HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 313 Lifeline Telecommunications Service
SPONSOR(S): Bullard
TIED BILLS: **IDEN./SIM. BILLS:** SB 158

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee		Cater	Holt
2) Future of Florida's Families Committee			
3) Transportation & Economic Development Appropriations Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The bill amends s. 364.10(2), F.S., relating to Lifeline telecommunications service for low-income consumers. The bill requires local exchange telecommunications companies (LECs) to offer consumers who apply for or receive Lifeline the option to block all toll calls, or if technically capable, place a limit on the amount of toll calls a consumer can make. The LEC may not charge the customer an administrative charge or other fee for blocking the service.

The bill provides that a LEC may not discontinue basic local telephone service to a consumer who receives Lifeline due to nonpayment of other charges billed by the LEC.

The bill allows that a LEC may block a Lifeline participant's access to all long-distance services when the participant owes an outstanding amount for long-distance service. The LEC must remove the block without additional cost to the participant on payment of the outstanding amount.

The bill requires that by December 31, 2005, each state agency providing benefits to persons eligible for Lifeline shall undertake, in cooperation with the Department of Children and Family Services (DCF) the Public Service Commission (PSC), and the Office of Public Council (OPC), and telecommunications companies providing Lifeline service, to develop procedures to promote Lifeline participation.

The bill requires that when a state agency determines that a person is eligible for Lifeline service, the agency must ensure that the person is automatically enrolled in the Lifeline service with the appropriate LEC.

The bill requires the PSC, DCF, and OPC to enter into a memorandum of understanding to establish their respective duties in relation to the automatic enrollment in Lifeline.

The bill requires the PSC to establish rules to relating to the LECs not discontinuing basic local service to Lifeline customers because of nonpayment of other services. The PSC is also required to adopt rules providing for an automatic enrollment process for Lifeline.

While there will be costs associated with automatic enrollment for Lifeline, the cost is unavailable at this time.

This act shall take effect on July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to advance any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background

Lifeline is part of the federal Universal Service program[1] and is designed to enable low-income households to afford basic local telephone service. Under the Federal Communications Commission's (FCC) rules, there are four tiers on monthly federal Lifeline Support, which are:

- A federal support credit for the federal subscriber line charge, which is available to all eligible subscribers. In Florida this credit is either $6.45 or $6.50, depending on your LEC.
- A federal support credit of $1.75 that is available to all subscribers in those states that have approved the credit. Florida has approved this tier of support.
- Federal support of one-half the amount of additional state support up to a maximum of $1.75 in federal support. Since Florida carriers provide an additional $3.50 credit to Lifeline customers' bills, Florida subscribers receive a monthly credit of up to $13.50. Since Florida does not have a state universal service fund, the $3.50 state credit is absorbed by the local exchange telecommunications company (LEC) providing service.
- An additional credit of up to $25 per month is available only to eligible subscribers living on tribal lands.[2]

In Florida, a customer's eligibility for Lifeline is determined by a subscriber's enrollment in any one of the following programs:

- Temporary Assistance to Needy Families (TANF)
- Supplemental Security Income
- Food Stamps
- Medicaid
- Federal Public Housing Assistance (Section 8)
- Low-Income Home Energy Assistance Plan (LIHEAP)
- Bureau of Indian Affairs Programs.

In 2001, the PSC approved settlement between BellSouth and OPC where BellSouth expanded Lifeline eligibility to its subscribers whose annual incomes are up to 125 percent of the Federal Poverty Guidelines (FPG). As a result of "The Tele-Competition Innovation and Infrastructure Enhancement Act of 2003" (the 2003 Act), any local exchange company authorized by the PSC to reduce its switched network access rates pursuant to s. 364.164, F.S, shall provide Lifeline service to customers who meet an income eligibility test at 125 percent or less of the FPG.[3] While PSC Order approving the petitions is currently on appeal at the Florida Supreme Court, BellSouth, Sprint, and Verizon currently have tariffs on file with the PSC with the criteria of 125 percent or less of the FPC.[4] At this time, pursuant to s. 364.10(3)(a), F.S., the OPC certifies and maintains claims submitted by a customer for eligibility under the income test.

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[1] In addition to Lifeline for low-income consumers, the Universal Service program also provides support for high cost areas, rural health care, and schools and libraries.
[2] Florida Public Service Commission *Report on the Number of Customers Subscribing to Lifeline Service and the Effectiveness of any Procedures to Promote Participation.*, December 2004. (*PSC Lifeline Report*)
[3] s. 364.164(3)(a), F.S.
[4] *PSC Lifeline Report*

The 2003 Act required, by December 31, 2003, that each state agency that provides benefits to persons eligible for Lifeline undertake, in cooperation with the DCF, the PSC, and telecommunications companies providing Lifeline, to develop procedures to promote Lifeline participation.[5]

While several state agencies are involved in administering programs that provide benefits to those eligible for Lifeline, DCF is the only state agency that determines eligibility and provides these benefits directly to citizens. According to DCF, its current eligibility notice to clients informs them that they may be eligible for Lifeline. These notification procedures have streamlined eligibility verification and the enrollment process with the LECs.[6]

On April 29, 2004, the FCC released its Report and Order, and Further Notice of Proposed Rule Making regarding Lifeline and Link-UP. In that Order, the FCC, in part, 1) added TANF and the National School Lunch program to the program-based eligibility criteria; and 2) added an income-based eligibility criterion of 135 percent of the FPG. The PSC established Docket No. 040604-TP to adopt the National School Lunch (NSL) program and the 135 percent FPG. In this docket, the parties have entered into a settlement agreement where BellSouth, Sprint, and Verizon will file tariffs implementing a simplified certification process where an eligible consumer would be allowed to enroll in Lifeline by signing a document certifying "under penalty of perjury" the customer participates in one of the Florida Lifeline eligible programs and identify the program. This process is on a trial basis and the Docket No. 040604-TP is held in abeyance for at least one year from the effective date of the tariffs. Additionally, after six-months or the Florida Supreme Court's ruling on the appeals of the network access rate docket pursuant to s. 364.164, F.S., whichever is earlier, the issue of adding the NSL program and the income-based criterion on 135 percent of the federal poverty guideline as eligibility criteria will be revisited.[7]

Based on the PSC's December 2004 *Lifeline Report*, as December 2003, which is prior to the income criteria being approved, the Lifeline participation rate was approximately 18 percent (148,905 enrolled, 819,112 eligible households). After the income eligibility criteria went into effect, the September 2004, Lifeline Participation rate was approximately 14 percent (154,017 enrolled, 1,100,000 eligible households).

<u>Proposed Changes</u>

The bill amends s. 364.10, F.S., relating to Lifeline Service.

The bill creates 364.10(2)(b), F.S., where a LEC shall offer a consumer who applies for or receives Lifeline services the option of blocking all toll calls, or if technically capable, placing a limit on the number of toll calls a consumer can make. The LEC is prohibited from charging a Lifeline customer an administrative charge or other additional fee for blocking the service. Currently, pursuant to PSC Order No. PSC-99-2503-PAA-TL, LECs may require toll blocking for Lifeline customers with unpaid toll balances. The LECs may also require payment of all unpaid balances and an adequate deposit prior to the removal of toll blocking. The LECs are currently permitted to charge for mandatory toll blocking imposed on Lifeline customers.

Section 364.10(3)(c)2 F.S., is created where a LEC may not discontinue a Lifeline customer's basic local telephone service due to nonpayment of charges for other services billed by the telecommunications company, including long-distance service. The PSC shall adopt rules to administer this subparagraph.

New s. 364.10(3)(c)3, F.S., is created to allow a LEC to block a Lifeline participant's access to all long-distance service except toll-free numbers when the participant owes an outstanding amount for long-distance service. On payment of the outstanding amount, the LEC shall remove the block without

[5] s. 364.10(3)(2)
[6] *PSC Lifeline Report*
[7] PSC Order No. PSC-05-0153-AS-TL

additional cost to the participant. At this time, s. 364.604(4), F.S., prohibits billing parties from disconnecting a customer's Lifeline service of the charges, taxes, and fees applicable to basic local exchange telecommunications. The PSC has interpreted this to mean that nonpayment of toll or ancillary services is not grounds for disconnecting a Lifeline customer's local service.[8]

Section 364.10(3)(d)1, F.S., is revised to change the deadline, from December 31, 2003, to December 31, 2005, for state agencies providing benefits to persons eligible for Lifeline to develop procedures for Lifeline participation. Additionally agencies are now required to work in cooperation with OPC along with the DCF, the PSC, and telecommunication companies providing Lifeline.

Section 364.10(3)(d)2, F.S. is created to require that whenever a state agency determines that a person is eligible for Lifeline service, the agency must immediately ensure that the person is automatically enrolled in the Lifeline service with the appropriate local exchange telecommunications company. The PSC is required to adopt rules providing for an automatic enrollment process in order that eligible customer receive Lifeline service.

Section 364.10(2)(d)2, F.S., is created to require the PSC, the DCF, and the OPC to enter into a memorandum of understanding establishing their respective duties in the automatic enrollment of Lifeline.

This act shall take effect July 1, 2005.

C. SECTION DIRECTORY:

Section 1. Amends s. 364.10, F.S., regarding Lifeline service.

Section 2: This act shall take effect July 1, 2005

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   According to the PSC any workload required by this bill can be addressed with its current staff.

   The costs associated with developing an automatic enrollment program for Lifeline are not available at this time, but in 2003, the Legislative Budget Commission approved an expenditure of $130,050,[9] for DCF to modify its procedures and systems for the eligibility notice generated by its FLORIDA system to advise clients about Lifeline.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

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[8] PSC Order No. PSC-99-2503-PAA-TL

[9] The $130,050 is from a fiscal year 2001-2002 appropriation of $500,000 from the PSC's Regulatory Trust Fund to DCF for Lifeline Enrollment. These funds were to be released upon approval of an expenditure plan by the Legislative Budget Commission.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Additional subscribers will be enrolled in the Lifeline program, and the LECs will lose revenue of $3.50 per month for each Lifeline subscribe that is enrolled through automatic enrollment.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The PSC is required to adopt rules to administer s. 364.10(3)(c)2, relating to a LEC not being able to discontinue local service to Lifeline consumers due to nonpayment of other services billed by the telecommunications company.

In s. 364.10(3)(d)2, F.S., the PSC is required to adopt rules providing for an automatic enrollment process in order that eligible customers to receive Lifeline service.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On line 47, it is not clear if it is meant that the local exchange telecommunications company places a limit on the physical number of toll calls or the dollar value of the toll calls a consumer can make.

The bill refers to a local exchange telecommunications company's requirements in the automatic enrollment of Lifeline service. This language does not provide for the provisioning of Lifeline service from other Eligible Telecommunications Carriers (ETCs). Section 214(e) of the Telecommunications Act of 1996[10] addresses the provision of Universal Service. Section 214(e)(2) provides for designation of eligible telecommunications carriers. Currently several wireless providers have received ETC in Florida from the FCC[11], and the PSC has voted to grant Knology of Florida, Inc.'s petition for ETC designation in five wire centers.[12] Additionally, there are petitions requesting ETC designation pending at the PSC.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

[10] 47 U.S.C. 214(e)

[11] In Order No. PSC-03-1063-DS-TP, the PSC determined that since ch. 364, F.S. specifically excludes commercial radio service (wireless) providers from its definition of "telecommunications company" it lacks jurisdiction over these providers for purposes of ETC status pursuant to 47 U.S.C. s. 214(e); therefore these providers must go to the FCC in order to receive ETC status in Florida.

[12] Docket No. 041302-TX; the PSC voted on this petition on March 1, 2005. The written order has yet to be issued.