SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/ SB 334

SPONSOR: Communication & Public Utilities Committee and Senator Saunders

SUBJECT: Telecommunications Service/ Elevators

DATE: March 11, 2003 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable/CS
2.			СР	
3.				
4.				
5.				
6.				

I. Summary:

The bill requires phone companies that provide telephone service to certain elevators to offer that service at the company's residential service rate.

This bill creates section 364.108 of the Florida Statutes.

II. Present Situation:

Every elevator in Florida is required to have a means of two-way conversation between the elevator car and a readily accessible point outside the hoistway which is available to emergency personnel. Rule 211.1(a)(2), ASME, A17.1 (National Standard Safety Code for Elevators and Escalators), adopted by Chapter 61C-5, F.A.C., the Florida Elevator Safety Code, pursuant to s. 399.02, F.S.

The Florida Public Service Commission (PSC) has an order in place, order number PSC-94-1180-FOF-TL, issued September 27, 1994, that authorizes local telephone companies to charge business rates for service to elevators in condominium elevators. The PSC's reasoning was that: rates are determined based on the character of use of the service; the customer for condominium elevator phone service is the condominium association, a business entity, not the residents; and the condominium associations use elevator phone service to fulfill legal obligations and enhance the safety of condominium residents, a business activity to which business rates should apply. The PSC made these findings despite the arguments of the Office of Public Counsel that character of use should be determined by the actual telephone user, which was argued to be the condominium residents and their guests.

Business rates are approximately twice the amount of residential rates.

III. Effect of Proposed Changes:

The bill creates s. 364.108, F.S., to require each telecommunications company that provides telephone service to any elevator that is under the control of a condominium or homeowners' association, a residential cooperative, a government-financed housing facility for the elderly, or a continuing care facility to offer that service at the company's residential local telecommunications service rate.

The bill takes effect July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Section 202.12, F.S., imposes a tax on sales of communications services stated as a percentage of the sales price of the communications service. The bill will lower the revenue of local telephone companies by an undetermined amount, which they may or may not seek a rate increase hearing to recoup. If not, this decrease in phone revenue will in turn lower the communications services tax revenues by an undetermined amount.

B. Private Sector Impact:

The bill requires local telephone companies to provide service to certain elevators at the companies' residential service rate. These companies currently charge a business rate, which is approximately twice the residential rate. The bill will therefore result in a decrease in the telephone service rate for service to these elevators. As no one knows how many elevators are at issue, the total amount of the decrease in rates is undeterminable.

In general, condominium, homeowners, and cooperative associations will have an undetermined decrease in expenses, which they should pass on to property owners in a proportioned decrease in assessments and dues. Government-financed housing facilities for the elderly and continuing care facilities will also have decreased costs, which may be passed on to residents. Local phone companies would lose an undetermined amount of revenue. Section 364.051(4), F.S., provides that any local telecommunications company that believes circumstances have changed substantially to justify any increase in the rates for basic local services may petition the PSC for a rate increase. However, the PSC may grant the petition only after an opportunity for a hearing and a compelling showing of changed circumstances. The companies may choose not to go through such a hearing to get the rate increase to make up the loss.

C. Government Sector Impact:

There could be a decrease in communications services tax revenues. There could also be an impact on the PSC if local telephone companies seek hearings to increase rates.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In its 1994 order, the PSC noted that there were a number of alternatives available to condominium associations to provide elevator communication services. Since then, with technological advances and deregulation of local telephone markets, there are additional alternatives available.

The bill appears to be contrary to the current public policy of competition in the local telephone marketplace.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.