

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1377 Telecommunications Companies

SPONSOR(S): Fresen and others

TIED BILLS: IDEN./SIM. BILLS: SB 2646

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	General Government Policy Council		Keating	Hamby
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Prior to 1995, the Public Service Commission (PSC) regulated the rates of local exchange telecommunications companies (local telephone companies) through rate base, rate-of-return regulation similar to its regulation of monopoly utility services such as electric, water, and sewer 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. The 1995 law created s. 364.051(1), F.S., which allowed incumbent local exchange companies, by specified dates, to elect "price regulation" instead of traditional rate-of-return regulation.

Section 364.051(1)(c), F.S., provides that each local exchange telecommunications company electing price regulation is exempt from rate base, rate-of-return regulation and the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, F.S. According to the PSC, every local exchange telecommunications company has elected price regulation, with the last rate-of-return regulated company electing price regulation in November 2008. Thus, ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, F.S., appear to no longer be effective as they do not apply to any telecommunications company. In addition, s. 364.051(1), F.S., providing for election of price regulation, appears to no longer be necessary.

HB 1377 repeals provisions related to rate base, rate-of-return regulation of local exchange telecommunications companies which became obsolete when the last rate of return regulated company elected price regulation. The bill also repeals provisions related to the election of price regulation. The bill amends other provisions of chapter 364, F.S., to conform to the repeal of these provisions.

The bill has not fiscal impact on state or local governments or the private sector.

The effective date of the bill is July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Prior to 1995, the Public Service Commission (PSC) regulated the rates of local exchange telecommunications companies (local telephone companies) through rate base, rate-of-return regulation similar to its regulation of monopoly utility services such as electric, water, and sewer 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.<sup>1</sup> The 1995 law created s. 364.051(1), F.S., which allowed incumbent local exchange companies, by specified dates, to elect "price regulation" instead of traditional rate-of-return regulation.

Section 364.051(1)(c), F.S., provides that each local exchange telecommunications company electing price regulation is exempt from rate base, rate-of-return regulation and the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, F.S. According to the PSC, every local exchange telecommunications company has elected price regulation, with the last rate-of-return regulated company electing price regulation in November 2008.<sup>2</sup> There is no mechanism in Chapter 364, F.S., for a company to elect to return to rate-of-return regulation. Thus, ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, F.S., appear to no longer be effective because they do not and will not apply to any telecommunications company. In addition, s. 364.051(1), F.S., providing for election of price regulation, appears to no longer be necessary. In 2009, the PSC repealed its rules related to rate-of-return regulation.

##### Effect of Proposed Changes

HB 1377 repeals obsolete provisions related to rate base, rate-of-return regulation of local exchange telecommunications companies. Specifically, the bill repeals ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, F.S. These provisions appear to no longer apply to any local exchange telecommunications company. The bill also deletes cross-references to these sections.

In addition, the bill repeals provisions of chapter 364, F.S., related to the election of price regulation. In particular, the bill repeals specific provisions of ss. 364.051 and 364.052, F.S., which specify the manner in which price regulation may be elected, and amends s. 364.051(1), F.S., to reflect that all

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<sup>1</sup> Ch. 95-403, L.O.F.

<sup>2</sup> Order No. PSC-09-0136-PAA-TL, issued March 5, 2009, in Docket No. 080680-TL (acknowledging Frontier Communications of the South, LLC's election of price regulation).

local exchange telecommunications companies have elected price regulation. The bill also repeals specific provisions of ss. 364.337, 364.385, and 364.507, F.S., which make reference to the election of price regulation.

**B. SECTION DIRECTORY:**

**Section 1.** Repeals ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, F.S.

**Section 2.** Amends s. 364.025, F.S., relating to universal service, to conform a cross-reference.

**Section 3.** Amends s. 364.051, F.S., relating to price regulation, to delete obsolete provisions.

**Section 4.** Amends s. 364.052, F.S., relating to regulatory methods for small local exchange telecommunications companies, to delete obsolete provisions.

**Section 5.** Amends s. 364.063, F.S., relating to rate adjustment orders, to delete a cross-reference to repealed s. 364.05, F.S.

**Section 6.** Amends s. 364.337, F.S., relating to competitive local exchange companies and intrastate interexchange telecommunications services to make conforming changes and delete cross-reference to repealed provisions.

**Section 7.** Amends s. 364.385, F.S., relating to savings clauses, to delete an obsolete provision.

**Section 8.** Amends s. 364.507, F.S., relating to legislative intent, to delete an obsolete provision.

**Section 9.** Provides an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

Not applicable.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**