

Bill No. CS for SB 2232

Barcode 545672

CHAMBER ACTION

Senate

House

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The Committee on Commerce and Consumer Services (Aronberg)  
recommended the following amendment:

**Senate Amendment (with title amendment)**

On page 1, line 29, before "Section 1"

insert:

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

364.01 Powers of commission, legislative intent.--

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

(2) It is the legislative intent to give exclusive  
jurisdiction in all matters set forth in this chapter to the  
Florida Public Service Commission in regulating  
telecommunications companies, and such preemption shall  
supersede any local or special act or municipal charter where  
any conflict of authority may exist. However, the provisions  
of this chapter shall not affect the authority and powers  
granted in s. 166.231(9) or s. 337.401.

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1           (3) Communications activities that are not regulated  
2 by the Florida Public Service Commission, including, but not  
3 limited to, VoIP, wireless, and broadband, are subject to this  
4 state's generally applicable business regulation and deceptive  
5 trade practices and consumer protection laws, as enforced by  
6 the appropriate state authority or through actions in the  
7 judicial system. This chapter does not limit the availability  
8 to any party of any remedy or defense under state or federal  
9 antitrust laws. The Legislature finds that the competitive  
10 provision of telecommunications services, including local  
11 exchange telecommunications service, is in the public interest  
12 and will provide customers with freedom of choice, encourage  
13 the introduction of new telecommunications service, encourage  
14 technological innovation, and encourage investment in  
15 telecommunications infrastructure. The Legislature further  
16 finds that the transition from the monopoly provision of local  
17 exchange service to the competitive provision thereof will  
18 require appropriate regulatory oversight to protect consumers  
19 and provide for the development of fair and effective  
20 competition, but nothing in this chapter shall limit the  
21 availability to any party of any remedy under state or federal  
22 antitrust laws. The Legislature further finds that changes in  
23 regulations allowing increased competition in  
24 telecommunications services could provide the occasion for  
25 increases in the telecommunications workforce; therefore, it  
26 is in the public interest that competition in  
27 telecommunications services lead to a situation that enhances  
28 the high-technological skills and the economic status of the  
29 telecommunications workforce. The Legislature further finds  
30 that the provision of voice-over-Internet protocol (VOIP) free  
31 of unnecessary regulation, regardless of the provider, is in

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1 the public interest.

2 (4) The commission shall exercise its exclusive  
3 jurisdiction in order to:

4 (a) Protect the public health, safety, and welfare by  
5 ensuring that basic local telecommunications services are  
6 available to all consumers in the state at reasonable and  
7 affordable prices.

8 (b) Encourage competition through flexible regulatory  
9 treatment among providers of telecommunications services in  
10 order to ensure the availability of the widest possible range  
11 of consumer choice in the provision of all telecommunications  
12 services.

13 (c) Protect the public health, safety, and welfare by  
14 ensuring that monopoly services provided by telecommunications  
15 companies continue to be subject to effective price, rate, and  
16 service regulation.

17 (d) Promote competition by encouraging innovation and  
18 investment in new entrants into telecommunications markets and  
19 by allowing a transitional period in which new and emerging  
20 technologies ~~entrants~~ are subject to a reduced ~~lesser~~ level of  
21 regulatory oversight ~~than local exchange telecommunications~~  
22 ~~companies~~.

23 (e) Encourage all providers of telecommunications  
24 services to introduce new or experimental telecommunications  
25 services free of unnecessary regulatory restraints.

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

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

31 (h) Recognize the continuing emergence of a

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1 competitive telecommunications environment through the  
 2 flexible regulatory treatment of competitive  
 3 telecommunications services, where appropriate, if doing so  
 4 does not reduce the availability of adequate basic local  
 5 telecommunications service to all citizens of the state at  
 6 reasonable and affordable prices, if competitive  
 7 telecommunications services are not subsidized by monopoly  
 8 telecommunications services, and if all monopoly services are  
 9 available to all competitors on a nondiscriminatory basis.

10 (i) Continue its historical role as a surrogate for  
 11 competition for monopoly services provided by local exchange  
 12 telecommunications companies.

13 Section 2. Section 364.011, Florida Statutes, is  
 14 created to read:

15 364.011 Exemptions from commission jurisdiction.--The  
 16 following services are exempt from oversight by the  
 17 commission, except to the extent delineated in this chapter or  
 18 specifically authorized by federal law:

19 (1) Intrastate interexchange telecommunications  
 20 services.

21 (2) Broadband services, regardless of the provider,  
 22 platform, or protocol.

23 (3) VoIP.

24 (4) Wireless telecommunications, including commercial  
 25 mobile radio service providers.

26 Section 3. Section 364.012, Florida Statutes, is  
 27 created to read:

28 364.012 Consistency with federal law.--

29 (1) In order to promote commission coordination with  
 30 federal policymakers and regulatory agencies, the commission  
 31 shall maintain continuous liaisons with appropriate federal

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1 agencies whose policy decisions and rulemaking authority  
 2 affect those telecommunications companies over which the  
 3 commission has jurisdiction. The commission is encouraged to  
 4 participate in the proceedings of federal agencies in cases in  
 5 which the state's consumers may be affected and to convey the  
 6 commission's policy positions and information requirements in  
 7 order to achieve greater efficiency in regulation.

8       (2) This chapter does not limit or modify the duties  
 9 of a local exchange carrier to provide unbundled access to  
 10 network elements or the commission's authority to arbitrate  
 11 and enforce interconnection agreements to the extent that  
 12 those elements are required under 47 U.S.C. ss. 251 and 252,  
 13 and under any regulations issued by the Federal Communications  
 14 Commission at rates determined in accordance with the  
 15 standards established by the Federal Communications Commission  
 16 pursuant to 47 C.F.R. ss. 51.503-51.513, inclusive of any  
 17 successor regulation or successor forbearance of regulation.

18       Section 4. Section 364.013, Florida Statutes, is  
 19 created to read:

20       364.013 Emerging and advanced services.--Broadband  
 21 service and the provision of voice-over-Internet-protocol  
 22 (VoIP) shall be free of state regulation, except as delineated  
 23 in this chapter or as specifically authorized by federal law,  
 24 regardless of the provider, platform, or protocol.

25       Section 5. Section 364.02, Florida Statutes, is  
 26 amended to read:

27       364.02 Definitions.--As used in this chapter:

28       (1) "Basic local telecommunications service" means  
 29 voice-grade, flat-rate residential, and flat-rate single-line  
 30 business local exchange services which provide dial tone,  
 31 local usage necessary to place unlimited calls within a local

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1 exchange area, dual tone multifrequency dialing, and access to  
 2 the following: emergency services such as "911," all locally  
 3 available interexchange companies, directory assistance,  
 4 operator services, relay services, and an alphabetical  
 5 directory listing. For a local exchange telecommunications  
 6 company, the ~~such~~ term shall include any extended area service  
 7 routes, and extended calling service in existence or ordered  
 8 by the commission on or before July 1, 1995.

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

13 (a) Is used to provide access to the Internet; or  
 14 (b) Provides computer processing, information storage,  
 15 information content, or protocol conversion in combination  
 16 with the service.

17  
 18 The definition of broadband service does not include any  
 19 intrastate telecommunications services that have been tariffed  
 20 with the commission on or before January 1, 2005.

21 (3)(2) "Commercial mobile radio service provider"  
 22 means a commercial mobile radio service provider as defined by  
 23 and pursuant to 47 U.S.C. ss. 153(n) and 332(d).

24 (4)(3) "Commission" means the Florida Public Service  
 25 Commission.

26 (5)(4) "Competitive local exchange telecommunications  
 27 company" means any company certificated by the commission to  
 28 provide local exchange telecommunications services in this  
 29 state on or after July 1, 1995.

30 (6)(5) "Corporation" includes a corporation, company,  
 31 association, or joint stock association.

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1           ~~(7)(6)~~ "Intrastate interexchange telecommunications  
2 company" means any entity that provides intrastate  
3 interexchange telecommunications services.

4           ~~(8)(7)~~ "Local exchange telecommunications company"  
5 means any company certificated by the commission to provide  
6 local exchange telecommunications service in this state on or  
7 before June 30, 1995.

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

11           ~~(10)(9)~~ "Nonbasic service" means any  
12 telecommunications service provided by a local exchange  
13 telecommunications company other than a basic local  
14 telecommunications service, a local interconnection  
15 arrangement described in s. 364.16, or a network access  
16 service described in s. 364.163.

17           ~~(11)(10)~~ "Operator service" includes, but is not  
18 limited to, billing or completion of third-party,  
19 person-to-person, collect, or calling card or credit card  
20 calls through the use of a live operator or automated  
21 equipment.

22           ~~(12)(11)~~ "Operator service provider" means a person  
23 who furnishes operator service through a call aggregator.

24           ~~(13)(12)~~ "Service" is to be construed in its broadest  
25 and most inclusive sense. The term "service" does not include  
26 broadband service or voice-over-Internet protocol service for  
27 purposes of regulation by the commission. Nothing herein shall  
28 affect the rights and obligations of any entity related to the  
29 payment of switched network access rates or other intercarrier  
30 compensation, if any, related to voice-over-Internet protocol  
31 service. Notwithstanding the provisions of section 364.013,

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1 Florida Statutes, and the exemption of services pursuant to  
 2 this subsection, the commission may arbitrate, enforce, or  
 3 approve interconnection agreements, and resolve disputes as  
 4 provided by 47 U.S.C. ss. 251 and 252, or any other applicable  
 5 federal law or regulation. With respect to the services  
 6 exempted in this subsection, regardless of the technology, the  
 7 duties of a local exchange telecommunications company are only  
 8 those that the company is obligated to extend or provide under  
 9 applicable federal law and regulations.

10       ~~(14)~~(13) "Telecommunications company" includes every  
 11 corporation, partnership, and person and their lessees,  
 12 trustees, or receivers appointed by any court whatsoever, and  
 13 every political subdivision in the state, offering two-way  
 14 telecommunications service to the public for hire within this  
 15 state by the use of a telecommunications facility. The term  
 16 "telecommunications company" does not include:

17           (a) An entity which provides a telecommunications  
 18 facility exclusively to a certificated telecommunications  
 19 company;

20           (b) An entity which provides a telecommunications  
 21 facility exclusively to a company which is excluded from the  
 22 definition of a telecommunications company under this  
 23 subsection;

24           (c) A commercial mobile radio service provider;

25           (d) A facsimile transmission service;

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

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

30           (g) An intrastate interexchange telecommunications  
 31 company.



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1  
2 However, each commercial mobile radio service provider and  
3 each intrastate interexchange telecommunications company shall  
4 continue to be liable for any taxes imposed under ~~pursuant to~~  
5 chapters 202, 203, and 212 and any fees assessed under  
6 ~~pursuant to~~ ss. 364.025 and 364.336. Each intrastate  
7 interexchange telecommunications company shall continue to be  
8 subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285,  
9 364.501, 364.603, and 364.604, shall provide the commission  
10 with such current information as the commission deems  
11 necessary to contact and communicate with the company, shall  
12 continue to pay intrastate switched network access rates or  
13 other intercarrier compensation to the local exchange  
14 telecommunications company or the competitive local exchange  
15 telecommunications company for the origination and termination  
16 of interexchange telecommunications service, and shall reduce  
17 its intrastate long distance toll rates in accordance with s.  
18 364.163(2).

19 ~~(15)(14)~~ "Telecommunications facility" includes real  
20 estate, easements, apparatus, property, and routes used and  
21 operated to provide two-way telecommunications service to the  
22 public for hire within this state.

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

25 Section 6. Section 364.0361, Florida Statutes, is  
26 amended to read:

27 364.0361 Local government authority; nondiscriminatory  
28 exercise.--A local government shall treat each  
29 telecommunications company in a nondiscriminatory manner when  
30 exercising its authority to grant franchises to a  
31 telecommunications company or to otherwise establish

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1 conditions or compensation for the use of rights-of-way or  
 2 other public property by a telecommunications company. A local  
 3 government may not directly or indirectly regulate the terms  
 4 and conditions, including, but not limited to, the operating  
 5 systems, qualifications, services, service quality, service  
 6 territory, and prices, applicable to or in connection with the  
 7 provision of any voice-over-Internet protocol, broadband or  
 8 information service, regardless of the platform, provider, or  
 9 protocol. This section does not relieve a provider from any  
 10 obligations under s. 166.046 or s. 337.401.

11 Section 7. Paragraph (a) of subsection (3) of section  
 12 364.10, Florida Statutes, is amended to read:

13 364.10 Undue advantage to person or locality  
 14 prohibited; Lifeline service.--

15 (3)(a) Effective September 1, 2003, any local exchange  
 16 telecommunications company authorized by the commission to  
 17 reduce its switched network access rate under ~~pursuant to~~ s.  
 18 364.164 shall have tariffed and shall provide Lifeline service  
 19 to any otherwise eligible customer or potential customer who  
 20 meets an income eligibility test at 135 ~~125~~ percent or less of  
 21 the federal poverty income guidelines for Lifeline customers.  
 22 ~~The~~ ~~Such a~~ test for eligibility must augment, rather than  
 23 replace, the eligibility standards established by federal law  
 24 and based on participation in certain low-income assistance  
 25 programs. Each intrastate interexchange telecommunications  
 26 company shall, effective September 1, 2003, file a tariff  
 27 providing at a minimum the intrastate interexchange  
 28 telecommunications carrier's current Lifeline benefits and  
 29 exemptions to Lifeline customers who meet the income  
 30 eligibility test set forth in this subsection. The Office of  
 31 Public Counsel shall certify and maintain claims submitted by

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1 a customer for eligibility under the income test authorized by  
2 this subsection.

3 Section 8. Section 364.502, Florida Statutes, is  
4 repealed.

5 Section 9. Subsection (1) of section 364.335, Florida  
6 Statutes, is amended to read:

7 364.335 Application for certificate.--

8 (1) Each applicant for a certificate shall:

9 (a) Provide all information required by rule or order  
10 of the commission, which may include a detailed inquiry into  
11 the ability of the applicant to provide service, a detailed  
12 inquiry into the territory and facilities involved, and a  
13 detailed inquiry into the existence of service from other  
14 sources within geographical proximity to the territory applied  
15 for.

16 (b) File with the commission schedules showing all  
17 rates for service of every kind furnished by it and all rules  
18 and contracts relating to such service.

19 (c) File the application fee required by the  
20 commission in an amount not to exceed ~~\$500~~<sup>\$250</sup>. Such fees  
21 shall be deposited in accordance with s. 350.113.

22 (d) Submit an affidavit that the applicant has caused  
23 notice of its application to be given to such persons and in  
24 such manner as may be prescribed by commission rule.

25 Section 10. Section 364.336, Florida Statutes, is  
26 amended to read:

27 364.336 Regulatory assessment fees.--Notwithstanding  
28 any provisions of law to the contrary, each telecommunications  
29 company licensed or operating under this chapter, for any part  
30 of the preceding 6-month period, shall pay to the commission,  
31 within 30 days following the end of each 6-month period, a fee

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1 that may not exceed 0.25 percent annually of its gross  
2 operating revenues derived from intrastate business, except,  
3 for purposes of this section and the fee specified in s.  
4 350.113(3), any amount paid to another telecommunications  
5 company for the use of any telecommunications network shall be  
6 deducted from the gross operating revenue for purposes of  
7 computing the fee due. The commission shall by rule assess a  
8 minimum fee in an amount up to \$1,000. The minimum amount may  
9 vary depending on the type of service provided by the  
10 telecommunications company, and shall, to the extent  
11 practicable, be related to the cost of regulating such type of  
12 company. Differences, if any, between the amount paid in any  
13 6-month period and the amount actually determined by the  
14 commission to be due shall, upon motion by the commission, be  
15 immediately paid or refunded. Fees under this section may not  
16 be less than \$50 annually. Such fees shall be deposited in  
17 accordance with s. 350.113. The commission may by rule  
18 establish criteria for payment of the regulatory assessment  
19 fee on an annual basis rather than on a semiannual basis.

20 Section 11. Subsection (6) of section 196.012, Florida  
21 Statutes, is amended to read:

22 196.012 Definitions.--For the purpose of this chapter,  
23 the following terms are defined as follows, except where the  
24 context clearly indicates otherwise:

25 (6) Governmental, municipal, or public purpose or  
26 function shall be deemed to be served or performed when the  
27 lessee under any leasehold interest created in property of the  
28 United States, the state or any of its political subdivisions,  
29 or any municipality, agency, special district, authority, or  
30 other public body corporate of the state is demonstrated to  
31 perform a function or serve a governmental purpose which could

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1 properly be performed or served by an appropriate governmental  
2 unit or which is demonstrated to perform a function or serve a  
3 purpose which would otherwise be a valid subject for the  
4 allocation of public funds. For purposes of the preceding  
5 sentence, an activity undertaken by a lessee which is  
6 permitted under the terms of its lease of real property  
7 designated as an aviation area on an airport layout plan which  
8 has been approved by the Federal Aviation Administration and  
9 which real property is used for the administration, operation,  
10 business offices and activities related specifically thereto  
11 in connection with the conduct of an aircraft full service  
12 fixed base operation which provides goods and services to the  
13 general aviation public in the promotion of air commerce shall  
14 be deemed an activity which serves a governmental, municipal,  
15 or public purpose or function. Any activity undertaken by a  
16 lessee which is permitted under the terms of its lease of real  
17 property designated as a public airport as defined in s.  
18 332.004(14) by municipalities, agencies, special districts,  
19 authorities, or other public bodies corporate and public  
20 bodies politic of the state, a spaceport as defined in s.  
21 331.303(19), or which is located in a deepwater port  
22 identified in s. 403.021(9)(b) and owned by one of the  
23 foregoing governmental units, subject to a leasehold or other  
24 possessory interest of a nongovernmental lessee that is deemed  
25 to perform an aviation, airport, aerospace, maritime, or port  
26 purpose or operation shall be deemed an activity that serves a  
27 governmental, municipal, or public purpose. The use by a  
28 lessee, licensee, or management company of real property or a  
29 portion thereof as a convention center, visitor center, sports  
30 facility with permanent seating, concert hall, arena, stadium,  
31 park, or beach is deemed a use that serves a governmental,

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1 municipal, or public purpose or function when access to the  
2 property is open to the general public with or without a  
3 charge for admission. If property deeded to a municipality by  
4 the United States is subject to a requirement that the Federal  
5 Government, through a schedule established by the Secretary of  
6 the Interior, determine that the property is being maintained  
7 for public historic preservation, park, or recreational  
8 purposes and if those conditions are not met the property will  
9 revert back to the Federal Government, then such property  
10 shall be deemed to serve a municipal or public purpose. The  
11 term "governmental purpose" also includes a direct use of  
12 property on federal lands in connection with the Federal  
13 Government's Space Exploration Program or spaceport activities  
14 as defined in s. 212.02(22). Real property and tangible  
15 personal property owned by the Federal Government or the  
16 Florida Space Authority and used for defense and space  
17 exploration purposes or which is put to a use in support  
18 thereof shall be deemed to perform an essential national  
19 governmental purpose and shall be exempt. "Owned by the  
20 lessee" as used in this chapter does not include personal  
21 property, buildings, or other real property improvements used  
22 for the administration, operation, business offices and  
23 activities related specifically thereto in connection with the  
24 conduct of an aircraft full service fixed based operation  
25 which provides goods and services to the general aviation  
26 public in the promotion of air commerce provided that the real  
27 property is designated as an aviation area on an airport  
28 layout plan approved by the Federal Aviation Administration.  
29 For purposes of determination of "ownership," buildings and  
30 other real property improvements which will revert to the  
31 airport authority or other governmental unit upon expiration

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1 of the term of the lease shall be deemed "owned" by the  
 2 governmental unit and not the lessee. Providing two-way  
 3 telecommunications services to the public for hire by the use  
 4 of a telecommunications facility, as defined in s. 364.02(15)  
 5 ~~s. 364.02(14)~~, and for which a certificate is required under  
 6 chapter 364 does not constitute an exempt use for purposes of  
 7 s. 196.199, unless the telecommunications services are  
 8 provided by the operator of a public-use airport, as defined  
 9 in s. 332.004, for the operator's provision of  
 10 telecommunications services for the airport or its tenants,  
 11 concessionaires, or licensees, or unless the  
 12 telecommunications services are provided by a public hospital.  
 13 However, property that is being used to provide such  
 14 telecommunications services on or before October 1, 1997,  
 15 shall remain exempt, but such exemption expires October 1,  
 16 2004.

17 Section 12. Paragraph (b) of subsection (1) of section  
 18 199.183, Florida Statutes, is amended to read:

19 199.183 Taxpayers exempt from annual and nonrecurring  
 20 taxes.--

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

25 (b) Property related to the provision of two-way  
 26 telecommunications services to the public for hire by the use  
 27 of a telecommunications facility, as defined in s. 364.02(15)  
 28 ~~s. 364.02(14)~~, and for which a certificate is required under  
 29 chapter 364, when the ~~such~~ service is provided by any county,  
 30 municipality, or other political subdivision of the state. Any  
 31 immunity of any political subdivision of the state or other

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1 entity of local government from taxation of the property used  
 2 to provide telecommunication services that is taxed as a  
 3 result of this paragraph is hereby waived. However, intangible  
 4 personal property related to the provision of ~~such~~  
 5 telecommunications services provided by the operator of a  
 6 public-use airport, as defined in s. 332.004, for the  
 7 operator's provision of telecommunications services for the  
 8 airport or its tenants, concessionaires, or licensees, and  
 9 intangible personal property related to the provision of ~~such~~  
 10 telecommunications services provided by a public hospital, are  
 11 exempt from taxation under this chapter.

12 Section 13. Subsection (6) of section 212.08, Florida  
 13 Statutes, is amended to read:

14 212.08 Sales, rental, use, consumption, distribution,  
 15 and storage tax; specified exemptions.--The sale at retail,  
 16 the rental, the use, the consumption, the distribution, and  
 17 the storage to be used or consumed in this state of the  
 18 following are hereby specifically exempt from the tax imposed  
 19 by this chapter.

20 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are  
 21 also exempt from the tax imposed by this chapter sales made to  
 22 the United States Government, a state, or any county,  
 23 municipality, or political subdivision of a state when payment  
 24 is made directly to the dealer by the governmental entity.  
 25 This exemption shall not inure to any transaction otherwise  
 26 taxable under this chapter when payment is made by a  
 27 government employee by any means, including, but not limited  
 28 to, cash, check, or credit card when that employee is  
 29 subsequently reimbursed by the governmental entity. This  
 30 exemption does not include sales of tangible personal property  
 31 made to contractors employed either directly or as agents of



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1 any such government or political subdivision thereof when such  
2 tangible personal property goes into or becomes a part of  
3 public works owned by such government or political  
4 subdivision. A determination whether a particular transaction  
5 is properly characterized as an exempt sale to a government  
6 entity or a taxable sale to a contractor shall be based on the  
7 substance of the transaction rather than the form in which the  
8 transaction is cast. The department shall adopt rules that  
9 give special consideration to factors that govern the status  
10 of the tangible personal property before its affixation to  
11 real property. In developing these rules, assumption of the  
12 risk of damage or loss is of paramount consideration in the  
13 determination. This exemption does not include sales, rental,  
14 use, consumption, or storage for use in any political  
15 subdivision or municipality in this state of machines and  
16 equipment and parts and accessories therefor used in the  
17 generation, transmission, or distribution of electrical energy  
18 by systems owned and operated by a political subdivision in  
19 this state for transmission or distribution expansion.  
20 Likewise exempt are charges for services rendered by radio and  
21 television stations, including line charges, talent fees, or  
22 license fees and charges for films, videotapes, and  
23 transcriptions used in producing radio or television  
24 broadcasts. The exemption provided in this subsection does not  
25 include sales, rental, use, consumption, or storage for use in  
26 any political subdivision or municipality in this state of  
27 machines and equipment and parts and accessories therefor used  
28 in providing two-way telecommunications services to the public  
29 for hire by the use of a telecommunications facility, as  
30 defined in s. 364.02(15) ~~s. 364.02(14)~~, and for which a  
31 certificate is required under chapter 364, which facility is

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1 owned and operated by any county, municipality, or other  
 2 political subdivision of the state. Any immunity of any  
 3 political subdivision of the state or other entity of local  
 4 government from taxation of the property used to provide  
 5 telecommunication services that is taxed as a result of this  
 6 section is hereby waived. However, the exemption provided in  
 7 this subsection includes transactions taxable under this  
 8 chapter which are for use by the operator of a public-use  
 9 airport, as defined in s. 332.004, in providing such  
 10 telecommunications services for the airport or its tenants,  
 11 concessionaires, or licensees, or which are for use by a  
 12 public hospital for the provision of such telecommunications  
 13 services.

14 Section 14. Subsection (8) of section 290.007, Florida  
 15 Statutes, is amended to read:

16 290.007 State incentives available in enterprise  
 17 zones.--The following incentives are provided by the state to  
 18 encourage the revitalization of enterprise zones:

19 (8) Notwithstanding any law to the contrary, the  
 20 Public Service Commission may allow public utilities and  
 21 telecommunications companies to grant discounts of up to 50  
 22 percent on tariffed rates for services to small businesses  
 23 located in an enterprise zone designated pursuant to s.  
 24 290.0065. Such discounts may be granted for a period not to  
 25 exceed 5 years. For purposes of this subsection, the term  
 26 "public utility" has the same meaning as in s. 366.02(1) and  
 27 the term "telecommunications company" has the same meaning as  
 28 in s. 364.02(14) ~~s. 364.02(13)~~.

29 Section 15. Subsection (3) of section 350.0605,  
 30 Florida Statutes, is amended to read:

31 350.0605 Former commissioners and employees;

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1 representation of clients before commission.--

2 (3) For a period of 2 years following termination of  
3 service on the commission, a former member may not accept  
4 employment by or compensation from a business entity which,  
5 directly or indirectly, owns or controls a public utility  
6 regulated by the commission, from a public utility regulated  
7 by the commission, from a business entity which, directly or  
8 indirectly, is an affiliate or subsidiary of a public utility  
9 regulated by the commission or is an actual business  
10 competitor of a local exchange company or public utility  
11 regulated by the commission and is otherwise exempt from  
12 regulation by the commission under ss. 364.02(14) ~~364.02(13)~~  
13 and 366.02(1), or from a business entity or trade association  
14 that has been a party to a commission proceeding within the 2  
15 years preceding the member's termination of service on the  
16 commission. This subsection applies only to members of the  
17 Florida Public Service Commission who are appointed or  
18 reappointed after May 10, 1993.

19 Section 16. Subsection (4) of section 364.602, Florida  
20 Statutes, is amended to read:

21 364.602 Definitions.--For purposes of this part:

22 (4) "Originating party" means any person, firm,  
23 corporation, or other entity, including a telecommunications  
24 company or a billing clearinghouse, that provides any  
25 telecommunications service or information service to a  
26 customer or bills a customer through a billing party, except  
27 the term "originating party" does not include any entity  
28 specifically exempted from the definition of  
29 "telecommunications company" as provided in s. 364.02(14) ~~s.~~  
30 ~~364.02(13)~~.

31 Section 17. Subsection (5) of section 489.103, Florida

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1 Statutes, is amended to read:

2 489.103 Exemptions.--This part does not apply to:

3 (5) Public utilities, including special gas districts

4 as defined in chapter 189, telecommunications companies as

5 defined in s. 364.02(14) ~~s. 364.02(13)~~ and natural gas

6 transmission companies as defined in s. 368.103(4), on

7 construction, maintenance, and development work performed by

8 their employees, which work, including, but not limited to,

9 work on bridges, roads, streets, highways, or railroads, is

10 incidental to their business. The board shall define, by rule,

11 the term "incidental to their business" for purposes of this

12 subsection.

13 Section 18. Nothing in this act shall be construed to

14 limit the rights of local government or the duties of

15 providers of cable service to comply with any and all

16 requirements of federal, state, or local law, pertaining to

17 the provision of cable service.

18

19 (Redesignate subsequent sections.)

20

21

22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 On page 1, lines 1 & 2, delete "the regulation of  
25 telephone rates;"

26

27 and insert:

28

A bill to be entitled

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An act relating to telecommunications; amending

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s. 364.01, F.S.; specifying the exclusive

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jurisdiction of the Florida Public Service

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1 Commission to regulate telecommunications  
2 companies; providing that state laws governing  
3 business and consumer protection be applied to  
4 communications activities that are not  
5 regulated by the commission; revising  
6 provisions governing the exclusive jurisdiction  
7 of the commission; creating s. 364.011, F.S.;  
8 specifying certain services that are exempt  
9 from oversight by the commission; creating s.  
10 364.012, F.S.; requiring the commission to  
11 coordinate with federal agencies; providing  
12 that ch. 364, F.S., does not limit or modify  
13 certain duties of a local exchange carrier;  
14 creating s. 364.013, F.S.; requiring that  
15 broadband service remain free of state and  
16 local regulation; requiring that  
17 voice-over-Internet protocol remain free of  
18 regulation, except as specifically provided in  
19 ch. 364, F.S., or by federal law; amending s.  
20 364.02, F.S.; defining the terms "broadband  
21 service" and "VoIP"; redefining the term  
22 "service"; amending s. 364.0361, F.S.;  
23 prohibiting a local government from regulating  
24 voice-over-Internet protocol regardless of the  
25 platform or provider; amending s. 364.10, F.S.;  
26 revising the income threshold for eligibility  
27 for Lifeline service; repealing s. 364.502,  
28 F.S., relating to video programming services;  
29 amending s. 364.335, F.S.; increasing to \$500  
30 from \$250 the maximum allowable filing fee for  
31 certification of telecommunications carriers;

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1 amending s. 364.336, F.S.; authorizing the  
2 Public Service Commission to establish a  
3 minimum fee of up to \$1,000; authorizing  
4 different fees for different types of services  
5 provided by telecommunications companies;  
6 amending ss. 196.012, 199.183, 212.08, 290.007,  
7 350.0605, 364.602, and 489.103, F.S.;  
8 conforming cross-references; requiring  
9 providers to comply with certain laws;

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