

1 A bill to be entitled
2 An act relating to telecommunications; amending s. 364.01,
3 F.S.; specifying the exclusive jurisdiction of the Florida
4 Public Service Commission to regulate telecommunications
5 companies; providing that activities regulated by the
6 commission are exempt from ch. 501, F.S., relating to
7 consumer protection; providing that state laws governing
8 business and consumer protection be applied to
9 communications activities that are not regulated by the
10 commission; deleting certain legislative findings with
11 respect to the provision of local telecommunications
12 services; revising provisions governing the exclusive
13 jurisdiction of the commission; creating s. 364.011, F.S.;
14 specifying certain services that are exempt from oversight
15 by the commission; creating s. 364.012, F.S.; requiring
16 that the commission promote consistency with federal law
17 and coordination with federal agencies; providing that ch.
18 364, F.S., does not limit or modify certain duties of a
19 local exchange carrier; creating s. 364.013, F.S.;
20 requiring that broadband service remain free of state and
21 local regulation; requiring that voice-over-Internet
22 protocol remain free of regulation, except as specifically
23 provided in ch. 364, F.S.; amending s. 364.02, F.S.;
24 defining the terms "broadband service" and "VoIP";
25 amending s. 364.0361, F.S.; prohibiting a local government
26 from regulating voice-over-Internet protocol or other
27 advanced telecommunications, regardless of the platform or
28 provider; amending s. 364.051, F.S.; providing that

29 evidence of damage caused by a natural disaster
 30 constitutes a compelling showing of changed circumstances
 31 to justify a change in rates; providing for authorization
 32 to add a line item charge to recover costs of such damage;
 33 limiting amount of such charge; amending s. 364.10, F.S.;
 34 revising the income threshold for eligibility for Lifeline
 35 service; amending s. 364.335, F.S.; increasing the maximum
 36 allowable filing fee for certification of
 37 telecommunications carriers; amending s. 364.336, F.S.;
 38 providing minimum regulatory assessment fees to be
 39 assessed by rule of the commission; repealing s. 364.502,
 40 F.S., relating to video programming services; amending ss.
 41 196.012, 199.183, 212.08, 290.007, 350.0605, 364.602, and
 42 489.103, F.S.; conforming cross-references; providing an
 43 effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Section 364.01, Florida Statutes, is amended to
 48 read:

49 364.01 Powers of commission, legislative intent.--

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

53 (2) The Florida Public Service Commission has ~~It is the~~
 54 ~~legislative intent to give~~ exclusive jurisdiction in all matters
 55 set forth in this chapter to regulate ~~the Florida Public Service~~
 56 ~~Commission in regulating~~ telecommunications companies, and such

57 | preemption shall supersede any local or special act or municipal
58 | charter where any conflict of authority may exist. However, the
59 | provisions of this chapter shall not affect the authority and
60 | powers granted in s. 166.231(9) or s. 337.401.

61 | (3) Activities regulated under laws administered by the
62 | Florida Public Service Commission are exempt from chapter 501.
63 | Communications activities that are not regulated by the Florida
64 | Public Service Commission, including, but not limited to, VoIP,
65 | wireless, and broadband, are subject to this state's generally
66 | applicable business regulation and deceptive trade practices and
67 | consumer protection laws, as enforced by the appropriate state
68 | authority or through actions in the judicial system. This
69 | chapter does not limit the availability to any party of any
70 | remedy under state or federal antitrust laws. ~~The Legislature~~
71 | ~~finds that the competitive provision of telecommunications~~
72 | ~~services, including local exchange telecommunications service,~~
73 | ~~is in the public interest and will provide customers with~~
74 | ~~freedom of choice, encourage the introduction of new~~
75 | ~~telecommunications service, encourage technological innovation,~~
76 | ~~and encourage investment in telecommunications infrastructure.~~
77 | ~~The Legislature further finds that the transition from the~~
78 | ~~monopoly provision of local exchange service to the competitive~~
79 | ~~provision thereof will require appropriate regulatory oversight~~
80 | ~~to protect consumers and provide for the development of fair and~~
81 | ~~effective competition, but nothing in this chapter shall limit~~
82 | ~~the availability to any party of any remedy under state or~~
83 | ~~federal antitrust laws. The Legislature further finds that~~
84 | ~~changes in regulations allowing increased competition in~~

85 ~~telecommunications services could provide the occasion for~~
86 ~~increases in the telecommunications workforce; therefore, it is~~
87 ~~in the public interest that competition in telecommunications~~
88 ~~services lead to a situation that enhances the high-~~
89 ~~technological skills and the economic status of the~~
90 ~~telecommunications workforce. The Legislature further finds that~~
91 ~~the provision of voice over Internet protocol (VOIP) free of~~
92 ~~unnecessary regulation, regardless of the provider, is in the~~
93 ~~public interest.~~

94 (4) The commission shall exercise its exclusive
95 jurisdiction in order to:

96 (a) Protect the public health, safety, and welfare by
97 ensuring that basic local telecommunications services, such as
98 dial-tone service, access to 911, local calling, and access to a
99 long-distance network, are available to all consumers in the
100 state at reasonable and affordable prices.

101 (b) Encourage competition through flexible regulatory
102 treatment among providers of telecommunications services in
103 order to ensure the availability of the widest possible range of
104 consumer choice in the provision of all telecommunications
105 services.

106 (c) Protect the public health, safety, and welfare by
107 ensuring that monopoly services provided by telecommunications
108 companies continue to be subject to effective price, rate, and
109 service regulation.

110 (d) Promote competition by encouraging innovation and
111 investment in new entrants into telecommunications markets and
112 by allowing a transitional period in which new and emerging

113 technologies entrants are subject to a reduced ~~lesser~~ level of
 114 regulatory oversight ~~than local exchange telecommunications~~
 115 ~~companies~~.

116 (e) Encourage all providers of telecommunications services
 117 to introduce new or experimental telecommunications services
 118 free of unnecessary regulatory restraints.

119 (f) Eliminate any rules or ~~and/or~~ regulations which will
 120 delay or impair the transition to competition.

121 (g) Ensure that all providers of telecommunications
 122 services are treated fairly, by preventing anticompetitive
 123 behavior and eliminating unnecessary regulatory restraint.

124 (h) Recognize the continuing emergence of a competitive
 125 telecommunications environment through the flexible regulatory
 126 treatment of competitive telecommunications services, where
 127 appropriate, if doing so does not reduce the availability of
 128 adequate basic local telecommunications service to all citizens
 129 of the state at reasonable and affordable prices, if competitive
 130 telecommunications services are not subsidized by monopoly
 131 telecommunications services, and if all monopoly services are
 132 available to all competitors on a nondiscriminatory basis.

133 (i) Continue its historical role as a surrogate for
 134 competition for monopoly services provided by local exchange
 135 telecommunications companies.

136 Section 2. Section 364.011, Florida Statutes, is created
 137 to read:

138 364.011 Exemptions from commission jurisdiction.--The
 139 following services are exempt from oversight by the commission,
 140 except to the extent delineated in this chapter or specifically

141 authorized by federal law:

142 (1) Nonbasic telephone services.

143 (2) Broadband services, regardless of the provider or the
 144 platform, including, but not limited to, cable modem service,
 145 digital subscriber line service, wireless broadband, or
 146 satellite.

147 (3) VoIP.

148 (4) Wireless telecommunications.

149 Section 3. Section 364.012, Florida Statutes, is created
 150 to read:

151 364.012 Consistency with federal law.--

152 (1) The commission shall promote and maintain consistency
 153 with federal law and policies.

154 (2) In order to promote commission coordination with
 155 federal policymakers and regulatory agencies, the commission
 156 shall maintain continuous liaisons with appropriate federal
 157 agencies whose policy decisions and rulemaking authority affect
 158 those telecommunications companies over which the commission has
 159 jurisdiction. The commission is encouraged to participate in the
 160 proceedings of federal agencies in cases in which the state's
 161 consumers may be affected and to convey the commission's policy
 162 positions and information requirements in order to achieve
 163 greater efficiency in regulation.

164 (3) This chapter does not limit or modify the duties of a
 165 local exchange carrier to provide unbundled access to network
 166 elements or the commission's authority to arbitrate and enforce
 167 interconnection agreements to the extent that those elements are
 168 required under 47 U.S.C. ss. 251 and 252, and under any

169 regulations issued by the Federal Communications Commission at
 170 rates determined in accordance with the standards established by
 171 the Federal Communications Commission pursuant to 47 C.F.R. ss.
 172 51.503-51.513, inclusive of any successor regulation or
 173 successor forbearance of regulation.

174 Section 4. Section 364.013, Florida Statutes, is created
 175 to read:

176 364.013 Emerging and advanced services.--Broadband service
 177 shall remain free of state and local regulation, regardless of
 178 the provider or the platform, including, but not limited to,
 179 cable modem service, digital subscriber line, wireless, and
 180 satellite. In addition, the provision of voice-over-Internet
 181 protocol (VoIP) shall be free of regulation, except as
 182 delineated in this chapter or as specifically authorized by
 183 federal law, regardless of the platform or the provider.

184 Section 5. Section 364.02, Florida Statutes, is amended to
 185 read:

186 364.02 Definitions.--As used in this chapter:

187 (1) "Basic local telecommunications service" means voice-
 188 grade, flat-rate residential, and flat-rate single-line business
 189 local exchange services which provide dial tone, local usage
 190 necessary to place unlimited calls within a local exchange area,
 191 dual tone multifrequency dialing, and access to the following:
 192 emergency services such as "911," all locally available
 193 interexchange companies, directory assistance, operator
 194 services, relay services, and an alphabetical directory listing.
 195 For a local exchange telecommunications company, such term shall
 196 include any extended area service routes, and extended calling

197 service in existence or ordered by the commission on or before
 198 July 1, 1995.

199 (2) "Broadband service" means any service that consists of
 200 or includes the offering of a capability to transmit or receive
 201 information at a rate of no fewer than 200 kilobits per second
 202 and:

203 (a) Is used to provide access to the Internet; or

204 (b) Provides access to computer processing, information
 205 storage, information content, or protocol conversion.

206 (3)~~(2)~~ "Commercial mobile radio service provider" means a
 207 commercial mobile radio service provider as defined by and
 208 pursuant to 47 U.S.C. ss. 153(n) and 332(d).

209 (4)~~(3)~~ "Commission" means the Florida Public Service
 210 Commission.

211 (5)~~(4)~~ "Competitive local exchange telecommunications
 212 company" means any company certificated by the commission to
 213 provide local exchange telecommunications services in this state
 214 on or after July 1, 1995.

215 (6)~~(5)~~ "Corporation" includes a corporation, company,
 216 association, or joint stock association.

217 (7)~~(6)~~ "Intrastate interexchange telecommunications
 218 company" means any entity that provides intrastate interexchange
 219 telecommunications services.

220 (8)~~(7)~~ "Local exchange telecommunications company" means
 221 any company certificated by the commission to provide local
 222 exchange telecommunications service in this state on or before
 223 June 30, 1995.

224 (9)~~(8)~~ "Monopoly service" means a telecommunications

225 service for which there is no effective competition, either in
 226 fact or by operation of law.

227 ~~(10)~~~~(9)~~ "Nonbasic service" means any telecommunications
 228 service provided by a local exchange telecommunications company
 229 other than a basic local telecommunications service, a local
 230 interconnection arrangement described in s. 364.16, or a network
 231 access service described in s. 364.163.

232 ~~(11)~~~~(10)~~ "Operator service" includes, but is not limited
 233 to, billing or completion of third-party, person-to-person,
 234 collect, or calling card or credit card calls through the use of
 235 a live operator or automated equipment.

236 ~~(12)~~~~(11)~~ "Operator service provider" means a person who
 237 furnishes operator service through a call aggregator.

238 ~~(13)~~~~(12)~~ "Service" is to be construed in its broadest and
 239 most inclusive sense. The term "service" does not include
 240 broadband service or voice-over-Internet protocol service for
 241 purposes of regulation by the commission. Nothing herein shall
 242 affect the rights and obligations of any entity related to the
 243 payment of switched network access rates or other intercarrier
 244 compensation, if any, related to voice-over-Internet protocol
 245 service.

246 ~~(14)~~~~(13)~~ "Telecommunications company" includes every
 247 corporation, partnership, and person and their lessees,
 248 trustees, or receivers appointed by any court whatsoever, and
 249 every political subdivision in the state, offering two-way
 250 telecommunications service to the public for hire within this
 251 state by the use of a telecommunications facility. The term
 252 "telecommunications company" does not include:

- 253 (a) An entity which provides a telecommunications facility
- 254 exclusively to a certificated telecommunications company;
- 255 (b) An entity which provides a telecommunications facility
- 256 exclusively to a company which is excluded from the definition
- 257 of a telecommunications company under this subsection;
- 258 (c) A commercial mobile radio service provider;
- 259 (d) A facsimile transmission service;
- 260 (e) A private computer data network company not offering
- 261 service to the public for hire;
- 262 (f) A cable television company providing cable service as
- 263 defined in 47 U.S.C. s. 522; or
- 264 (g) An intrastate interexchange telecommunications
- 265 company.

266

267 However, each commercial mobile radio service provider and each

268 intrastate interexchange telecommunications company shall

269 continue to be liable for any taxes imposed pursuant to chapters

270 202, 203 and 212 and any fees assessed pursuant to ss. 364.025

271 and 364.336. Each intrastate interexchange telecommunications

272 company shall continue to be subject to ss. 364.04, 364.10(3)(a)

273 and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, shall

274 provide the commission with such current information as the

275 commission deems necessary to contact and communicate with the

276 company, shall continue to pay intrastate switched network

277 access rates or other intercarrier compensation to the local

278 exchange telecommunications company or the competitive local

279 exchange telecommunications company for the origination and

280 termination of interexchange telecommunications service, and

281 shall reduce its intrastate long distance toll rates in
 282 accordance with s. 364.163(2).

283 ~~(15)~~~~(14)~~ "Telecommunications facility" includes real
 284 estate, easements, apparatus, property, and routes used and
 285 operated to provide two-way telecommunications service to the
 286 public for hire within this state.

287 (16) "VoIP" means the voice-over-Internet protocol as that
 288 term is defined in federal law.

289 Section 6. Section 364.0361, Florida Statutes, is amended
 290 to read:

291 364.0361 Local government authority; nondiscriminatory
 292 exercise.--A local government shall treat each
 293 telecommunications company in a nondiscriminatory manner when
 294 exercising its authority to grant franchises to a
 295 telecommunications company or to otherwise establish conditions
 296 or compensation for the use of rights-of-way or other public
 297 property by a telecommunications company. A local government may
 298 not directly or indirectly regulate the terms and conditions,
 299 including, but not limited to, the operating systems,
 300 qualifications, services, service quality, service territory,
 301 and prices, applicable to or in connection with the provision of
 302 any voice-over-Internet protocol, broadband or other advanced
 303 telecommunications or information service, regardless of the
 304 platform or the provider. This section does not relieve a
 305 provider from any obligations under s. 166.046 or s. 337.401.

306 Section 7. Subsection (4) of section 364.051, Florida
 307 Statutes, is amended to read:

308 364.051 Price regulation.--

309 (4) Notwithstanding the provisions of subsection (2), any
 310 local exchange telecommunications company that believes
 311 circumstances have changed substantially to justify any increase
 312 in the rates for basic local telecommunications services may
 313 petition the commission for a rate increase, but the commission
 314 shall grant such petition only after an opportunity for a
 315 hearing and a compelling showing of changed circumstances. The
 316 costs and expenses of any government program or project required
 317 in part II shall not be recovered under this subsection unless
 318 such costs and expenses are incurred in the absence of a bid and
 319 subject to carrier-of-last-resort obligations as provided for in
 320 part II. The commission shall act upon any such petition within
 321 120 days of its filing. For purposes of this section, evidence
 322 of damage to the lines, plant, and facilities of a local
 323 exchange telecommunications company subject to carrier-of-last-
 324 resort obligations resulting from the occurrence of a natural
 325 disaster, such as a storm declared to be a hurricane by the
 326 National Hurricane Center, shall constitute a compelling showing
 327 of changed circumstances. In such event, the commission, after
 328 verification only of the company's costs and expenses related to
 329 repairing, restoring, and replacing damaged lines, plant, and
 330 facilities, shall grant the company's petition and authorize the
 331 company to add a separate line item charge to the bills of the
 332 company's retail basic local telecommunications service
 333 customers, its retail nonbasic telecommunications service
 334 customers, and its wholesale loop unbundled network element
 335 customers. The line item charge and the class of customer to be
 336 charged shall be determined solely by the local exchange

337 telecommunications company. The line item charge may be in an
 338 amount up to, but shall not exceed, 50 cents per month per
 339 customer line charged for 12 calendar months.

340 Section 8. Paragraph (a) of subsection (3) of section
 341 364.10, Florida Statutes, is amended to read:

342 364.10 Undue advantage to person or locality prohibited;
 343 Lifeline service.--

344 (3)(a) Effective September 1, 2003, any local exchange
 345 telecommunications company authorized by the commission to
 346 reduce its switched network access rate pursuant to s. 364.164
 347 shall have tariffed and shall provide Lifeline service to any
 348 otherwise eligible customer or potential customer who meets an
 349 income eligibility test at 135 ~~125~~ percent or less of the
 350 federal poverty income guidelines for Lifeline customers. Such a
 351 test for eligibility must augment, rather than replace, the
 352 eligibility standards established by federal law and based on
 353 participation in certain low-income assistance programs. Each
 354 intrastate interexchange telecommunications company shall,
 355 effective September 1, 2003, file a tariff providing at a
 356 minimum the intrastate interexchange telecommunications
 357 carrier's current Lifeline benefits and exemptions to Lifeline
 358 customers who meet the income eligibility test set forth in this
 359 subsection. The Office of Public Counsel shall certify and
 360 maintain claims submitted by a customer for eligibility under
 361 the income test authorized by this subsection.

362 Section 9. Paragraph (c) of subsection (1) of section
 363 364.335, Florida Statutes, is amended to read:

364 364.335 Application for certificate.--

365 (1) Each applicant for a certificate shall:
 366 (c) File the application fee required by the commission in
 367 an amount not to exceed \$500 ~~\$250~~. Such fees shall be deposited
 368 in accordance with s. 350.113.

369 Section 10. Section 364.336, Florida Statutes, is amended
 370 to read:

371 364.336 Regulatory assessment fees.--Notwithstanding any
 372 provisions of law to the contrary, each telecommunications
 373 company licensed or operating under this chapter, for any part
 374 of the preceding 6-month period, shall pay to the commission,
 375 within 30 days following the end of each 6-month period, a fee
 376 that may not exceed 0.25 percent annually of its gross operating
 377 revenues derived from intrastate business, except, for purposes
 378 of this section and the fee specified in s. 350.113(3), any
 379 amount paid to another telecommunications company for the use of
 380 any telecommunications network shall be deducted from the gross
 381 operating revenue for purposes of computing the fee due. The
 382 commission shall by rule assess a minimum fee in an amount up to
 383 \$1,000. The minimum amount may be different depending on the
 384 type of service provided by the telecommunications company and
 385 shall, to the extent practicable, be related to the cost of
 386 regulating such type of company. Differences, if any, between
 387 the amount paid in any 6-month period and the amount actually
 388 determined by the commission to be due shall, upon motion by the
 389 commission, be immediately paid or refunded. Fees under this
 390 section may not be less than \$50 annually. Such fees shall be
 391 deposited in accordance with s. 350.113. The commission may by
 392 rule establish criteria for payment of the regulatory assessment

393 fee on an annual basis rather than on a semiannual basis.

394 Section 11. Section 364.502, Florida Statutes, is
 395 repealed.

396 Section 12. Subsection (6) of section 196.012, Florida
 397 Statutes, is amended to read:

398 196.012 Definitions.--For the purpose of this chapter, the
 399 following terms are defined as follows, except where the context
 400 clearly indicates otherwise:

401 (6) Governmental, municipal, or public purpose or function
 402 shall be deemed to be served or performed when the lessee under
 403 any leasehold interest created in property of the United States,
 404 the state or any of its political subdivisions, or any
 405 municipality, agency, special district, authority, or other
 406 public body corporate of the state is demonstrated to perform a
 407 function or serve a governmental purpose which could properly be
 408 performed or served by an appropriate governmental unit or which
 409 is demonstrated to perform a function or serve a purpose which
 410 would otherwise be a valid subject for the allocation of public
 411 funds. For purposes of the preceding sentence, an activity
 412 undertaken by a lessee which is permitted under the terms of its
 413 lease of real property designated as an aviation area on an
 414 airport layout plan which has been approved by the Federal
 415 Aviation Administration and which real property is used for the
 416 administration, operation, business offices and activities
 417 related specifically thereto in connection with the conduct of
 418 an aircraft full service fixed base operation which provides
 419 goods and services to the general aviation public in the
 420 promotion of air commerce shall be deemed an activity which

421 serves a governmental, municipal, or public purpose or function.
422 Any activity undertaken by a lessee which is permitted under the
423 terms of its lease of real property designated as a public
424 airport as defined in s. 332.004(14) by municipalities,
425 agencies, special districts, authorities, or other public bodies
426 corporate and public bodies politic of the state, a spaceport as
427 defined in s. 331.303(19), or which is located in a deepwater
428 port identified in s. 403.021(9)(b) and owned by one of the
429 foregoing governmental units, subject to a leasehold or other
430 possessory interest of a nongovernmental lessee that is deemed
431 to perform an aviation, airport, aerospace, maritime, or port
432 purpose or operation shall be deemed an activity that serves a
433 governmental, municipal, or public purpose. The use by a lessee,
434 licensee, or management company of real property or a portion
435 thereof as a convention center, visitor center, sports facility
436 with permanent seating, concert hall, arena, stadium, park, or
437 beach is deemed a use that serves a governmental, municipal, or
438 public purpose or function when access to the property is open
439 to the general public with or without a charge for admission. If
440 property deeded to a municipality by the United States is
441 subject to a requirement that the Federal Government, through a
442 schedule established by the Secretary of the Interior, determine
443 that the property is being maintained for public historic
444 preservation, park, or recreational purposes and if those
445 conditions are not met the property will revert back to the
446 Federal Government, then such property shall be deemed to serve
447 a municipal or public purpose. The term "governmental purpose"
448 also includes a direct use of property on federal lands in

449 connection with the Federal Government's Space Exploration
 450 Program or spaceport activities as defined in s. 212.02(22).
 451 Real property and tangible personal property owned by the
 452 Federal Government or the Florida Space Authority and used for
 453 defense and space exploration purposes or which is put to a use
 454 in support thereof shall be deemed to perform an essential
 455 national governmental purpose and shall be exempt. "Owned by the
 456 lessee" as used in this chapter does not include personal
 457 property, buildings, or other real property improvements used
 458 for the administration, operation, business offices and
 459 activities related specifically thereto in connection with the
 460 conduct of an aircraft full service fixed based operation which
 461 provides goods and services to the general aviation public in
 462 the promotion of air commerce provided that the real property is
 463 designated as an aviation area on an airport layout plan
 464 approved by the Federal Aviation Administration. For purposes of
 465 determination of "ownership," buildings and other real property
 466 improvements which will revert to the airport authority or other
 467 governmental unit upon expiration of the term of the lease shall
 468 be deemed "owned" by the governmental unit and not the lessee.
 469 Providing two-way telecommunications services to the public for
 470 hire by the use of a telecommunications facility, as defined in
 471 s. 364.02(15) ~~s. 364.02(14)~~, and for which a certificate is
 472 required under chapter 364 does not constitute an exempt use for
 473 purposes of s. 196.199, unless the telecommunications services
 474 are provided by the operator of a public-use airport, as defined
 475 in s. 332.004, for the operator's provision of
 476 telecommunications services for the airport or its tenants,

477 concessionaires, or licensees, or unless the telecommunications
478 services are provided by a public hospital. However, property
479 that is being used to provide such telecommunications services
480 on or before October 1, 1997, shall remain exempt, but such
481 exemption expires October 1, 2004.

482 Section 13. Paragraph (b) of subsection (1) of section
483 199.183, Florida Statutes, is amended to read:

484 199.183 Taxpayers exempt from annual and nonrecurring
485 taxes.--

486 (1) Intangible personal property owned by this state or
487 any of its political subdivisions or municipalities shall be
488 exempt from taxation under this chapter. This exemption does not
489 apply to:

490 (b) Property related to the provision of two-way
491 telecommunications services to the public for hire by the use of
492 a telecommunications facility, as defined in s. 364.02(15) ~~s.~~
493 ~~364.02(14)~~, and for which a certificate is required under
494 chapter 364, when such service is provided by any county,
495 municipality, or other political subdivision of the state. Any
496 immunity of any political subdivision of the state or other
497 entity of local government from taxation of the property used to
498 provide telecommunication services that is taxed as a result of
499 this paragraph is hereby waived. However, intangible personal
500 property related to the provision of such telecommunications
501 services provided by the operator of a public-use airport, as
502 defined in s. 332.004, for the operator's provision of
503 telecommunications services for the airport or its tenants,
504 concessionaires, or licensees, and intangible personal property

505 related to the provision of such telecommunications services
 506 provided by a public hospital, are exempt from taxation under
 507 this chapter.

508 Section 14. Subsection (6) of section 212.08, Florida
 509 Statutes, is amended to read:

510 212.08 Sales, rental, use, consumption, distribution, and
 511 storage tax; specified exemptions.--The sale at retail, the
 512 rental, the use, the consumption, the distribution, and the
 513 storage to be used or consumed in this state of the following
 514 are hereby specifically exempt from the tax imposed by this
 515 chapter.

516 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are also
 517 exempt from the tax imposed by this chapter sales made to the
 518 United States Government, a state, or any county, municipality,
 519 or political subdivision of a state when payment is made
 520 directly to the dealer by the governmental entity. This
 521 exemption shall not inure to any transaction otherwise taxable
 522 under this chapter when payment is made by a government employee
 523 by any means, including, but not limited to, cash, check, or
 524 credit card when that employee is subsequently reimbursed by the
 525 governmental entity. This exemption does not include sales of
 526 tangible personal property made to contractors employed either
 527 directly or as agents of any such government or political
 528 subdivision thereof when such tangible personal property goes
 529 into or becomes a part of public works owned by such government
 530 or political subdivision. A determination whether a particular
 531 transaction is properly characterized as an exempt sale to a
 532 government entity or a taxable sale to a contractor shall be

533 based on the substance of the transaction rather than the form
534 in which the transaction is cast. The department shall adopt
535 rules that give special consideration to factors that govern the
536 status of the tangible personal property before its affixation
537 to real property. In developing these rules, assumption of the
538 risk of damage or loss is of paramount consideration in the
539 determination. This exemption does not include sales, rental,
540 use, consumption, or storage for use in any political
541 subdivision or municipality in this state of machines and
542 equipment and parts and accessories therefor used in the
543 generation, transmission, or distribution of electrical energy
544 by systems owned and operated by a political subdivision in this
545 state for transmission or distribution expansion. Likewise
546 exempt are charges for services rendered by radio and television
547 stations, including line charges, talent fees, or license fees
548 and charges for films, videotapes, and transcriptions used in
549 producing radio or television broadcasts. The exemption provided
550 in this subsection does not include sales, rental, use,
551 consumption, or storage for use in any political subdivision or
552 municipality in this state of machines and equipment and parts
553 and accessories therefor used in providing two-way
554 telecommunications services to the public for hire by the use of
555 a telecommunications facility, as defined in s. 364.02(15) ~~s.~~
556 ~~364.02(14)~~, and for which a certificate is required under
557 chapter 364, which facility is owned and operated by any county,
558 municipality, or other political subdivision of the state. Any
559 immunity of any political subdivision of the state or other
560 entity of local government from taxation of the property used to

561 provide telecommunication services that is taxed as a result of
 562 this section is hereby waived. However, the exemption provided
 563 in this subsection includes transactions taxable under this
 564 chapter which are for use by the operator of a public-use
 565 airport, as defined in s. 332.004, in providing such
 566 telecommunications services for the airport or its tenants,
 567 concessionaires, or licensees, or which are for use by a public
 568 hospital for the provision of such telecommunications services.

569 Section 15. Subsection (8) of section 290.007, Florida
 570 Statutes, is amended to read:

571 290.007 State incentives available in enterprise
 572 zones.--The following incentives are provided by the state to
 573 encourage the revitalization of enterprise zones:

574 (8) Notwithstanding any law to the contrary, the Public
 575 Service Commission may allow public utilities and
 576 telecommunications companies to grant discounts of up to 50
 577 percent on tariffed rates for services to small businesses
 578 located in an enterprise zone designated pursuant to s.
 579 290.0065. Such discounts may be granted for a period not to
 580 exceed 5 years. For purposes of this subsection, the term
 581 "public utility" has the same meaning as in s. 366.02(1) and the
 582 term "telecommunications company" has the same meaning as in s.
 583 364.02(14) ~~s. 364.02(13)~~.

584 Section 16. Subsection (3) of section 350.0605, Florida
 585 Statutes, is amended to read:

586 350.0605 Former commissioners and employees;
 587 representation of clients before commission.--

588 (3) For a period of 2 years following termination of

589 service on the commission, a former member may not accept
 590 employment by or compensation from a business entity which,
 591 directly or indirectly, owns or controls a public utility
 592 regulated by the commission, from a public utility regulated by
 593 the commission, from a business entity which, directly or
 594 indirectly, is an affiliate or subsidiary of a public utility
 595 regulated by the commission or is an actual business competitor
 596 of a local exchange company or public utility regulated by the
 597 commission and is otherwise exempt from regulation by the
 598 commission under ss. 364.02(14) ~~364.02(13)~~ and 366.02(1), or
 599 from a business entity or trade association that has been a
 600 party to a commission proceeding within the 2 years preceding
 601 the member's termination of service on the commission. This
 602 subsection applies only to members of the Florida Public Service
 603 Commission who are appointed or reappointed after May 10, 1993.

604 Section 17. Subsection (4) of section 364.602, Florida
 605 Statutes, is amended to read:

606 364.602 Definitions.--For purposes of this part:

607 (4) "Originating party" means any person, firm,
 608 corporation, or other entity, including a telecommunications
 609 company or a billing clearinghouse, that provides any
 610 telecommunications service or information service to a customer
 611 or bills a customer through a billing party, except the term
 612 "originating party" does not include any entity specifically
 613 exempted from the definition of "telecommunications company" as
 614 provided in s. 364.02(14) ~~s. 364.02(13)~~.

615 Section 18. Subsection (5) of section 489.103, Florida
 616 Statutes, is amended to read:

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617 489.103 Exemptions.--This part does not apply to:
618 (5) Public utilities, including special gas districts as
619 defined in chapter 189, telecommunications companies as defined
620 in s. 364.02(14) ~~s. 364.02(13)~~, and natural gas transmission
621 companies as defined in s. 368.103(4), on construction,
622 maintenance, and development work performed by their employees,
623 which work, including, but not limited to, work on bridges,
624 roads, streets, highways, or railroads, is incidental to their
625 business. The board shall define, by rule, the term "incidental
626 to their business" for purposes of this subsection.
627 Section 19. This act shall take effect July 1, 2005.