

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Commerce and Tourism Committee

BILL: CS/CS/SB 1524

INTRODUCER: Commerce and Tourism Committee, Communications, Energy, and Public Utilities Committee, and Senator Simmons

SUBJECT: Telecommunications

DATE: March 29, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Carter	CU	Fav/CS
2.	Hrdlicka	Cooper	CM	Fav/CS
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Speaking broadly, the effect of the bill is to:

- Complete retail deregulation of wireline telecommunication services by repealing the statutes that:
 - require price regulation;
 - require companies to provide a flat-rate pricing option for basic local telecommunications service;
 - prohibit charging any price other than that in the scheduled rate tariff; and
 - authorize the Public Service Commission to engage in specified consumer protection activities.
- Maintain the role of the Public Service Commission in resolving wholesale disputes between service providers.

The bill substantially amends the following sections of the Florida Statutes: 364.01, 364.011, 364.012, 364.0135, 364.02, 364.04, 364.10, 364.16, 364.163, 364.183, 364.33, 364.335, 364.3375, 364.385, 364.386, 196.012(6), 199.183(1)(b), 212.08(6), 290.007(8), 350.0605(3), 364.105, 364.32, and 489.103(5).

It also repeals the following sections of the Florida Statutes: 364.025, 364.0251, 364.0252, 364.051, 364.052, 364.057, 364.058, 364.059, 364.06, 364.063, 364.07, 364.08, 364.15, 364.161, 364.162, 364.185, 364.19, 364.27, 364.337, 364.3376, 364.3381, 364.3382, 364.339, 364.345, 364.37, 364.501, 364.503, 364.506, 364.507, 364.508, 364.515, 364.516, 364.601, 364.602, 364.603, and 364.604.

II. Present Situation:

Chapter 364, F.S., provides for regulation of wireline telecommunications companies. Deregulation of the industry began in Florida in 1995. At that time, wireline voice communication services were only being offered by the incumbent local exchange companies. New providers could enter the market by three methods: a purchase and resale of a portion of an incumbent's systems and services; a lease of some of these systems; or construction of their own systems. With deregulation, various statutory protections were enacted for consumers and new market entrants, including requirements for a universal service fund, the carrier-of-last-resort obligation of each incumbent, and a rate structure that encourages competition while protecting all parties. As the market developed, changes were made to these and other statutes to provide further encouragement for competition and to continue or expand protections.

Still, little competition developed until improvements in technology allowed the transmission of different types of communications services (voice, video, and data) on one delivery system. As these technologies converged, service providers began to offer bundled services, providing all three types of communications services to a customer on one network, with one contract and one price. This became the standard industry practice for providers that had traditionally provided only one form of communication service, either voice, video (cable), or data (internet). With this convergence, additional statutory changes were necessary, notably further deregulation of wireline voice communication and changes to its rate structure, the creation of a state system for obtaining a franchise for video services to replace local franchises, and the deletion or repeal of provisions that became obsolete or unnecessary.

III. Effect of Proposed Changes:

Speaking broadly, the effect of the bill is to:

- Complete retail deregulation of wireline telecommunication services by repealing the statutes that: require price regulation; require companies to provide a flat-rate pricing option for basic local telecommunications service; prohibit charging any price other than that in the scheduled rate tariff; and authorize the Public Service Commission (PSC) to engage in specified consumer protection activities.
- Maintain the role of the PSC in resolving wholesale disputes between service providers.

Section 1 names the act the "Regulatory Reform Act."

Section 2 amends s. 364.01, F.S., to delete language directing the PSC to exercise its exclusive jurisdiction to:

- Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.

- Encourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services.
- Protect the public health, safety, and welfare by ensuring that monopoly services provided by telecommunications companies continue to be subject to effective price, rate, and service regulation.
- Promote competition by encouraging innovation and investment in telecommunications markets and by allowing a transitional period in which new and emerging technologies are subject to a reduced level of regulatory oversight.
- Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory restraints.
- Eliminate any rules or regulations which will delay or impair the transition to competition.
- Ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint.
- Recognize the continuing emergence of a competitive telecommunications environment through the flexible regulatory treatment of competitive telecommunications services, where appropriate, if doing so does not reduce the availability of adequate basic local telecommunications service to all citizens of the state at reasonable and affordable prices, if competitive telecommunications services are not subsidized by monopoly telecommunications services, and if all monopoly services are available to all competitors on a nondiscriminatory basis.
- Continue its historical role as a surrogate for competition for monopoly services provided by local exchange telecommunications companies.

Section 3 amends s. 364.011, F.S., which provides exclusions from PSC jurisdiction. The bill adds to the list of exempt services both basic services and nonbasic services, including comparable services offered by any telecommunications company. Basic service is voice-grade, single-line, flat-rate residential local exchange service that provides dial tone, local usage necessary to place unlimited calls within a local exchange area, dual-tone multifrequency dialing, and access to the following: emergency services such as “911,” all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange telecommunications company, the term includes any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.¹ Nonbasic service is any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection arrangement, or a network access service. Any combination of basic service along with a nonbasic service or an unregulated service is nonbasic service.²

Section 4 amends s. 364.012, F.S., to change the term local exchange carrier to local exchange telecommunications company, presumably to distinguish telecommunications companies from other voice service providers.

¹ s. 364.02(1), F.S.

² s. 364.02(10), F.S.

Section 5 amends s. 364.0135, F.S., to create a definition for the term “sustainable adoption” of broadband services, meaning the ability for communications service providers to offer broadband services in all areas of the state by encouraging adoption and utilization levels that allow for these services to be offered in the free market absent the need for governmental subsidy.

Section 6 amends s. 364.02, F.S., on definitions to:

- delete from the list of services included in the definition of “basic local telecommunications service” the providing an alphabetical directory listing;
- delete the definitions of the term “monopoly service”;
- delete the existing definition of the term “VoIP” and replace it with a detailed definition of a system that enables real-time, two-way voice communications using Internet Protocol, using a broadband connection, and permitting users generally to place and receive calls on the public switched telephone network; and
- exclude from the definition of “telecommunications company” an operator services provider.

Section 7 repeals s. 364.025, F.S., which provides for universal service, defined as “an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas.” To provide this level of service, each local exchange telecommunications company³ was required to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company’s service territory until January 1, 2009. This “carrier-of-last-resort” obligation has now expired by the terms of the statute.

Section 8 repeals s. 364.0251, F.S., which requires, as a part of deregulation, that by January 1, 1996, all companies providing local exchange telecommunications services provide information on competition to their customers in the form of a bill insert.

Section 9 repeals s. 364.0252, F.S., which requires the PSC to inform consumers of their rights as customers of competitive telecommunications services and to assist customers in resolving any billing and service disputes that customers are unable to resolve directly with the company. The PSC is authorized to require all telecommunications companies providing local or long distance telecommunications services to develop and provide information to customers, including informing consumers concerning the availability of the Lifeline and Link-Up Programs for low-income households and alerting consumers to how they can avoid having their service changed or unauthorized charges added to their telephone bills.

Section 10 amends s. 364.04, F.S., on rate schedules. The current statute requires every telecommunications company to publish its rates and tolls through electronic or physical means. The bill retains this requirement and adds that the PSC has no jurisdiction over the content, form, or format of the schedule. The bill also provides that the section does not apply to rates, terms, and conditions established pursuant to federal law on interconnections. Finally, it provides that

³ The term “local exchange telecommunications company” is defined to mean any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995. s. 364.02(8), F.S. Basically, this means all wireline telephone companies certificated, or authorized to act in this state, prior to deregulation.

chapter 364 does not prohibit a telecommunications company from: contracting for different rates; offering services not included in the published schedule; or meeting competitive offerings.

Section 11 repeals s. 364.051, F.S., which provides for price regulation. The current statute provides that all local exchange telecommunications companies are subject to this price regulation, notwithstanding any other provisions of the chapter.

Basic Service

The statute requires a flat-rate pricing option for basic local telecommunications service. A company may, with 30 days' notice, adjust its basic service revenues once in any 12-month period in an amount not to exceed the change in inflation less 1 percent, upon specified conditions being met. These conditions are: 1) if it is determined that the level of competition justifies the elimination of price caps in an exchange served by a company with less than 3 million basic local telecommunications service access lines in service, or 2) at the end of 5 years for any company. If any company, after January 1, 2001, believes that the level of competition justifies the elimination of any form of price regulation, the company may petition the Legislature for that elimination.

In addition to this method for increasing prices, any company that believes circumstances have changed substantially enough to justify any increase in the rates for basic local telecommunications services may petition the commission for a rate increase. The commission may grant the petition only after a compelling showing of changed circumstances.

Nonbasic service

Each company may set or change the rate for each of its nonbasic services on 1 day's notice. The price increase for any nonbasic service category cannot not exceed 6 percent within a 12-month period until there is another entity providing local telecommunications service in that exchange area; at that time, the price for any nonbasic service category may be increased in an amount not to exceed 10 percent within a 12-month period, and the rate is presumptively valid. However, the price for any service that was treated as basic service before July 1, 2009, cannot be increased by more than the amount allowed for basic service.

The statute also provides the commission with continuing regulatory oversight of nonbasic services for purposes of preventing cross-subsidization of nonbasic services with revenues from basic services, and ensuring that all providers are treated fairly in the telecommunications market. The price charged to a consumer for a nonbasic service must cover the direct costs of providing the service.

Section 12 repeals s. 364.052, F.S., which provides for regulation of small local exchange telecommunications companies, which is defined as a local exchange telecommunications company certificated by the commission prior to July 1, 1995, which had fewer than 100,000 access lines in service on that date.

The statute requires the commission to adopt streamlined procedures for regulating these companies that minimize the burdens of regulation with regard to audits, investigations, service

standards, cost studies, reports, and other matters. The commission can establish only those procedures that are cost-justified and are in the public interest so that universal service may be promoted.

These companies remained under rate of return regulation; however, the statute provides that a company may, at any time after January 1, 1996, elect to be subject to the price regulation statute discussed above, s. 364.051, F.S. (also repealed by the bill).

Any competitive local exchange telecommunications company competing within the territory of any small local exchange telecommunications company must do so on an exchange-wide basis for the provision of flat-rated, switched residential and business local exchange telecommunications services in all exchanges in which they elect to serve, unless the commission determines otherwise. However, if a small local exchange telecommunications company elects to be subject to price regulation, or if it provides cable television programming services, a certificated competitive local exchange company may provide services within the territory of the electing company.

Section 13 repeals s. 364.057, F.S., which allows the commission to approve experimental or transitional rates it determines to be in the public interest for any telecommunications company to test marketing strategies.

Section 14 repeals s. 364.058, F.S., which authorizes the commission to conduct a limited or expedited proceeding to consider and act upon any matter within its jurisdiction, upon petition or its own motion. The section also requires the commission to implement an expedited process to facilitate the quick resolution of disputes between telecommunications companies. The process must, to the greatest extent feasible, minimize the time necessary to reach a decision on a dispute. The commission may limit the use of the expedited process based on the number of parties, the number of issues, or the complexity of the issues.

Section 15 repeals s. 364.059, F.S., which provides procedures for seeking a stay of the effective date of a price reduction for a basic local telecommunications service by a company that has elected to have its basic local telecommunications services treated the same as its nonbasic services.

Section 16 repeals s. 364.06, F.S., which provides that when companies have agreed to joint rates, tolls, contracts, or charges, one company must file the rate tariff and if each of the others files sufficient evidence of concurrence, they do not have to file copies of the rate tariff.

Section 17 repeals s. 364.063, F.S., which requires that the commission put in writing any order adjusting general increases or reductions of the rates of a telecommunications company within 20 days after the official vote of the commission. The PSC must also, within that 20-day period, mail a copy of the order to the clerk of the circuit court of each county in which customers are served who are affected by the rate adjustment.

Section 18 repeals s. 364.07, F.S., which requires every telecommunications company to file with the commission a copy of any contract with any other telecommunications company or with any other entity relating in any way to the construction, maintenance, or use of a

telecommunications facility or service by, or rates and charges over and upon, any such telecommunications facility. The statute also authorizes the PSC to review, and disapprove, contracts for joint provision of intrastate interexchange service.

Section 19 repeals s. 364.08, F.S., which makes it unlawful for a telecommunications company to charge any compensation other than the charge specified in its schedule on file or otherwise published and in effect at that time.

Section 20 amends s. 364.10, F.S., to delete an existing prohibition against undue advantage or preference. It also deletes an existing prohibition against increasing the residential basic local telecommunications service rate, as authorized by s. 364.164, F.S, of any local exchange telecommunications company customer receiving Lifeline benefits until: the local exchange telecommunications company reaches parity as defined in s. 364.164(5), F.S., until the customer no longer qualifies for the Lifeline benefits, or unless otherwise determined by the commission upon petition by a local exchange telecommunications company. Section 364.164, F.S., was repealed in 2007.

Section 21 repeals s. 364.15, F.S., which authorizes the PSC to order that repairs, improvements, changes, additions, or extensions be made in the manner to be specified in the order when it finds that these repairs or improvements to, or changes in, any telecommunications facility ought reasonably to be made, or that any additions or extensions should reasonably be made to any telecommunications facility, in order to promote the security or convenience of the public or employees or in order to secure adequate service or facilities for basic local telecommunications services.

Section 22 amends s. 364.16, F.S., on connection of lines and number portability.

Current law

The statute currently authorizes the PSC to require line connections and transfer of telecommunications service when it finds that such connections between any two or more local exchange telecommunications companies can reasonably be made and efficient service obtained and that such connections are necessary.

Each competitive local exchange telecommunications company must provide access to, and interconnection with, its telecommunications services to any other provider of local exchange telecommunications services requesting access and interconnection at nondiscriminatory prices, terms, and conditions. If the parties are unable to negotiate mutually acceptable prices, terms, and conditions after 60 days, either party may petition the PSC to determine the prices or terms. Each local exchange telecommunications company must provide access to, and interconnection with, its telecommunications facilities to any other provider of local exchange telecommunications services requesting such access and interconnection at nondiscriminatory prices, rates, terms, and conditions established by the procedures set forth in s. 364.162.

The statute also requires that temporary means of achieving telephone number portability be established no later than January 1, 1996. Each local exchange service provider must make necessary modifications to allow permanent portability of local telephone numbers between

certificated providers of local exchange service as soon as reasonably possible after the development of national standards.

Proposed changes

The bill preserves the current requirement that all providers have access to local telephone numbering resources and assignments on equitable terms.

It deletes all other provisions on access, except to poles, and replaces them with the following. Upon request, the PSC is required to arbitrate and enforce interconnection agreements pursuant to 47 U.S.C. ss. 251 and 252 and the Federal Communications Commission's orders and regulations implementing those sections. The PSC has the authority to resolve disputes among carriers concerning violations of this chapter and under the authority conferred by federal law to resolve such disputes, including, but not limited to, federal law addressing resale of services, local interconnection, unbundling, number portability, dialing parity, access to rights of way, access to poles and conduits, and reciprocal compensation. However, this section does not confer jurisdiction on the commission for matters that are exempt from commission jurisdiction under ss. 364.011 and 364.013, F.S. Additionally, it specifically provides for competitive local exchange telecommunications companies to interconnect with local exchange telecommunications companies.

The bill prohibits a telecommunications company from knowingly delivering traffic for which terminating access service charges would otherwise apply through a local interconnection arrangement without paying the appropriate charges for the terminating access service. Any party having a substantial interest may petition the commission for an investigation of any suspected violation of this subsection. If any telecommunications company knowingly violates this subsection, the commission has jurisdiction to arbitrate bona fide complaints arising from the requirements of this subsection and shall, upon such complaint, have access to all relevant customer records and accounts of any telecommunications company.

The PSC is directed to adopt rules to prevent the unauthorized changing of a subscriber's telecommunications service which must: be consistent with the Telecommunications Act of 1996; provide for specific verification methodologies; provide for the notification to subscribers of the ability to freeze the subscriber's choice of carriers at no charge; allow for a subscriber's change to be considered valid if verification was performed consistent with commission rules; provide remedies for violations of the rules; and allow for the imposition of other penalties available under this chapter. The commission must resolve on an expedited basis any complaints of anticompetitive behavior concerning a local preferred carrier freeze. The telecommunications company that is asserting the existence of a local preferred carrier freeze has the burden of proving through competent evidence that the subscriber did in fact request the freeze.

Upon petition, the commission may conduct a limited or expedited proceeding to consider and act upon any matter under this section. The commission must determine the issues to be considered during such a proceeding and may grant or deny any request to expand the scope of the proceeding to include other matters. The commission must implement an expedited process to facilitate the quick resolution of disputes between telecommunications companies which must, to the greatest extent feasible, minimize the time necessary to reach a decision on a dispute. The

commission may limit the use of the expedited process based on the number of parties, the number of issues, or the complexity of the issues. For any proceeding conducted pursuant to the expedited process, the commission is required to make its determination within 120 days after a petition is filed or a motion is made. The commission must adopt rules to administer these requirements.

Section 23 repeals s. 364.161, F.S., which requires each local exchange telecommunications company, upon request, to unbundle all of its network elements, the network features, functions, and capabilities, including access to signaling databases, systems and routing processes, and offer them to any other telecommunications provider requesting such features, functions or capabilities, and sell those elements for resale to the extent technically and economically feasible. Under the bill, this will now be addressed in s. 364.16, F.S.

Section 24 repeals s. 364.162, F.S., which allows a competitive local exchange telecommunications company 60 days from the date it is certificated to negotiate with a local exchange telecommunications company mutually acceptable prices, terms, and conditions of interconnection and for the resale of services and facilities. Under the bill, this will now be addressed in s. 364.16, F.S.

Section 25 amends s. 364.163, F.S., to make conforming changes.

Section 26 amends s. 364.183, F.S., to delete existing PSC authority to have access to certain types of records of a local exchange telecommunications company's affiliated companies, including its parent company, and to require a telecommunications company to file records, reports or other data and to retain such information for a designated period of time.

Section 27 repeals s. 364.185, F.S., which authorizes the PSC to, during all reasonable hours, enter upon any premises occupied by any telecommunications company and set up and use thereon all necessary apparatus and appliances for the purpose of making investigations, inspections, examinations, and tests.

Section 28 repeals s. 364.19, F.S., which authorizes the PSC to regulate the terms of telecommunications service contracts between telecommunications companies and their patrons through use of reasonable rules.

Section 29 repeals s. 364.27, F.S., which requires the PSC to investigate all interstate rates, fares, and charges for or in relation to the transmission of messages or conversations where any act relating to the transmission of messages or conversations takes place within this state and when it appears to violate The Communications Act of 1934.

Section 30 amends s. 364.33, F.S., on certificates of necessity. Currently, except for a transfer of a certificate of necessity from one person to another or to the parent or affiliate of a certificated person as provided in this section, a person may not begin the construction or operation of any telecommunications facility for the purpose of providing telecommunications services to the public or acquire ownership or control in any facility in any manner without prior PSC approval. A certificate of necessity or control thereof may be transferred from a person holding a certificate, its parent or an affiliate to another person holding a certificate, its parent or an

affiliate, and a person holding a certificate, its parent or an affiliate may acquire ownership or control of a telecommunications facility through the acquisition, transfer, or assignment of majority organizational control or controlling stock ownership of a person holding a certificate without prior approval of the commission by giving 60 days' written notice of the transfer or change of control to the commission and affected customers.

The bill changes this to prohibit any person from providing telecommunications services to the public without a certificate of necessity or a certificate of authority. It also prohibits the PSC from issuing any new certificates after July 1, 2011, but provides that existing certificates remain valid. A certificate may be transferred to the holder's parent company or an affiliate or another person holding a certificate of necessity or authority, its parent company, or an affiliate without prior approval of the commission by giving written notice of the transfer to the commission within 60 days after the completion of the transfer. The transferee assumes the rights and obligations conferred by the certificate.

Section 31 amends s. 364.335, F.S., on application for a certificate of necessity. Current law requires each applicant for a certificate to:

- Provide all information required by rule or order of the commission, which may include a detailed inquiry into the ability of the applicant to provide service, a detailed inquiry into the territory and facilities involved, and a detailed inquiry into the existence of service from other sources within geographical proximity to the territory applied for.
- File with the commission schedules showing all rates for service of every kind furnished by it and all rules and contracts relating to such service.
- File the application fee required by the commission in an amount not to exceed \$500.
- Submit an affidavit that the applicant has given proper notice of its application.

If the commission grants the requested certificate, any person who would be substantially affected by the requested certification may, within 21 days after the granting of such certificate, file a written objection requesting a hearing. Also, the commission may hold a hearing on its own motion to determine whether the grant of a certificate is in the public interest.

The bill deletes all of the current language about the information an applicant is to provide the commission and replaces it with:

- The applicant's official name and, if different, any name under which the applicant will do business.
- The street address of the principal place of business of the applicant.
- The federal employer identification number or the Department of State's document number.
- The name, address, and telephone number of an officer, partner, owner, member, or manager as a contact person for the applicant to whom questions or concerns may be addressed.
- Information demonstrating the applicant's managerial, technical, and financial ability to provide telecommunications service, including an attestation to the accuracy of the information provided.

It requires that the commission grant a certificate of authority to provide telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. The applicant must ensure

continued compliance with applicable business formation, registration, and taxation provisions of law.

The bill also deletes all current provisions on hearings.

Section 32 repeals s. 364.337, F.S., which provides for certification of a competitive local exchange telecommunications company prior to January 1, 1996. It also requires that a competitive local exchange telecommunications company provide a flat-rate pricing option for basic local telecommunications services and that the service include access to operator services, “911” services, and relay services for the hearing impaired.

Section 33 amends s. 364.3375, F.S., to delete existing a provision allowing a pay telephone provider to charge a rate equivalent to the local coin rate of the local exchange telecommunications company and a provision prohibiting a pay telephone provider from obtaining services from an operator service provider unless the operator service provider has obtained a certificate of public convenience and necessity.

Section 34 repeals s. 364.3376, F.S., which provides for operator services. It prohibits providing operator services without first obtaining a certificate of public convenience and necessity. All intrastate operator service providers are subject to the jurisdiction of the PSC, must render services pursuant to price schedules, and must meet prescribed requirements.

Section 35 repeals s. 364.3381, F.S., which prohibits cross-subsidization, the selling of nonbasic telecommunications service at below cost by use of subsidization from rates paid by customers of basic services.

Section 36 repeals s. 364.3382, F.S., which requires a local exchange telecommunications company to advise each residential customer of the least-cost service available to a residential customer when the customer initially requests service and to annually advise each residential customer of the price of each service option selected by that customer.

Section 37 repeals s. 364.339, F.S., which provides the PSC with exclusive jurisdiction to authorize the provision of any shared tenant service which duplicates or competes with local service provided by an existing local exchange telecommunications company and is furnished through a common switching or billing arrangement to tenants by an entity other than an existing local exchange telecommunications company.

Section 38 repeals s. 364.345, F.S., which requires each telecommunications company to provide adequate and efficient service to the territory described in its certificate within a reasonable time. It also prohibits, in general, a telecommunications company from selling, assigning, or transferring its certificate or any portion thereof without a determination by the commission that the proposed sale, assignment, or transfer is in the public interest and the approval of the commission.

Section 39 repeals s. 364.37, F.S., which authorizes the PSC to make any order and prescribe any terms and conditions that are just and reasonable if any person, in constructing or extending a telecommunications facility, unreasonably interferes or is about to unreasonably interfere with

any telecommunications facility or service of any other person, or if a controversy arises between any two or more persons with respect to the territory professed to be served by each.

Section 40 amends s. 364.385, F.S., to delete all references to the effects of the original deregulation act on certificates, rates, proceedings, and orders prior to January 1, 1996, the effective date of that act.

Section 41 amends s. 364.386, F.S., to make conforming changes.

Section 42 repeals s. 364.501, F.S., which requires all telecommunications companies with underground fiber optic facilities to operate their own, or be a member of a, one-call cable location notification system providing telephone numbers which are to be called by excavating contractors and the general public for the purpose of notifying the telecommunications company of such person's intent to engage in excavating or any other similar work.

Section 43 repeals s. 364.503, F.S., which requires a local exchange telecommunications company or a cable television company which is merging with or acquiring an ownership interest of greater than 5 percent in the other type of company to give 60 days' notice to the Florida Public Service Commission and the Department of Legal Affairs of the Office of the Attorney General.

Section 44-48 repeal ss. 364.506-.516, F.S.

Section 364.506, F.S., titles these sections, which make up Part II of chapter 364, the Education Facilities Infrastructure Improvement Act.

Section 364.507, F.S., provides legislative findings and intent.

Section 364.508, F.S., provides definitions.

Section 364.515, F.S., provides for funding of advanced telecommunications services by submitting a technology-needs request to the Department of Management Services no later than July 1, 1997.

Section 364.516, F.S., provides for penalties.

Sections 49-52 repeal ss. 364.601-.604, F.S.

Section 364.601, F.S., titles these sections, which make up Part III of Chapter 364, the Telecommunications Consumer Protection Act.

Section 364.602, F.S., provides definitions.

Section 364.603, F.S., requires the PSC to adopt rules to prevent the unauthorized changing of a subscriber's telecommunications service.

Section 364.604, F.S., establishes requirements for the content of a customer's bill; provides that a customer is not liable for any charges for telecommunications or information services that the customer did not order or that were not provided; requires every billing party to provide a free blocking option to a customer to block 900 or 976 telephone calls; and prohibits a billing party from disconnecting a customer's Lifeline local service if the charges, taxes, and fees applicable to basic local exchange telecommunications service are paid.

Sections 53-60 amend ss. 196.012(6), 199.183(1)(b), 212.08(6), 290.007(8), 350.0605(3), 364.105, 364.32, and 489.103(5), F.S., to conform statutory cross-references.

Section 61 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Wireline telecommunication customers will no longer be protected by PSC economic regulation, but may benefit from greater competition among intermodal service providers.

They also will no longer have a statutory right to a flat-rate pricing option for basic local telecommunications service and may be forced to choose a more expensive option, more extensive option, or one that is both.

C. Government Sector Impact:

Section 364.336, F.S., provides for telecommunications regulatory assessment fees (RAF). Each telecommunications company licensed or operating under chapter 364 must pay to the PSC every 6 months a fee that may not exceed 0.25 percent annually of its gross operating revenues derived from intrastate business. The commission is required to establish and assess a minimum fee in an amount up to \$1,000. The minimum amount may vary depending on the type of service provided by the telecommunications

company, and must, to the extent practicable, be related to the cost of regulating that type of company. Given that it will no longer be engaged in economic regulation of the retail wireline telecommunications industry or in related consumer protection, the PSC will have to reassess these RAF fees. Given the remaining level of authority, the appropriate amount for RAF fees is uncertain; however, absent sufficient fees, a source for funding the wholesale dispute resolution duties is uncertain.

Any other fiscal impacts on the PSC are unknown at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on March 29, 2011:

The CS makes several technical changes, including:

- Adding specificity to the exclusion of nonbasic service from PSC jurisdiction to include “comparable services”;
- Removing a reference to “pole attachment rates” as an example of a barrier to entry;
- Removing a proposed repeal to s. 364.015, F.S., which authorizes the PSC to obtain an injunction to enforce its rules and orders;
- Adding a provision to state that a competitive local exchange company can interconnect with another local company to transmit and route voice traffic between both companies regardless of the technology used and directs the PSC to give the competitive local exchange company all substantive and procedural rights available under the law; and
- Restoring language that was inadvertently deleted from the paragraph, which addressed employee personal information that is considered to be “proprietary confidential business information” and exempt from public records.

CS by Communications, Energy, and Public Utilities on March 21, 2011:

The committee substitute: retains PSC authority to recover travel costs; retains definitions relating to operator services; and retains the current requirement that all providers have access to local telephone numbering resources and assignments on equitable terms.

- B. **Amendments:**

None.