

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 Governmental Oversight and Accountability Committee

BILL: SB 2646
 INTRODUCER: Senator Ring
 SUBJECT: Telecommunications Companies
 DATE: March 30, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	CU	Favorable
2.	McKay	Wilson	GO	Favorable
3.	_____	_____	GA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill repeals sections of chapter 364, Florida Statutes, relating to the transition of small local exchange telecommunications companies that, since 1995, have moved from being rate base, rate of return regulated to competitive companies that are price regulated. These companies have made this transition according to laws specified in this chapter and now those provisions are obsolete.

This bill repeals sections 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18 and amends sections 364.051, 364.025, 364.052, 364.063, 364.337, 364.385, and 364.507 of the Florida Statutes.

II. Present Situation:

Beginning in 1995, regulatory oversight of companies providing telecommunications services has been reduced. Deregulation was a result of legislative action and some of the deregulation was self effectuating. Specifically, s. 364.051(1), F.S., created a schedule for small local exchange telecommunications companies (LECs) to elect price regulation. Small LECs with fewer than 100,000 access lines in service on July 1, 1995, were allowed to remain under rate base, rate of return regulation until the company elected to become subject to s. 364.051, or until January 1, 2001, whichever occurred first.¹ Rate base regulated small LECs are also subject to ss. 364.03, 364.035, 364.05, and 364.055, and other provisions necessary for rate base, rate of return regulation.² Once a small LEC makes its election, it is subject to s. 364.051, F.S., relating

¹ 364.052(2), F.S.

² Id.

to price regulation. As of November 2008, all small LECs have made the election and are price regulated under s. 364.051, F.S.

Section 364.051, F. S., provides for price regulation of telecommunications rates for basic and non basic local telecommunications services. The section also provides for a schedule when small LECs become subject to price regulation. At this time, all LECs are subject to this section.

Pursuant to s. 364.051(1)(c), F.S.:

Each company subject to this section is exempt from rate base, rate of return regulation, and the requirements of ss. 364.03, 354.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, and 364.19.

Section 364.052, F.S., provides for regulatory methods for small LECs. This section defines a small LEC as a certificated company having fewer than 100,000 access lines as of July 1, 1995. Subsection (2) provides for small LECs remaining as a rate base, rate of return regulated company until 2001 and prescribes conditions. The commission is required to adopt rules specific to these companies. This section sets the conditions for competition within a small LEC territory and authorizes commission oversight.

The following sections are repealed in the bill:

Section 364.03, F.S., provides for rates to be fair, just, reasonable, and sufficient, and the service rendered to any person by any telecommunications company shall be rendered and performed in a prompt, expeditious, 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 upon reasonable notice to furnish to all persons who may apply therefore and be reasonably entitled thereto suitable and proper 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 before such rates can be effective. For good cause shown, 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 to readjust rates, charges, tolls, or rentals on its own motion if it finds the rates charged are either excessive or insufficient to yield reasonable compensation for the services rendered. This section further authorizes the commission to determine the just, reasonable, proper, adequate, and efficient rules, regulations, practices, equipment, facilities, and service to be installed, observed, and used and shall fix the same by order or rule.

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 the 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.

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. The local exchange companies remain exempt from s. 364.19, F.S., relating to regulation by the commission of telecommunications service contracts.

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

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 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.