

CHAMBER ACTION

1 The Commerce Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to telecommunications regulation; amending
7 s. 350.041, F.S.; revising standards of conduct for
8 commissioners on the Florida Public Service Commission;
9 providing rules of conduct for attendance at a conference;
10 prohibiting a commissioner from soliciting anything of
11 value from a public utility, its affiliate, or certain
12 other parties; amending s. 364.01, F.S.; providing that
13 state laws governing business and consumer protection be
14 applied to communications activities that are not
15 regulated by the commission; revising provisions governing
16 the exclusive jurisdiction of the commission; creating s.
17 364.011, F.S.; specifying certain services that are exempt
18 from oversight by the commission; creating s. 364.012,
19 F.S.; directing the commission to maintain liaison with
20 federal agencies; providing that ch. 364, F.S., does not
21 limit or modify certain duties of a local exchange
22 carrier; creating s. 364.013, F.S.; requiring that
23 broadband service and voice-over-Internet protocol be free

24 | of state regulation, except as specifically provided;
25 | amending s. 364.02, F.S.; defining the terms "broadband
26 | service" and "VoIP"; revising the definition of "service";
27 | amending s. 364.0361, F.S.; prohibiting a local government
28 | from regulating the provision of voice-over-Internet
29 | protocol; amending s. 364.051, F.S.; providing that
30 | evidence of damage caused by a tropical storm system
31 | constitutes a compelling showing of changed circumstances
32 | to justify a change in rates; revising procedures to
33 | recover certain costs and expenses; providing conditions
34 | to qualify for filing a petition for recovery; providing
35 | for the commission to order a line-item charge for a
36 | certain period to recover costs and expenses of such
37 | damage; limiting amount of such charge; providing for
38 | verification of amounts collected; limiting the number of
39 | petitions for recovery of costs and expenses; amending s.
40 | 364.10, F.S.; revising the income threshold for
41 | eligibility for Lifeline service; amending s. 364.335,
42 | F.S.; increasing the maximum allowable filing fee for
43 | certification of telecommunications carriers; amending s.
44 | 364.336, F.S.; providing minimum regulatory assessment
45 | fees to be assessed by rule of the commission; repealing
46 | s. 364.502, F.S., relating to video programming services;
47 | amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605,
48 | 364.602, and 489.103, F.S.; conforming cross references;
49 | providing for construction of the act; providing effective
50 | dates.

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52 Be It Enacted by the Legislature of the State of Florida:

53

54 Section 1. Paragraphs (h) and (i) are added to subsection
55 (2) of section 350.041, Florida Statutes, to read:

56 350.041 Commissioners; standards of conduct.--

57 (2) STANDARDS OF CONDUCT.--

58 (h) It shall not be a violation of this section for a
59 commissioner who attends an educational program or conference
60 organized by an entity other than a public utility, or who
61 attends a conference or other meeting of an association of
62 regulatory agencies, to participate in meals and events which
63 are available generally to all conference participants who have
64 paid the conference fee, are available to only state
65 commissioners, or, if the commissioner is a committee member or
66 speaks at the conference, are available only to committee
67 members or speakers. A commissioner who attends such a program
68 or conference will not be deemed to have accepted anything from
69 a public utility as a result of any differential conference fee
70 available to commissioners, governmental employees, or speakers,
71 or because of sponsorship or payment by a public utility of
72 conference costs, including costs of meals or events included as
73 part of the conference program and generally available to all
74 participants who have paid the conference fee.

75 (i) A commissioner may not directly or indirectly, through
76 staff or other means, solicit anything of value from any public
77 utility regulated by the commission, or from any business entity
78 that, whether directly or indirectly, is an affiliate or
79 subsidiary of any public utility regulated by the commission, or

80 | from any party appearing in a proceeding considered by the
 81 | commission in the last 2 years.

82 | Section 2. Subsection (3) and paragraphs (d) and (f) of
 83 | subsection (4) of section 364.01, Florida Statutes, are amended
 84 | to read:

85 | 364.01 Powers of commission, legislative intent.--

86 | (3) Communications activities that are not regulated by
 87 | the Florida Public Service Commission, including, but not
 88 | limited to, VoIP, wireless, and broadband, are subject to this
 89 | state's generally applicable business regulation and deceptive
 90 | trade practices and consumer protection laws, as enforced by the
 91 | appropriate state authority or through actions in the judicial
 92 | system. This chapter does not limit the availability to any
 93 | party of any remedy under state or federal antitrust laws. The
 94 | Legislature finds that the competitive provision of
 95 | telecommunications services, including local exchange
 96 | telecommunications service, is in the public interest and will
 97 | provide customers with freedom of choice, encourage the
 98 | introduction of new telecommunications service, encourage
 99 | technological innovation, and encourage investment in
 100 | telecommunications infrastructure. The Legislature further finds
 101 | that the transition from the monopoly provision of local
 102 | exchange service to the competitive provision thereof will
 103 | require appropriate regulatory oversight to protect consumers
 104 | and provide for the development of fair and effective
 105 | competition, but nothing in this chapter shall limit the
 106 | availability to any party of any remedy under state or federal
 107 | antitrust laws. The Legislature further finds that changes in

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108 regulations allowing increased competition in telecommunications
 109 services could provide the occasion for increases in the
 110 telecommunications workforce; therefore, it is in the public
 111 interest that competition in telecommunications services lead to
 112 a situation that enhances the high-technological skills and the
 113 economic status of the telecommunications workforce. The
 114 Legislature further finds that the provision of voice-over-
 115 Internet protocol (VOIP) free of unnecessary regulation,
 116 regardless of the provider, is in the public interest.

117 (4) The commission shall exercise its exclusive
 118 jurisdiction in order to:

119 (d) Promote competition by encouraging innovation and
 120 investment in new entrants into telecommunications markets and
 121 by allowing a transitional period in which new and emerging
 122 technologies ~~entrants~~ are subject to a reduced ~~lesser~~ level of
 123 regulatory oversight ~~than local exchange telecommunications~~
 124 ~~companies~~.

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

127 Section 3. Section 364.011, Florida Statutes, is created
 128 to read:

129 364.011 Exemptions from commission jurisdiction.--The
 130 following services are exempt from oversight by the commission,
 131 except to the extent delineated in this chapter or specifically
 132 authorized by federal law:

133 (1) Intrastate interexchange telecommunications services.

134 (2) Broadband services, regardless of the provider,
 135 platform, or protocol.

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136 (3) VoIP.

137 (4) Wireless telecommunications, including commercial
138 mobile radio services.

139 Section 4. Section 364.012, Florida Statutes, is created
140 to read:

141 364.012 Consistency with federal law.--

142 (1) In order to promote commission coordination with
143 federal policymakers and regulatory agencies, the commission
144 shall maintain continuous liaisons with appropriate federal
145 agencies whose policy decisions and rulemaking authority affect
146 those telecommunications companies over which the commission has
147 jurisdiction. The commission is encouraged to participate in the
148 proceedings of federal agencies in cases in which the state's
149 consumers may be affected and to convey the commission's policy
150 positions and information requirements in order to achieve
151 greater efficiency in regulation.

152 (2) This chapter does not limit or modify the duties of a
153 local exchange carrier to provide unbundled access to network
154 elements or the commission's authority to arbitrate and enforce
155 interconnection agreements to the extent that those elements are
156 required under 47 U.S.C. ss. 251 and 252, and under any
157 regulations issued by the Federal Communications Commission at
158 rates determined in accordance with the standards established by
159 the Federal Communications Commission pursuant to 47 C.F.R. ss.
160 51.503-51.513, inclusive of any successor regulation or
161 successor forbearance of regulation.

162 Section 5. Section 364.013, Florida Statutes, is created
163 to read:

164 364.013 Emerging and advanced services.--Broadband service
 165 and the provision of voice-over-Internet protocol (VoIP) shall
 166 be free of state regulation, except as delineated in this
 167 chapter or as specifically authorized by federal law, regardless
 168 of the provider, platform, or protocol.

169 Section 6. Section 364.02, Florida Statutes, is amended to
 170 read:

171 364.02 Definitions.--As used in this chapter:

172 (1) "Basic local telecommunications service" means voice-
 173 grade, flat-rate residential, and flat-rate single-line business
 174 local exchange services which provide dial tone, local usage
 175 necessary to place unlimited calls within a local exchange area,
 176 dual tone multifrequency dialing, and access to the following:
 177 emergency services such as "911," all locally available
 178 interexchange companies, directory assistance, operator
 179 services, relay services, and an alphabetical directory listing.
 180 For a local exchange telecommunications company, such term shall
 181 include any extended area service routes, and extended calling
 182 service in existence or ordered by the commission on or before
 183 July 1, 1995.

184 (2) "Broadband service" means any service that consists of
 185 or includes the offering of the capability to transmit or
 186 receive information at a rate that is not less than 200 kilobits
 187 per second and either:

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

189 (b) Provides computer processing, information, storage,
 190 information content, or protocol conversion in combination with
 191 such service.

192
193 The definition of broadband service does not include any
194 intrastate telecommunications services that have been tariffed
195 with the commission on or before January 1, 2005.

196 ~~(3)(2)~~ "Commercial mobile radio service provider" means a
197 commercial mobile radio service provider as defined by and
198 pursuant to 47 U.S.C. ss. 153(n) and 332(d).

199 ~~(4)(3)~~ "Commission" means the Florida Public Service
200 Commission.

201 ~~(5)(4)~~ "Competitive local exchange telecommunications
202 company" means any company certificated by the commission to
203 provide local exchange telecommunications services in this state
204 on or after July 1, 1995.

205 ~~(6)(5)~~ "Corporation" includes a corporation, company,
206 association, or joint stock association.

207 ~~(7)(6)~~ "Intrastate interexchange telecommunications
208 company" means any entity that provides intrastate interexchange
209 telecommunications services.

210 ~~(8)(7)~~ "Local exchange telecommunications company" means
211 any company certificated by the commission to provide local
212 exchange telecommunications service in this state on or before
213 June 30, 1995.

214 ~~(9)(8)~~ "Monopoly service" means a telecommunications
215 service for which there is no effective competition, either in
216 fact or by operation of law.

217 ~~(10)(9)~~ "Nonbasic service" means any telecommunications
218 service provided by a local exchange telecommunications company
219 other than a basic local telecommunications service, a local

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220 interconnection arrangement described in s. 364.16, or a network
221 access service described in s. 364.163.

222 ~~(11)~~~~(10)~~ "Operator service" includes, but is not limited
223 to, billing or completion of third-party, person-to-person,
224 collect, or calling card or credit card calls through the use of
225 a live operator or automated equipment.

226 ~~(12)~~~~(11)~~ "Operator service provider" means a person who
227 furnishes operator service through a call aggregator.

228 ~~(13)~~~~(12)~~ "Service" is to be construed in its broadest and
229 most inclusive sense. The term "service" does not include
230 broadband service or voice-over-Internet protocol service for
231 purposes of regulation by the commission. Nothing herein shall
232 affect the rights and obligations of any entity related to the
233 payment of switched network access rates or other intercarrier
234 compensation, if any, related to voice-over-Internet protocol
235 service. Notwithstanding the provisions of s. 364.013 and the
236 exemption of services pursuant to this subsection, the
237 commission may arbitrate, enforce, or approve interconnection
238 agreements and resolve disputes as provided by 47 U.S.C. ss. 251
239 and 252 or any other applicable federal law or regulation. With
240 respect to the services exempted in this subsection, regardless
241 of the technology, the duties of a local exchange
242 telecommunications company are only those that the company is
243 obligated to extend or provide under applicable federal law and
244 regulations.

245 ~~(14)~~~~(13)~~ "Telecommunications company" includes every
246 corporation, partnership, and person and their lessees,
247 trustees, or receivers appointed by any court whatsoever, and

248 every political subdivision in the state, offering two-way
 249 telecommunications service to the public for hire within this
 250 state by the use of a telecommunications facility. The term
 251 "telecommunications company" does not include:

252 (a) An entity which provides a telecommunications facility
 253 exclusively to a certificated telecommunications company;

254 (b) An entity which provides a telecommunications facility
 255 exclusively to a company which is excluded from the definition
 256 of a telecommunications company under this subsection;

257 (c) A commercial mobile radio service provider;

258 (d) A facsimile transmission service;

259 (e) A private computer data network company not offering
 260 service to the public for hire;

261 (f) A cable television company providing cable service as
 262 defined in 47 U.S.C. s. 522; or

263 (g) An intrastate interexchange telecommunications
 264 company.

265

266 However, each commercial mobile radio service provider and each
 267 intrastate interexchange telecommunications company shall
 268 continue to be liable for any taxes imposed pursuant to chapters
 269 202, 203 and 212 and any fees assessed pursuant to ss. 364.025
 270 and 364.336. Each intrastate interexchange telecommunications
 271 company shall continue to be subject to ss. 364.04, 364.10(3)(a)
 272 and (d), 364.163, 364.285, 364.501, 364.603, and 364.604, shall
 273 provide the commission with such current information as the
 274 commission deems necessary to contact and communicate with the
 275 company, shall continue to pay intrastate switched network

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276 | access rates or other intercarrier compensation to the local
 277 | exchange telecommunications company or the competitive local
 278 | exchange telecommunications company for the origination and
 279 | termination of interexchange telecommunications service, and
 280 | shall reduce its intrastate long distance toll rates in
 281 | accordance with s. 364.163(2).

282 | ~~(15)~~(14) "Telecommunications facility" includes real
 283 | estate, easements, apparatus, property, and routes used and
 284 | operated to provide two-way telecommunications service to the
 285 | public for hire within this state.

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

288 | Section 7. Section 364.0361, Florida Statutes, is amended
 289 | to read:

290 | 364.0361 Local government authority; nondiscriminatory
 291 | exercise.--A local government shall treat each
 292 | telecommunications company in a nondiscriminatory manner when
 293 | exercising its authority to grant franchises to a
 294 | telecommunications company or to otherwise establish conditions
 295 | or compensation for the use of rights-of-way or other public
 296 | property by a telecommunications company. A local government may
 297 | not directly or indirectly regulate the terms and conditions,
 298 | including, but not limited to, the operating systems,
 299 | qualifications, services, service quality, service territory,
 300 | and prices, applicable to or in connection with the provision of
 301 | any voice-over-Internet protocol, regardless of the provider,
 302 | platform, or protocol, or any broadband or information service.

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303 This section does not relieve a provider from any obligations
304 under s. 166.046 or s. 337.401.

305 Section 8. Effective upon this act becoming a law,
306 subsection (4) of section 364.051, Florida Statutes, is amended
307 to read:

308 364.051 Price regulation.--

309 (4)(a) Notwithstanding ~~the provisions of~~ subsection (2),
310 any 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 the ~~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 may ~~shall~~ not be recovered under this subsection
318 unless the ~~such~~ costs and expenses are incurred in the absence
319 of a bid and subject to carrier-of-last-resort obligations as
320 provided for in part II. The commission shall act upon the ~~any~~
321 ~~such~~ petition within 120 days after ~~of~~ its filing.

322 (b) For purposes of this section, evidence of damage to
323 the lines, plants, or facilities of a local exchange
324 telecommunications company that is subject to carrier-of-last-
325 resort obligations, which damage is the result of a tropical
326 system occurring after June 1, 2005, and named by the National
327 Hurricane Center, constitutes a compelling showing of changed
328 circumstances.

329 1. A company may file a petition to recover its intrastate
330 costs and expenses relating to repairing, restoring, or

331 replacing the lines, plants, or facilities damaged by a named
 332 tropical system.

333 2. The commission shall verify the intrastate costs and
 334 expenses submitted by the company in support of its petition.

335 3. The company must show and the commission shall
 336 determine whether the intrastate costs and expenses are
 337 reasonable under the circumstances for the named tropical
 338 system.

339 4. A company having a storm reserve may recover tropical-
 340 system-related costs and expenses from its customers only in
 341 excess of any amount available in the storm reserve fund.

342 5. The commission may determine the amount of any increase
 343 that the company may charge its customers, but the charge per
 344 line item may not exceed 50 cents per month per customer line
 345 for a period of not more than 12 months.

346 6. The commission may order the company to add an equal
 347 line-item charge per access line to the billing statement of the
 348 company's retail basic local telecommunications service
 349 customers, its retail nonbasic telecommunications service
 350 customers, and, to the extent the commission determines
 351 appropriate, its wholesale loop unbundled network element
 352 customers. At the end of the collection period, the commission
 353 shall verify that the collected amount does not exceed the
 354 amount authorized by the order. If collections exceed the
 355 ordered amount, the commission shall order the company to refund
 356 the excess.

357 7. In order to qualify for filing a petition under this
 358 paragraph, a company with 1 million or more access lines, but

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359 fewer than 3 million access lines, must have tropical-system-
 360 related costs and expenses exceeding \$1.5 million, and a company
 361 with 3 million or more access lines must have tropical-system-
 362 related costs and expenses of \$5 million or more. A company with
 363 fewer than 1 million access lines is not required to meet a
 364 minimum damage threshold in order to qualify to file a petition
 365 under this paragraph.

366 8. A company may file only one petition for storm recovery
 367 in any 12-month period for the previous storm season, but the
 368 application may cover damages from more than one named tropical
 369 system.

370
 371 This paragraph is not intended to adversely affect the
 372 commission's consideration of any petition for an increase in
 373 basic rates to recover costs related to storm damage which was
 374 filed before the effective date of this act.

375 Section 9. Paragraph (a) of subsection (3) of section
 376 364.10, Florida Statutes, is amended to read:

377 364.10 Undue advantage to person or locality prohibited;
 378 Lifeline service.--

379 (3)(a) Effective September 1, 2003, any local exchange
 380 telecommunications company authorized by the commission to
 381 reduce its switched network access rate pursuant to s. 364.164
 382 shall have tariffed and shall provide Lifeline service to any
 383 otherwise eligible customer or potential customer who meets an
 384 income eligibility test at 135 ~~125~~ percent or less of the
 385 federal poverty income guidelines for Lifeline customers. Such a
 386 test for eligibility must augment, rather than replace, the

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387 | eligibility standards established by federal law and based on
 388 | participation in certain low-income assistance programs. Each
 389 | intrastate interexchange telecommunications company shall,
 390 | effective September 1, 2003, file a tariff providing at a
 391 | minimum the intrastate interexchange telecommunications
 392 | carrier's current Lifeline benefits and exemptions to Lifeline
 393 | customers who meet the income eligibility test set forth in this
 394 | subsection. The Office of Public Counsel shall certify and
 395 | maintain claims submitted by a customer for eligibility under
 396 | the income test authorized by this subsection.

397 | Section 10. Paragraph (c) of subsection (1) of section
 398 | 364.335, Florida Statutes, is amended to read:

399 | 364.335 Application for certificate.--

400 | (1) Each applicant for a certificate shall:

401 | (c) File the application fee required by the commission in
 402 | an amount not to exceed \$500 ~~\$250~~. Such fees shall be deposited
 403 | in accordance with s. 350.113.

404 | Section 11. Section 364.336, Florida Statutes, is amended
 405 | to read:

406 | 364.336 Regulatory assessment fees.--Notwithstanding any
 407 | provisions of law to the contrary, each telecommunications
 408 | company licensed or operating under this chapter, for any part
 409 | of the preceding 6-month period, shall pay to the commission,
 410 | within 30 days following the end of each 6-month period, a fee
 411 | that may not exceed 0.25 percent annually of its gross operating
 412 | revenues derived from intrastate business, except, for purposes
 413 | of this section and the fee specified in s. 350.113(3), any
 414 | amount paid to another telecommunications company for the use of

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415 any telecommunications network shall be deducted from the gross
416 operating revenue for purposes of computing the fee due. The
417 commission shall by rule assess a minimum fee in an amount up to
418 \$1,000. The minimum amount may be different depending on the
419 type of service provided by the telecommunications company and
420 shall, to the extent practicable, be related to the cost of
421 regulating such type of company. Differences, if any, between
422 the amount paid in any 6-month period and the amount actually
423 determined by the commission to be due shall, upon motion by the
424 commission, be immediately paid or refunded. Fees under this
425 section may not be less than \$50 annually. Such fees shall be
426 deposited in accordance with s. 350.113. The commission may by
427 rule establish criteria for payment of the regulatory assessment
428 fee on an annual basis rather than on a semiannual basis.

429 Section 12. Section 364.502, Florida Statutes, is
430 repealed.

431 Section 13. Subsection (6) of section 196.012, Florida
432 Statutes, is amended to read:

433 196.012 Definitions.--For the purpose of this chapter, the
434 following terms are defined as follows, except where the context
435 clearly indicates otherwise:

436 (6) Governmental, municipal, or public purpose or function
437 shall be deemed to be served or performed when the lessee under
438 any leasehold interest created in property of the United States,
439 the state or any of its political subdivisions, or any
440 municipality, agency, special district, authority, or other
441 public body corporate of the state is demonstrated to perform a
442 function or serve a governmental purpose which could properly be

443 performed or served by an appropriate governmental unit or which
 444 is demonstrated to perform a function or serve a purpose which
 445 would otherwise be a valid subject for the allocation of public
 446 funds. For purposes of the preceding sentence, an activity
 447 undertaken by a lessee which is permitted under the terms of its
 448 lease of real property designated as an aviation area on an
 449 airport layout plan which has been approved by the Federal
 450 Aviation Administration and which real property is used for the
 451 administration, operation, business offices and activities
 452 related specifically thereto in connection with the conduct of
 453 an aircraft full service fixed base operation which provides
 454 goods and services to the general aviation public in the
 455 promotion of air commerce shall be deemed an activity which
 456 serves a governmental, municipal, or public purpose or function.
 457 Any activity undertaken by a lessee which is permitted under the
 458 terms of its lease of real property designated as a public
 459 airport as defined in s. 332.004(14) by municipalities,
 460 agencies, special districts, authorities, or other public bodies
 461 corporate and public bodies politic of the state, a spaceport as
 462 defined in s. 331.303(19), or which is located in a deepwater
 463 port identified in s. 403.021(9)(b) and owned by one of the
 464 foregoing governmental units, subject to a leasehold or other
 465 possessory interest of a nongovernmental lessee that is deemed
 466 to perform an aviation, airport, aerospace, maritime, or port
 467 purpose or operation shall be deemed an activity that serves a
 468 governmental, municipal, or public purpose. The use by a lessee,
 469 licensee, or management company of real property or a portion
 470 thereof as a convention center, visitor center, sports facility

471 with permanent seating, concert hall, arena, stadium, park, or
 472 beach is deemed a use that serves a governmental, municipal, or
 473 public purpose or function when access to the property is open
 474 to the general public with or without a charge for admission. If
 475 property deeded to a municipality by the United States is
 476 subject to a requirement that the Federal Government, through a
 477 schedule established by the Secretary of the Interior, determine
 478 that the property is being maintained for public historic
 479 preservation, park, or recreational purposes and if those
 480 conditions are not met the property will revert back to the
 481 Federal Government, then such property shall be deemed to serve
 482 a municipal or public purpose. The term "governmental purpose"
 483 also includes a direct use of property on federal lands in
 484 connection with the Federal Government's Space Exploration
 485 Program or spaceport activities as defined in s. 212.02(22).
 486 Real property and tangible personal property owned by the
 487 Federal Government or the Florida Space Authority and used for
 488 defense and space exploration purposes or which is put to a use
 489 in support thereof shall be deemed to perform an essential
 490 national governmental purpose and shall be exempt. "Owned by the
 491 lessee" as used in this chapter does not include personal
 492 property, buildings, or other real property improvements used
 493 for the administration, operation, business offices and
 494 activities related specifically thereto in connection with the
 495 conduct of an aircraft full service fixed based operation which
 496 provides goods and services to the general aviation public in
 497 the promotion of air commerce provided that the real property is
 498 designated as an aviation area on an airport layout plan

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499 approved by the Federal Aviation Administration. For purposes of
 500 determination of "ownership," buildings and other real property
 501 improvements which will revert to the airport authority or other
 502 governmental unit upon expiration of the term of the lease shall
 503 be deemed "owned" by the governmental unit and not the lessee.
 504 Providing two-way telecommunications services to the public for
 505 hire by the use of a telecommunications facility, as defined in
 506 s. 364.02(15) ~~s. 364.02(14)~~, and for which a certificate is
 507 required under chapter 364 does not constitute an exempt use for
 508 purposes of s. 196.199, unless the telecommunications services
 509 are provided by the operator of a public-use airport, as defined
 510 in s. 332.004, for the operator's provision of
 511 telecommunications services for the airport or its tenants,
 512 concessionaires, or licensees, or unless the telecommunications
 513 services are provided by a public hospital. However, property
 514 that is being used to provide such telecommunications services
 515 on or before October 1, 1997, shall remain exempt, but such
 516 exemption expires October 1, 2004.

517 Section 14. Paragraph (b) of subsection (1) of section
 518 199.183, Florida Statutes, is amended to read:

519 199.183 Taxpayers exempt from annual and nonrecurring
 520 taxes.--

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

525 (b) Property related to the provision of two-way
 526 telecommunications services to the public for hire by the use of

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527 a telecommunications facility, as defined in s. 364.02(15) ~~s.~~
 528 ~~364.02(14)~~, and for which a certificate is required under
 529 chapter 364, when such service is provided by any county,
 530 municipality, or other political subdivision of the state. Any
 531 immunity of any political subdivision of the state or other
 532 entity of local government from taxation of the property used to
 533 provide telecommunication services that is taxed as a result of
 534 this paragraph is hereby waived. However, intangible personal
 535 property related to the provision of such telecommunications
 536 services provided by the operator of a public-use airport, as
 537 defined in s. 332.004, for the operator's provision of
 538 telecommunications services for the airport or its tenants,
 539 concessionaires, or licensees, and intangible personal property
 540 related to the provision of such telecommunications services
 541 provided by a public hospital, are exempt from taxation under
 542 this chapter.

543 Section 15. Subsection (6) of section 212.08, Florida
 544 Statutes, is amended to read:

545 212.08 Sales, rental, use, consumption, distribution, and
 546 storage tax; specified exemptions.--The sale at retail, the
 547 rental, the use, the consumption, the distribution, and the
 548 storage to be used or consumed in this state of the following
 549 are hereby specifically exempt from the tax imposed by this
 550 chapter.

551 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are also
 552 exempt from the tax imposed by this chapter sales made to the
 553 United States Government, a state, or any county, municipality,
 554 or political subdivision of a state when payment is made

555 | directly to the dealer by the governmental entity. This
 556 | exemption shall not inure to any transaction otherwise taxable
 557 | under this chapter when payment is made by a government employee
 558 | by any means, including, but not limited to, cash, check, or
 559 | credit card when that employee is subsequently reimbursed by the
 560 | governmental entity. This exemption does not include sales of
 561 | tangible personal property made to contractors employed either
 562 | directly or as agents of any such government or political
 563 | subdivision thereof when such tangible personal property goes
 564 | into or becomes a part of public works owned by such government
 565 | or political subdivision. A determination whether a particular
 566 | transaction is properly characterized as an exempt sale to a
 567 | government entity or a taxable sale to a contractor shall be
 568 | based on the substance of the transaction rather than the form
 569 | in which the transaction is cast. The department shall adopt
 570 | rules that give special consideration to factors that govern the
 571 | status of the tangible personal property before its affixation
 572 | to real property. In developing these rules, assumption of the
 573 | risk of damage or loss is of paramount consideration in the
 574 | determination. This exemption does not include sales, rental,
 575 | use, consumption, or storage for use in any political
 576 | subdivision or municipality in this state of machines and
 577 | equipment and parts and accessories therefor used in the
 578 | generation, transmission, or distribution of electrical energy
 579 | by systems owned and operated by a political subdivision in this
 580 | state for transmission or distribution expansion. Likewise
 581 | exempt are charges for services rendered by radio and television
 582 | stations, including line charges, talent fees, or license fees

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583 and charges for films, videotapes, and transcriptions used in
 584 producing radio or television broadcasts. The exemption provided
 585 in this subsection does not include sales, rental, use,
 586 consumption, or storage for use in any political subdivision or
 587 municipality in this state of machines and equipment and parts
 588 and accessories therefor used in providing two-way
 589 telecommunications services to the public for hire by the use of
 590 a telecommunications facility, as defined in s. 364.02(15) ~~s.~~
 591 ~~364.02(14)~~, and for which a certificate is required under
 592 chapter 364, which facility is owned and operated by any county,
 593 municipality, or other political subdivision of the state. Any
 594 immunity of any political subdivision of the state or other
 595 entity of local government from taxation of the property used to
 596 provide telecommunication services that is taxed as a result of
 597 this section is hereby waived. However, the exemption provided
 598 in this subsection includes transactions taxable under this
 599 chapter which are for use by the operator of a public-use
 600 airport, as defined in s. 332.004, in providing such
 601 telecommunications services for the airport or its tenants,
 602 concessionaires, or licensees, or which are for use by a public
 603 hospital for the provision of such telecommunications services.

604 Section 16. Subsection (8) of section 290.007, Florida
 605 Statutes, is amended to read:

606 290.007 State incentives available in enterprise
 607 zones.--The following incentives are provided by the state to
 608 encourage the revitalization of enterprise zones:

609 (8) Notwithstanding any law to the contrary, the Public
 610 Service Commission may allow public utilities and

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611 telecommunications companies to grant discounts of up to 50
 612 percent on tariffed rates for services to small businesses
 613 located in an enterprise zone designated pursuant to s.
 614 290.0065. Such discounts may be granted for a period not to
 615 exceed 5 years. For purposes of this subsection, the term
 616 "public utility" has the same meaning as in s. 366.02(1) and the
 617 term "telecommunications company" has the same meaning as in s.
 618 364.02(14) ~~s. 364.02(13)~~.

619 Section 17. Subsection (3) of section 350.0605, Florida
 620 Statutes, is amended to read:

621 350.0605 Former commissioners and employees;
 622 representation of clients before commission.--

623 (3) For a period of 2 years following termination of
 624 service on the commission, a former member may not accept
 625 employment by or compensation from a business entity which,
 626 directly or indirectly, owns or controls a public utility
 627 regulated by the commission, from a public utility regulated by
 628 the commission, from a business entity which, directly or
 629 indirectly, is an affiliate or subsidiary of a public utility
 630 regulated by the commission or is an actual business competitor
 631 of a local exchange company or public utility regulated by the
 632 commission and is otherwise exempt from regulation by the
 633 commission under ss. 364.02(14) ~~364.02(13)~~ and 366.02(1), or
 634 from a business entity or trade association that has been a
 635 party to a commission proceeding within the 2 years preceding
 636 the member's termination of service on the commission. This
 637 subsection applies only to members of the Florida Public Service
 638 Commission who are appointed or reappointed after May 10, 1993.

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639 Section 18. Subsection (4) of section 364.602, Florida
640 Statutes, is amended to read:

641 364.602 Definitions.--For purposes of this part:

642 (4) "Originating party" means any person, firm,
643 corporation, or other entity, including a telecommunications
644 company or a billing clearinghouse, that provides any
645 telecommunications service or information service to a customer
646 or bills a customer through a billing party, except the term
647 "originating party" does not include any entity specifically
648 exempted from the definition of "telecommunications company" as
649 provided in s. 364.02(14) ~~s. 364.02(13)~~.

650 Section 19. Subsection (5) of section 489.103, Florida
651 Statutes, is amended to read:

652 489.103 Exemptions.--This part does not apply to:

653 (5) Public utilities, including special gas districts as
654 defined in chapter 189, telecommunications companies as defined
655 in s. 364.02(14) ~~s. 364.02(13)~~, and natural gas transmission
656 companies as defined in s. 368.103(4), on construction,
657 maintenance, and development work performed by their employees,
658 which work, including, but not limited to, work on bridges,
659 roads, streets, highways, or railroads, is incidental to their
660 business. The board shall define, by rule, the term "incidental
661 to their business" for purposes of this subsection.

662 Section 20. Nothing in this act shall be construed to
663 limit the rights of local government or the duties of providers
664 of cable service to comply with any and all requirements of
665 federal, state, or local law, including, but not limited to, 47
666 U.S.C. 541 and ss. 166.046 and 337.401, Florida Statutes.

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667 Section 21. Except as otherwise provided herein, this act
668 shall take effect July 1, 2005.