

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the General Government Appropriations Committee

BILL: SB 2646

INTRODUCER: Senator Ring

SUBJECT: Telecommunications Companies

DATE: April 13, 2010

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|------------------|
| 1. | Caldwell | Caldwell | CU | Favorable |
| 2. | McKay | Wilson | GO | Favorable |
| 3. | Weiss | DeLoach | GA | Favorable |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill amends and repeals sections of chapter 364, Florida Statutes, to remove obsolete provisions relating to rate base, rate of return regulation of local telecommunications companies. Since 1995, local exchange telecommunications (LECs) companies have moved from being rate base, rate of return regulated to competitive companies that are price regulated. This transition is now complete according to laws specified in the chapter.

The bill substantially amends the following sections of the Florida Statutes: 364.051, 364.025, 364.052, 364.063, 364.337, 364.385, and 364.507.

The bill repeals the following sections of the Florida Statutes: 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18.

II. Present Situation:

Section 364.051, F.S., enacted in 1995, provides for price regulation of telecommunications rates for basic and nonbasic local telecommunications services. It establishes a schedule by which local exchange telecommunications companies must transition from rate base, rate of return regulation to price regulation as described in this section. Each company subject to price regulation under this section 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, 364.18, and 364.19, F.S. As of November 2008, all LECs have made that transition.

Section 364.052, F.S., provides regulatory methods for small LECs, defined as “a local exchange telecommunications company certificated by the [Public Service Commission] prior to July 1,

1995, which has fewer than 100,000 access lines in service on that date.” This section sets the conditions for competition within a small LEC territory and authorizes oversight by the Public Service Commission (commission). Subsection (2) provides that small LECs may remain under rate base, rate of return regulation until the company elects to become subject to price regulation under s. 364.051, F.S., or until January 1, 2001, whichever occurs first. However, a small LEC that has not made such an election by January 1, 2001, shall remain under rate base, rate of return regulation until a certificated competitive LEC provides basic local telecommunications service in the company’s territory.

Section 364.03, F.S., provides that rates for telecommunications services must be fair, reasonable, and sufficient, and that the service rendered to any person by any telecommunications company shall be performed in a prompt and efficient manner. Such companies are to maintain facilities for the accommodation, comfort, and convenience of its patrons and employees. Every telecommunications company is required to furnish, to all persons who apply for and are reasonably entitled to, suitable telecommunications facilities and connections for telecommunications services.

Section 364.035, F.S., provides for rate fixing and service complaint criteria. When fixing rates for a company’s telecommunications services, the commission can give consideration to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered, the value of such service to the public, and the ability of the company to improve such service and facilities. Companies cannot be denied a reasonable rate of return upon its rate base.

Section 364.037, F.S., provides for telephone directory advertising revenues and requires the commission to consider those revenues when establishing rates for telecommunications services. The section provides for the allocation among regulated and nonregulated services.

Section 364.05, F. S., provides for changing rates, tolls, rental, contracts, or charges. This section requires notice of a rate change to be provided to the commission and the public 60 days before such rates can be effective. For demonstrated good cause, the commission may order rates to go into effect before the 60 days. If a substantially affected party objects to the rates before they go into effect, the rate change must be abated until the commission consents or a hearing is held. Hearings are not required if a rate change is within the approved rate range. In the case of a rate hearing, procedures are prescribed and interim rates are allowed.

Section 364.055, F.S., authorizes the commission to set interim rates while a rate case is pending in accordance with the procedures set forth in this section.

Section 364.14, F.S., authorizes the commission, upon finding that the rates charged by telecommunications companies are either excessive or insufficient to yield reasonable compensation for the services rendered, to readjust rates, charges, tolls, or rentals on its own motion. This section further authorizes the commission to establish, by order or rule, just and reasonable rules, regulations, practices, equipment, facilities, and service to be installed, observed, and used.

Section 364.17, F.S., allows the commission to prescribe the forms of any and all reports, accounts, records, and memoranda to be furnished and kept by a telecommunications company

within its jurisdiction. The records and accounts are subject to the Act of Congress entitled “The Communications Act of 1934” and any amendments thereto, as enforced by the Federal Communications Commission.

Section 364.18, F.S., authorizes the commission or any person authorized by the commission in writing to inspect the accounts, books, records and papers of any telecommunications company. The commission may also require certain reports and other data to be filed by telecommunications companies under its jurisdiction to ensure regulated rates do not subsidize unregulated activities. This section also provides an exemption from public records.

III. Effect of Proposed Changes:

Section 1 repeals sections 364.03, 354.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, F.S., to remove obsolete provisions relating to regulation of telecommunications companies. As of November 2008, all LECs are price regulated under s. 364.051, F. S., and are exempt from those provisions.

Sections 2, 5, 6, 7, and 8 amend sections 364.025, 364.063, 364.337, 364.385, and 364.507, F.S., respectively, to make conforming changes.

Section 3 amends s. 364.051, related to price regulation, to make conforming changes. Subsection (1) is retitled “application to local exchange telecommunications companies” and states that all LECs are subject to price regulation. In addition, schedules that have been met are repealed. Local exchange companies remain exempt from s. 364.19, F.S., relating to regulation by the commission of telecommunications service contracts.

Section 4 amends s. 364.052(2), F.S., to repeal expired provisions relating to small local exchange companies under rate base, rate of return regulation.

Section 9 provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

None.

B. Amendments:

None.