of this
 832 section, the term "network access service" is defined as any
 833 service provided by a local exchange telecommunications company
 834 to a telecommunications company certificated under this chapter
 835 or licensed by the Federal Communications Commission to access
 836 the local exchange telecommunications network, excluding ~~the~~
 837 local interconnection, resale, or unbundling pursuant to
 838 ~~arrangements in s. 364.16 and the resale arrangements in s.~~
 839 ~~364.161.~~ Each local exchange telecommunications company ~~subject~~
 840 ~~to s. 364.051~~ shall maintain tariffs with the commission

841 containing the terms, conditions, and rates for each of its
 842 network access services. The switched network access service
 843 rates in effect immediately prior to July 1, 2007, shall be, and
 844 shall remain, capped at that level until July 1, 2010. An
 845 interexchange telecommunications company may not institute any
 846 intrastate connection fee or any similarly named fee.

847 Section 28. Section 364.183, Florida Statutes, is amended
 848 to read:

849 364.183 Access to company records.—

850 (1) The commission shall have access to all records of a
 851 telecommunications company which ~~that~~ are reasonably necessary
 852 for the disposition of matters within the commission's
 853 jurisdiction. ~~The commission shall also have access to those~~
 854 ~~records of a local exchange telecommunications company's~~
 855 ~~affiliated companies, including its parent company, that are~~
 856 ~~reasonably necessary for the disposition of any matter~~
 857 ~~concerning an affiliated transaction or a claim of~~
 858 ~~anticompetitive behavior including claims of cross-subsidization~~
 859 ~~and predatory pricing. The commission may require a~~
 860 ~~telecommunications company to file records, reports or other~~
 861 ~~data directly related to matters within the commission's~~
 862 ~~jurisdiction in the form specified by the commission and may~~
 863 ~~require such company to retain such information for a designated~~
 864 ~~period of time.~~ Upon request of the company or other person, any
 865 records received by the commission which are claimed by the
 866 company or other person to be proprietary confidential business
 867 information shall be kept confidential and shall be exempt from
 868 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

869 (2) Discovery in any docket or proceeding before the
 870 commission shall be in the manner provided for in Rule 1.280 of
 871 the Florida Rules of Civil Procedure. Upon a showing by a
 872 company or other person and a finding by the commission that
 873 discovery will require the disclosure of proprietary
 874 confidential business information, the commission shall issue an
 875 appropriate protective order designating the manner for handling
 876 such information during the course of the proceeding and for
 877 protecting such information from disclosure outside the
 878 proceeding. Such proprietary confidential business information
 879 shall be exempt from s. 119.07(1). Any records provided pursuant
 880 to a discovery request for which proprietary confidential
 881 business information status is requested shall be treated by the
 882 commission and the Office of the Public Counsel and any other
 883 party subject to the public records law as confidential and
 884 shall be exempt from s. 119.07(1), pending a formal ruling on
 885 such request by the commission or the return of the records to
 886 the person providing the records. Any record which has been
 887 determined to be proprietary confidential business information
 888 and is not entered into the official record of the proceeding
 889 shall be returned to the person providing the record within 60
 890 days after the final order, unless the final order is appealed.
 891 If the final order is appealed, any such record shall be
 892 returned within 30 days after the decision on appeal. The
 893 commission shall adopt the necessary rules to implement this
 894 subsection.

895 (3) The term "proprietary confidential business
 896 information" means information, regardless of form or

897 characteristics, which is owned or controlled by the person or
 898 company, is intended to be and is treated by the person or
 899 company as private in that the disclosure of the information
 900 would cause harm to the ratepayers or the person's or company's
 901 business operations, and has not been disclosed unless disclosed
 902 pursuant to a statutory provision, an order of a court or
 903 administrative body, or private agreement that provides that the
 904 information will not be released to the public. The term
 905 includes, but is not limited to:

- 906 (a) Trade secrets.
- 907 (b) Internal auditing controls and reports of internal
 908 auditors.
- 909 (c) Security measures, systems, or procedures.
- 910 (d) Information concerning bids or other contractual data,
 911 the disclosure of which would impair the efforts of the company
 912 or its affiliates to contract for goods or services on favorable
 913 terms.
- 914 (e) Information relating to competitive interests, the
 915 disclosure of which would impair the competitive business of the
 916 provider of information.

917 (f) Employee personnel information ~~unrelated to~~
 918 ~~compensation, duties, qualifications, or responsibilities.~~

919 (4) Any finding by the commission that a record contains
 920 proprietary confidential business information is effective for a
 921 period set by the commission not to exceed 18 months, unless the
 922 commission finds, for good cause, that the protection from
 923 disclosure shall be for a specified longer period. The
 924 commission shall order the return of a record containing

925 | proprietary confidential business information when such record
 926 | is no longer necessary for the commission to conduct its
 927 | business. At that time, the commission shall order any other
 928 | person holding such record to return it to the person providing
 929 | the record. Any record containing proprietary confidential
 930 | business information which has not been returned at the
 931 | conclusion of the period set pursuant to this subsection shall
 932 | no longer be exempt from s. 119.07(1) unless the
 933 | telecommunications company or affected person shows, and the
 934 | commission finds, that the record continues to contain
 935 | proprietary confidential business information. Upon such
 936 | finding, the commission may extend the period for confidential
 937 | treatment for a period not to exceed 18 months unless the
 938 | commission finds, for good cause, that the protection from
 939 | disclosure shall be for a specified longer period. During
 940 | commission consideration of an extension, the record in question
 941 | remains exempt from s. 119.07(1). The commission shall adopt
 942 | rules to implement this subsection, which shall include notice
 943 | to the telecommunications company or affected person regarding
 944 | the expiration of confidential treatment.

945 | Section 29. Section 364.185, Florida Statutes, is
 946 | repealed.

947 | Section 30. Section 364.19, Florida Statutes, is repealed.

948 | Section 31. Section 364.27, Florida Statutes, is repealed.

949 | Section 32. Section 364.33, Florida Statutes, is amended
 950 | to read:

951 | 364.33 Certificate of necessity or authority ~~prerequisite~~
 952 | ~~to construction, operation, or control of telecommunications~~

953 ~~facilities. Except for a transfer of a certificate of necessity~~
 954 ~~from one person to another or to the parent or affiliate of a~~
 955 ~~certificated person as provided in this section, A person may~~
 956 ~~not provide begin the construction or operation of any~~
 957 ~~telecommunications services to the public without a certificate~~
 958 ~~of necessity or a certificate of authority. After July 1, 2011,~~
 959 ~~the commission shall cease to issue certificates of necessity,~~
 960 ~~but existing certificates of necessity remain valid. A~~
 961 ~~certificate of necessity or authority may be transferred to the~~
 962 ~~holder's parent company or an affiliate or another person~~
 963 ~~holding a certificate of necessity or authority, its parent~~
 964 ~~company, or an affiliate without prior approval of the~~
 965 ~~commission by giving written notice of the transfer to the~~
 966 ~~commission within 60 days after the completion of the transfer.~~
 967 ~~The transferee assumes the rights and obligations conferred by~~
 968 ~~the certificate. This section does not affect any obligation of~~
 969 ~~the transferee pursuant to 47 U.S.C. ss. 251 and 252 and the~~
 970 ~~Federal Communications Commission's orders and regulations~~
 971 ~~implementing those sections. facility, or any extension thereof~~
 972 ~~for the purpose of providing telecommunications services to the~~
 973 ~~public, or acquire ownership or control thereof, in whatever~~
 974 ~~manner, including the acquisition, transfer, or assignment of~~
 975 ~~majority organizational control or controlling stock ownership,~~
 976 ~~without prior approval. A certificate of necessity or control~~
 977 ~~thereof may be transferred from a person holding a certificate,~~
 978 ~~its parent or an affiliate to another person holding a~~
 979 ~~certificate, its parent or an affiliate, and a person holding a~~
 980 ~~certificate, its parent or an affiliate may acquire ownership or~~

981 ~~control of a telecommunications facility through the~~
 982 ~~acquisition, transfer, or assignment of majority organizational~~
 983 ~~control or controlling stock ownership of a person holding a~~
 984 ~~certificate without prior approval of the commission by giving~~
 985 ~~60 days' written notice of the transfer or change of control to~~
 986 ~~the commission and affected customers. This section does not~~
 987 ~~require approval by the commission prior to the construction,~~
 988 ~~operation, or extension of a facility by a certificated company~~
 989 ~~within its certificated area nor in any way limit the~~
 990 ~~commission's ability to review the prudence of such construction~~
 991 ~~programs for ratemaking as provided under this chapter.~~

992 Section 33. Section 364.335, Florida Statutes, is amended
 993 to read:

994 364.335 Application for certificate of authority.—

995 (1) Each applicant for a certificate of authority shall:

996 (a) Provide the following information:

997 1. The applicant's official name and, if different, any
 998 name under which the applicant will do business.

999 2. The street address of the principal place of business
 1000 of the applicant.

1001 3. The federal employer identification number or the
 1002 Department of State's document number.

1003 4. The name, address, and telephone number of an officer,
 1004 partner, owner, member, or manager as a contact person for the
 1005 applicant to whom questions or concerns may be addressed.

1006 5. Information demonstrating the applicant's managerial,
 1007 technical, and financial ability to provide telecommunications
 1008 service, including an attestation to the accuracy of the

1009 information provided. ~~provide all information required by rule~~
 1010 ~~or order of the commission, which may include a detailed inquiry~~
 1011 ~~into the ability of the applicant to provide service, a detailed~~
 1012 ~~inquiry into the territory and facilities involved, and a~~
 1013 ~~detailed inquiry into the existence of service from other~~
 1014 ~~sources within geographical proximity to the territory applied~~
 1015 ~~for.~~

1016 ~~(b) File with the commission schedules showing all rates~~
 1017 ~~for service of every kind furnished by it and all rules and~~
 1018 ~~contracts relating to such service.~~

1019 ~~(b)(e)~~ File the application fee required by the commission
 1020 in an amount not to exceed \$500. Such fees shall be deposited in
 1021 accordance with s. 350.113.

1022 ~~(d) Submit an affidavit that the applicant has caused~~
 1023 ~~notice of its application to be given to such persons and in~~
 1024 ~~such manner as may be prescribed by commission rule.~~

1025 (2) The commission shall grant a certificate of authority
 1026 to provide telecommunications service upon a showing that the
 1027 applicant has sufficient technical, financial, and managerial
 1028 capability to provide such service in the geographic area
 1029 proposed to be served. The applicant shall ensure continued
 1030 compliance with applicable business formation, registration, and
 1031 taxation provisions of law. If the commission grants the
 1032 requested certificate, any person who would be substantially
 1033 affected by the requested certification may, within 21 days
 1034 after the granting of such certificate, file a written objection
 1035 requesting a proceeding pursuant to ss. 120.569 and 120.57. The
 1036 commission may, on its own motion, institute a proceeding under

1037 ~~ss. 120.569 and 120.57 to determine whether the grant of such~~
 1038 ~~certificate is in the public interest. The commission shall~~
 1039 ~~order such proceeding conducted in or near the territory applied~~
 1040 ~~for, if feasible. If any person requests a public hearing on the~~
 1041 ~~application, such hearing shall, if feasible, be held in or near~~
 1042 ~~the territory applied for, and the transcript of the public~~
 1043 ~~hearing and any material submitted at or prior to the hearing~~
 1044 ~~shall be considered part of the record of the application and~~
 1045 ~~any proceeding related to the application.~~

1046 (3) A certificate of authority may be terminated by the
 1047 telecommunications company by submitting notice to the
 1048 commission. ~~The commission may grant a certificate, in whole or~~
 1049 ~~in part or with modifications in the public interest, but in no~~
 1050 ~~event granting authority greater than that requested in the~~
 1051 ~~application or amendments thereto and noticed under subsection~~
 1052 ~~(1); or it may deny a certificate. The commission may grant~~
 1053 ~~certificates for proposed telecommunications companies, or for~~
 1054 ~~the extension of an existing telecommunications company, without~~
 1055 ~~regard to whether such companies will be in competition with or~~
 1056 ~~duplicate the local exchange services provided by any other~~
 1057 ~~telecommunications company. The commission may also grant a~~
 1058 ~~certificate for a proposed telecommunications company, or for~~
 1059 ~~the extension of an existing telecommunications company, which~~
 1060 ~~will be providing either competitive or duplicative pay~~
 1061 ~~telephone service pursuant to the provisions of s. 364.3375, or~~
 1062 ~~private line service by a certified alternative access vendor~~
 1063 ~~pursuant to s. 364.337(6). Pay telephone service shall include~~
 1064 ~~that telephone service using telephones that are capable of~~

1065 ~~accepting payment by specie, paper money, or credit cards.~~

1066 (4) Except as provided in s. 364.33, revocation,
 1067 suspension, transfer, or amendment of a certificate shall be
 1068 subject to the provisions of this section; ~~except that, when the~~
 1069 ~~commission initiates the action, the commission shall furnish~~
 1070 ~~notice to the appropriate local government and to the Public~~
 1071 ~~Counsel.~~

1072 Section 34. Section 364.337, Florida Statutes, is
 1073 repealed.

1074 Section 35. Section 364.3375, Florida Statutes, is amended
 1075 to read:

1076 364.3375 Pay telephone service providers.—

1077 (1) (a) A ~~No~~ person may not ~~shall~~ provide pay telephone
 1078 service without first obtaining from the commission a
 1079 certificate of authority or necessity ~~public convenience and~~
 1080 ~~necessity~~ to provide such service, except that the certification
 1081 provisions of this subsection do not apply to a local exchange
 1082 telecommunications company providing pay telephone service.

1083 (b) In granting such certificate the commission, if it
 1084 finds that the action is consistent with the public interest,
 1085 may exempt a pay telephone provider from some or all of the
 1086 requirements of this chapter. However, the commission may exempt
 1087 a pay telephone provider from this section only to prevent fraud
 1088 or if it finds the exemption to be in the public interest.

1089 (c) A certificate authorizes the pay telephone provider to
 1090 provide services statewide and to provide access to both local
 1091 and intrastate interexchange pay telephone service, except that
 1092 the commission may limit the type of calls that can be handled.

1093 (2) Each pay telephone station shall:

1094 (a) Receive and permit coin-free access to the universal

1095 emergency telephone number "911" where operable or to a local

1096 exchange company toll operator.

1097 (b) Receive and provide coin-free or coin-return access to

1098 local directory assistance and the telephone number of the

1099 person responsible for repair service.

1100 (c) Designate a party responsible for processing refunds

1101 to customers.

1102 (d) Be equipped with a legible sign, card, or plate of

1103 reasonable permanence which provides information determined by

1104 the commission, by rule, to adequately inform the end user.

1105 (e) Be eligible to subscribe to flat-rate, single-line

1106 business local exchange services.

1107 (3) Each pay telephone station which provides access to

1108 any interexchange telecommunications company shall provide

1109 access to all locally available interexchange telecommunications

1110 companies and shall provide for the completion of international

1111 telephone calls under terms and conditions as determined by the

1112 commission. The commission may grant limited waivers of this

1113 provision to pay telephone companies or operator service

1114 providers to prevent fraud or as otherwise determined in the

1115 public interest.

1116 ~~(4) A pay telephone provider may charge, as a maximum rate~~

1117 ~~for local coin calls, a rate equivalent to the local coin rate~~

1118 ~~of the local exchange telecommunications company.~~

1119 ~~(5) A pay telephone provider shall not obtain services~~

1120 ~~from an operator service provider unless such operator service~~

1121 ~~provider has obtained a certificate of public convenience and~~
 1122 ~~necessity from the commission pursuant to the provisions of s.~~
 1123 ~~364.3376.~~

1124 Section 36. Section 364.3376, Florida Statutes, is
 1125 repealed.

1126 Section 37. Section 364.3381, Florida Statutes, is
 1127 repealed.

1128 Section 38. Section 364.3382, Florida Statutes, is
 1129 repealed.

1130 Section 39. Section 364.339, Florida Statutes, is
 1131 repealed.

1132 Section 40. Section 364.345, Florida Statutes, is
 1133 repealed.

1134 Section 41. Section 364.37, Florida Statutes, is repealed.

1135 Section 42. Section 364.385, Florida Statutes, is amended
 1136 to read:

1137 364.385 Saving clauses.—

1138 ~~(1) This act does not invalidate any certificate or cause~~
 1139 ~~to be unlawful any rate which has been previously approved and~~
 1140 ~~which is lawfully being charged and collected immediately prior~~
 1141 ~~to July 1, 1995. However, such rate may not be changed, and a~~
 1142 ~~certificate may not be modified, suspended, or revoked, on or~~
 1143 ~~after July 1, 1995, except in accordance with the provisions of~~
 1144 ~~this act.~~

1145 ~~(2) All applications for extended area service, routes, or~~
 1146 ~~extended calling service pending before the commission on March~~
 1147 ~~1, 1995, shall be governed by the law as it existed prior to~~
 1148 ~~July 1, 1995. Upon the approval of the application, the extended~~

1149 ~~area service, routes, or extended calling service shall be~~
 1150 ~~considered basic services and shall be regulated as provided in~~
 1151 ~~s. 364.051. Proceedings including judicial review pending on~~
 1152 ~~July 1, 1995, shall be governed by the law as it existed prior~~
 1153 ~~to the date on which this section becomes a law. No new~~
 1154 ~~proceedings governed by the law as it existed prior to July 1,~~
 1155 ~~1995, shall be initiated after July 1, 1995. Any administrative~~
 1156 ~~adjudicatory proceeding which has not progressed to the stage of~~
 1157 ~~a hearing by July 1, 1995, may, with the consent of all parties~~
 1158 ~~and the commission, be conducted in accordance with the law as~~
 1159 ~~it existed prior to January 1, 1996.~~

1160 ~~(3) Florida Public Service Commission Order No. PSC 94-~~
 1161 ~~0172-FOF-TL shall remain in effect, and BellSouth~~
 1162 ~~Telecommunications, Inc., shall fully comply with that order~~
 1163 ~~unless modified by the Florida Public Service Commission~~
 1164 ~~pursuant to the terms of that order. The order may not be~~
 1165 ~~modified to extend beyond December 31, 1997, except that the~~
 1166 ~~Florida Public Service Commission shall retain jurisdiction and~~
 1167 ~~all parties shall retain their rights under the agreement after~~
 1168 ~~December 31, 1997, solely for the purpose of effectuating the~~
 1169 ~~provisions of the order applicable to periods prior to January~~
 1170 ~~1, 1998. The depreciation rates approved by the Florida Public~~
 1171 ~~Service Commission and in effect as of December 31, 1994, shall~~
 1172 ~~be used to calculate the earnings available for sharing for~~
 1173 ~~periods prior to January 1, 1998.~~

1174 ~~(4) The rates and charges for basic local~~
 1175 ~~telecommunications service and network access service approved~~
 1176 ~~by the commission in accordance with the decisions set forth in~~

1177 Order Nos. PSC 03-1469-FOF-TL and PSC 04-0456-FOF-TL, and which
 1178 are in effect immediately prior to July 1, 2007, shall remain in
 1179 effect and such rates and charges may not be changed after the
 1180 effective date of this act, except in accordance with the
 1181 provisions of s. 364.163 ~~ss. 364.051 and 364.163~~.

1182 Section 43. Section 364.386, Florida Statutes, is amended
 1183 to read:

1184 364.386 Reports to the Legislature.—

1185 (1)(a) The commission shall submit to the President of the
 1186 Senate, the Speaker of the House of Representatives, and the
 1187 majority and minority leaders of the Senate and the House of
 1188 Representatives, on August 1, 2008, and on an annual basis
 1189 thereafter, a report on the status of competition in the
 1190 telecommunications industry and a detailed exposition of the
 1191 following:

1192 ~~1. The overall impact of local exchange telecommunications~~
 1193 ~~competition on the continued availability of universal service.~~

1194 1.2. The ability of competitive providers to make
 1195 functionally equivalent local exchange services available to
 1196 both residential and business customers at competitive rates,
 1197 terms, and conditions.

1198 2.3. The ability of consumers to obtain functionally
 1199 equivalent services at comparable rates, terms, and conditions.

1200 3.4. The overall impact of competition ~~price regulation~~ on
 1201 the maintenance of reasonably affordable and reliable high-
 1202 quality telecommunications services.

1203 4.5. A listing and short description of any carrier
 1204 disputes filed under s. 364.16. ~~What additional services, if~~

1205 ~~any, should be included in the definition of basic local~~
 1206 ~~telecommunications services, taking into account advances in~~
 1207 ~~technology and market demand.~~

1208 ~~6. Any other information and recommendations which may be~~
 1209 ~~in the public interest.~~

1210 (b) The commission shall make an annual request to
 1211 providers of local exchange telecommunications services on or
 1212 before March 1, 2008, and on or before March 1 of each year
 1213 thereafter, for the data it requires to complete the report. A
 1214 provider of local exchange telecommunications services shall
 1215 file its response with the commission on or before April 15,
 1216 2008, and on or before April 15 of each year thereafter.

1217 (2) ~~In lieu of~~ The quantitative part of the information
 1218 requested in the commission's annual data request shall be
 1219 limited to, a provider of local exchange telecommunications
 1220 ~~services may file the following:~~

1221 (a) a copy of the FCC Form 477 filed by a provider of
 1222 local exchange telecommunications service with the Federal
 1223 Communications Commission, which must identify Florida-specific
 1224 access line data or similar information if an FCC Form 477 is
 1225 not available. ~~and~~

1226 (b) ~~Provisioned Florida access line data identified by~~
 1227 ~~telephone exchange location.~~

1228 (3) ~~The Office of Public Counsel is also directed to~~
 1229 ~~submit a report on competition in the telecommunications~~
 1230 ~~industry and on how the price regulation provisions of s.~~
 1231 ~~364.051 have benefited the ratepayers and consumers of this~~
 1232 ~~state and any other information and recommendations which may be~~

1233 ~~in the public interest.~~

1234 Section 44. Section 364.501, Florida Statutes, is
 1235 repealed.

1236 Section 45. Section 364.503, Florida Statutes, is
 1237 repealed.

1238 Section 46. Section 364.506, Florida Statutes, is
 1239 repealed.

1240 Section 47. Section 364.507, Florida Statutes, is
 1241 repealed.

1242 Section 48. Section 364.508, Florida Statutes, is
 1243 repealed.

1244 Section 49. Section 364.515, Florida Statutes, is
 1245 repealed.

1246 Section 50. Section 364.516, Florida Statutes, is
 1247 repealed.

1248 Section 51. Section 364.601, Florida Statutes, is
 1249 repealed.

1250 Section 52. Section 364.602, Florida Statutes, is
 1251 repealed.

1252 Section 53. Section 364.603, Florida Statutes, is
 1253 repealed.

1254 Section 54. Section 364.604, Florida Statutes, is
 1255 repealed.

1256 Section 55. Subsection (6) of section 196.012, Florida
 1257 Statutes, is amended to read:

1258 196.012 Definitions.—For the purpose of this chapter, the
 1259 following terms are defined as follows, except where the context
 1260 clearly indicates otherwise:

1261 (6) Governmental, municipal, or public purpose or function
 1262 shall be deemed to be served or performed when the lessee under
 1263 any leasehold interest created in property of the United States,
 1264 the state or any of its political subdivisions, or any
 1265 municipality, agency, special district, authority, or other
 1266 public body corporate of the state is demonstrated to perform a
 1267 function or serve a governmental purpose which could properly be
 1268 performed or served by an appropriate governmental unit or which
 1269 is demonstrated to perform a function or serve a purpose which
 1270 would otherwise be a valid subject for the allocation of public
 1271 funds. For purposes of the preceding sentence, an activity
 1272 undertaken by a lessee which is permitted under the terms of its
 1273 lease of real property designated as an aviation area on an
 1274 airport layout plan which has been approved by the Federal
 1275 Aviation Administration and which real property is used for the
 1276 administration, operation, business offices and activities
 1277 related specifically thereto in connection with the conduct of
 1278 an aircraft full service fixed base operation which provides
 1279 goods and services to the general aviation public in the
 1280 promotion of air commerce shall be deemed an activity which
 1281 serves a governmental, municipal, or public purpose or function.
 1282 Any activity undertaken by a lessee which is permitted under the
 1283 terms of its lease of real property designated as a public
 1284 airport as defined in s. 332.004(14) by municipalities,
 1285 agencies, special districts, authorities, or other public bodies
 1286 corporate and public bodies politic of the state, a spaceport as
 1287 defined in s. 331.303, or which is located in a deepwater port
 1288 identified in s. 403.021(9)(b) and owned by one of the foregoing

1289 governmental units, subject to a leasehold or other possessory
 1290 interest of a nongovernmental lessee that is deemed to perform
 1291 an aviation, airport, aerospace, maritime, or port purpose or
 1292 operation shall be deemed an activity that serves a
 1293 governmental, municipal, or public purpose. The use by a lessee,
 1294 licensee, or management company of real property or a portion
 1295 thereof as a convention center, visitor center, sports facility
 1296 with permanent seating, concert hall, arena, stadium, park, or
 1297 beach is deemed a use that serves a governmental, municipal, or
 1298 public purpose or function when access to the property is open
 1299 to the general public with or without a charge for admission. If
 1300 property deeded to a municipality by the United States is
 1301 subject to a requirement that the Federal Government, through a
 1302 schedule established by the Secretary of the Interior, determine
 1303 that the property is being maintained for public historic
 1304 preservation, park, or recreational purposes and if those
 1305 conditions are not met the property will revert back to the
 1306 Federal Government, then such property shall be deemed to serve
 1307 a municipal or public purpose. The term "governmental purpose"
 1308 also includes a direct use of property on federal lands in
 1309 connection with the Federal Government's Space Exploration
 1310 Program or spaceport activities as defined in s. 212.02(22).
 1311 Real property and tangible personal property owned by the
 1312 Federal Government or Space Florida and used for defense and
 1313 space exploration purposes or which is put to a use in support
 1314 thereof shall be deemed to perform an essential national
 1315 governmental purpose and shall be exempt. "Owned by the lessee"
 1316 as used in this chapter does not include personal property,

1317 buildings, or other real property improvements used for the
 1318 administration, operation, business offices and activities
 1319 related specifically thereto in connection with the conduct of
 1320 an aircraft full service fixed based operation which provides
 1321 goods and services to the general aviation public in the
 1322 promotion of air commerce provided that the real property is
 1323 designated as an aviation area on an airport layout plan
 1324 approved by the Federal Aviation Administration. For purposes of
 1325 determination of "ownership," buildings and other real property
 1326 improvements which will revert to the airport authority or other
 1327 governmental unit upon expiration of the term of the lease shall
 1328 be deemed "owned" by the governmental unit and not the lessee.
 1329 Providing two-way telecommunications services to the public for
 1330 hire by the use of a telecommunications facility, as defined in
 1331 s. 364.02(12) ~~s. 364.02(15)~~, and for which a certificate is
 1332 required under chapter 364 does not constitute an exempt use for
 1333 purposes of s. 196.199, unless the telecommunications services
 1334 are provided by the operator of a public-use airport, as defined
 1335 in s. 332.004, for the operator's provision of
 1336 telecommunications services for the airport or its tenants,
 1337 concessionaires, or licensees, or unless the telecommunications
 1338 services are provided by a public hospital.

1339 Section 56. Paragraph (b) of subsection (1) of section
 1340 199.183, Florida Statutes, is amended to read:

1341 199.183 Taxpayers exempt from nonrecurring taxes.—

1342 (1) Intangible personal property owned by this state or
 1343 any of its political subdivisions or municipalities shall be
 1344 exempt from taxation under this chapter. This exemption does not

1345 apply to:

1346 (b) Property related to the provision of two-way
 1347 telecommunications services to the public for hire by the use of
 1348 a telecommunications facility, as defined in s. 364.02(12) ~~s.~~
 1349 ~~364.02(15)~~, and for which a certificate is required under
 1350 chapter 364, when the service is provided by any county,
 1351 municipality, or other political subdivision of the state. Any
 1352 immunity of any political subdivision of the state or other
 1353 entity of local government from taxation of the property used to
 1354 provide telecommunication services that is taxed as a result of
 1355 this paragraph is hereby waived. However, intangible personal
 1356 property related to the provision of telecommunications services
 1357 provided by the operator of a public-use airport, as defined in
 1358 s. 332.004, for the operator's provision of telecommunications
 1359 services for the airport or its tenants, concessionaires, or
 1360 licensees, and intangible personal property related to the
 1361 provision of telecommunications services provided by a public
 1362 hospital, are exempt from taxation under this chapter.

1363 Section 57. Subsection (6) of section 212.08, Florida
 1364 Statutes, is amended to read:

1365 212.08 Sales, rental, use, consumption, distribution, and
 1366 storage tax; specified exemptions.—The sale at retail, the
 1367 rental, the use, the consumption, the distribution, and the
 1368 storage to be used or consumed in this state of the following
 1369 are hereby specifically exempt from the tax imposed by this
 1370 chapter.

1371 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also
 1372 exempt from the tax imposed by this chapter sales made to the

1373 United States Government, a state, or any county, municipality,
 1374 or political subdivision of a state when payment is made
 1375 directly to the dealer by the governmental entity. This
 1376 exemption shall not inure to any transaction otherwise taxable
 1377 under this chapter when payment is made by a government employee
 1378 by any means, including, but not limited to, cash, check, or
 1379 credit card when that employee is subsequently reimbursed by the
 1380 governmental entity. This exemption does not include sales of
 1381 tangible personal property made to contractors employed either
 1382 directly or as agents of any such government or political
 1383 subdivision thereof when such tangible personal property goes
 1384 into or becomes a part of public works owned by such government
 1385 or political subdivision. A determination whether a particular
 1386 transaction is properly characterized as an exempt sale to a
 1387 government entity or a taxable sale to a contractor shall be
 1388 based on the substance of the transaction rather than the form
 1389 in which the transaction is cast. The department shall adopt
 1390 rules that give special consideration to factors that govern the
 1391 status of the tangible personal property before its affixation
 1392 to real property. In developing these rules, assumption of the
 1393 risk of damage or loss is of paramount consideration in the
 1394 determination. This exemption does not include sales, rental,
 1395 use, consumption, or storage for use in any political
 1396 subdivision or municipality in this state of machines and
 1397 equipment and parts and accessories therefor used in the
 1398 generation, transmission, or distribution of electrical energy
 1399 by systems owned and operated by a political subdivision in this
 1400 state for transmission or distribution expansion. Likewise

HB 1231

2011

1401 exempt are charges for services rendered by radio and television
 1402 stations, including line charges, talent fees, or license fees
 1403 and charges for films, videotapes, and transcriptions used in
 1404 producing radio or television broadcasts. The exemption provided
 1405 in this subsection does not include sales, rental, use,
 1406 consumption, or storage for use in any political subdivision or
 1407 municipality in this state of machines and equipment and parts
 1408 and accessories therefor used in providing two-way
 1409 telecommunications services to the public for hire by the use of
 1410 a telecommunications facility, as defined in s. 364.02(12) ~~s.~~
 1411 ~~364.02(15)~~, and for which a certificate is required under
 1412 chapter 364, which facility is owned and operated by any county,
 1413 municipality, or other political subdivision of the state. Any
 1414 immunity of any political subdivision of the state or other
 1415 entity of local government from taxation of the property used to
 1416 provide telecommunication services that is taxed as a result of
 1417 this section is hereby waived. However, the exemption provided
 1418 in this subsection includes transactions taxable under this
 1419 chapter which are for use by the operator of a public-use
 1420 airport, as defined in s. 332.004, in providing such
 1421 telecommunications services for the airport or its tenants,
 1422 concessionaires, or licensees, or which are for use by a public
 1423 hospital for the provision of such telecommunications services.

1424 Section 58. Subsection (8) of section 290.007, Florida
 1425 Statutes, is amended to read:

1426 290.007 State incentives available in enterprise zones.—
 1427 The following incentives are provided by the state to encourage
 1428 the revitalization of enterprise zones:

1429 (8) Notwithstanding any law to the contrary, the Public
 1430 Service Commission may allow public utilities and
 1431 telecommunications companies to grant discounts of up to 50
 1432 percent on tariffed rates for services to small businesses
 1433 located in an enterprise zone designated pursuant to s.
 1434 290.0065. Such discounts may be granted for a period not to
 1435 exceed 5 years. For purposes of this subsection, the term
 1436 "public utility" has the same meaning as in s. 366.02(1) and the
 1437 term "telecommunications company" has the same meaning as in s.
 1438 364.02(11) ~~s. 364.02(14)~~.

1439 Section 59. Subsection (3) of section 350.0605, Florida
 1440 Statutes, is amended to read:

1441 350.0605 Former commissioners and employees;
 1442 representation of clients before commission.-

1443 (3) For a period of 2 years following termination of
 1444 service on the commission, a former member may not accept
 1445 employment by or compensation from a business entity which,
 1446 directly or indirectly, owns or controls a public utility
 1447 regulated by the commission, from a public utility regulated by
 1448 the commission, from a business entity which, directly or
 1449 indirectly, is an affiliate or subsidiary of a public utility
 1450 regulated by the commission or is an actual business competitor
 1451 of a local exchange company or public utility regulated by the
 1452 commission and is otherwise exempt from regulation by the
 1453 commission under ss. 364.02(11) ~~ss. 364.02(14)~~ and 366.02(1), or
 1454 from a business entity or trade association that has been a
 1455 party to a commission proceeding within the 2 years preceding
 1456 the member's termination of service on the commission. This

1457 subsection applies only to members of the Florida Public Service
 1458 Commission who are appointed or reappointed after May 10, 1993.

1459 Section 60. Section 364.105, Florida Statutes, is amended
 1460 to read:

1461 364.105 Discounted rate for basic service for former
 1462 Lifeline subscribers.—Each local exchange telecommunications
 1463 company shall offer discounted residential basic local
 1464 telecommunications service at 70 percent of the residential
 1465 local telecommunications service rate for any Lifeline
 1466 subscriber who no longer qualifies for Lifeline. A Lifeline
 1467 subscriber who requests such service shall receive the
 1468 discounted price for a period of 1 year after the date the
 1469 subscriber ceases to be qualified for Lifeline. In no event
 1470 shall this preclude the offering of any other discounted
 1471 services which comply with s. 364.10 ~~ss. 364.08 and 364.10~~.

1472 Section 61. Section 364.32, Florida Statutes, is amended
 1473 to read:

1474 364.32 Definitions applicable to s. 364.33 ~~ss. 364.33,~~
 1475 ~~364.337, 364.345 and 364.37. As used in ss. 364.33, 364.337,~~
 1476 ~~364.345 and 364.37:~~

1477 (1) "Person" means:

1478 (a) Any natural person, firm, association, county,
 1479 municipality, corporation, business, trust, or partnership
 1480 owning, leasing, or operating any facility used in the
 1481 furnishing of public telecommunications service within this
 1482 state; and

1483 (b) A cooperative, nonprofit, membership corporation, or
 1484 limited dividend or mutual association, now or hereafter

HB 1231

2011

1485 created, with respect to that part or portion of its operations
 1486 devoted to the furnishing of telecommunications service within
 1487 this state.

1488 (2) "Territory" means any area, whether within or without
 1489 the boundaries of a municipality.

1490 Section 62. Subsection (5) of section 489.103, Florida
 1491 Statutes, is amended to read:

1492 489.103 Exemptions.—This part does not apply to:

1493 (5) Public utilities, including special gas districts as
 1494 defined in chapter 189, telecommunications companies as defined
 1495 in s. 364.02(11) ~~s. 364.02(14)~~, and natural gas transmission
 1496 companies as defined in s. 368.103(4), on construction,
 1497 maintenance, and development work performed by their employees,
 1498 which work, including, but not limited to, work on bridges,
 1499 roads, streets, highways, or railroads, is incidental to their
 1500 business. The board shall define, by rule, the term "incidental
 1501 to their business" for purposes of this subsection.

1502 Section 63. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1231 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee
3 Representative(s) Horner offered the following:
4

Amendment (with title amendment)

6 Remove line 323 and insert:

7 Section 7. Section 364.016, Florida Statutes, is amended
8 to read:

9 364.016 Travel costs.—The commission has the authority to
10 assess a telecommunications company for reasonable travel costs
11 associated with reviewing the records of the telecommunications
12 company ~~and its affiliates~~ when such records are kept out of
13 state. The telecommunications company may bring the records back
14 into the state for review.
15

16
17 **T I T L E A M E N D M E N T**

18 Remove lines 22-24 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1231 (2011)

Amendment No. 1

19 | to adopt rules; repealing s. 364.015, F.S.; relating to
20 | injunctive relief; amending s. 364.016, F.S., removing the
21 | commission's authority to assess travel cost to review out of
22 | state records of telecommunications company affiliates;
23 | amending s. 364.02, F.S.; removing definitions

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee

3 Representative(s) Horner offered the following:

Amendment (with title amendment)

6 Remove lines 379-384 and insert:

7 (10)~~(11)~~ "Operator service" includes, but is not limited
8 to, billing or completion of third-party, person-to-person,
9 collect, or calling card or credit card calls through the use of
10 a live operator or automated equipment.

11 (11)~~(12)~~ "Operator service provider" means a person who
12 furnishes operator service through a call aggregator.

14 -----
15 **T I T L E A M E N D M E N T**

16 Remove lines 24-26 and insert:

17 commission; amending s. 364.02, F.S.; removing definition for
18 "monopoly services," and adding a definition for "VoIP";

OK

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1231 (2011)

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee
3 Representative(s) Horner offered the following:

Amendment

6 Remove lines 418-420 and insert:
7 defined in 47 U.S.C. s. 522;~~or~~
8 (g) An intrastate interexchange telecommunications
9 company~~;~~ or
10 (h) An operator service provider.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1231 (2011)

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee

3 Representative(s) Horner offered the following:

4
5 **Amendment**

6 Remove lines 785-818 and insert:

7 (7)-(4) In order to assure that consumers have access to
8 different local exchange service providers without being
9 disadvantaged, deterred, or inconvenienced by having to give up
10 the consumer's existing local telephone number, the commission
11 shall insure that all providers of local exchange services must
12 have access to local telephone numbering resources and
13 assignments on equitable terms that include a recognition of the
14 scarcity of such resources and are in accordance with national
15 assignment guidelines. ~~Each local exchange provider, except~~
16 ~~small local exchange telecommunications companies under rate of~~
17 ~~return regulation, shall provide a temporary means of achieving~~
18 ~~telephone number portability. The parties, under the direction~~
19 ~~of the commission, shall set up a number portability standards~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1231 (2011)

Amendment No. 4

20 ~~group by no later than September 1, 1995, for the purposes of~~
21 ~~investigation and development of appropriate parameters, costs,~~
22 ~~and standards for number portability. If the parties are unable~~
23 ~~to successfully negotiate the prices, terms, and conditions of a~~
24 ~~temporary number portability solution, the commission shall~~
25 ~~establish a temporary number portability solution by no later~~
26 ~~than January 1, 1996. Each local exchange service provider shall~~
27 ~~make necessary modifications to allow permanent portability of~~
28 ~~local telephone numbers between certificated providers of local~~
29 ~~exchange service as soon as reasonably possible after the~~
30 ~~development of national standards. The parties shall negotiate~~
31 ~~the prices, terms, and conditions for permanent telephone number~~
32 ~~portability arrangements. In the event the parties are unable to~~
33 ~~satisfactorily negotiate the prices, terms, and conditions,~~
34 ~~either party may petition the commission and the commission~~
35 ~~shall, after opportunity for a hearing, set the rates, terms,~~
36 ~~and conditions. The prices and rates shall not be below cost.~~
37 ~~Number portability between different certificated providers of~~
38 ~~local exchange service at the same location shall be provided~~
39 ~~temporarily no later than January 1, 1996.~~

40 (8) ~~(5)~~ When requested, each certificated telecommunications
41

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1231 (2011)

Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee
3 Representative(s) Horner offered the following:

4
5 **Amendment**

6 Remove lines 917-918 and insert:

7 (f) Employee personnel information unrelated to
8 compensation, duties, qualifications, or responsibilities.
9

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1231 (2011)

Amendment No. 6

COMMITTEE/SUBCOMMITTEE ACTION

| | | |
|-----------------------|-------|-------|
| ADOPTED | ___ | (Y/N) |
| ADOPTED AS AMENDED | ___ | (Y/N) |
| ADOPTED W/O OBJECTION | ___ | (Y/N) |
| FAILED TO ADOPT | ___ | (Y/N) |
| WITHDRAWN | ___ | (Y/N) |
| OTHER | _____ | |

1 Committee/Subcommittee hearing bill: Energy & Utilities
2 Subcommittee

3 Representative(s) Horner offered the following:

4

5

Amendment

6

Remove lines 1113-1114 and insert:

7

provision to pay telephone companies ~~or operator service~~

8

~~providers~~ to prevent fraud or as otherwise determined in the