

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1167 Designation of Eligible Telecommunications Carriers
SPONSOR(S): Energy & Utilities Subcommittee; Leek
TIED BILLS: IDEN./SIM. **BILLS:** SB 1018

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	12 Y, 0 N, As CS	Keating	Keating
2) Commerce Committee	25 Y, 1 N	Keating	Hamon

SUMMARY ANALYSIS

“Universal Service” is the principle that all Americans should have access to communications services. To promote universal service, the Federal Communications Commission (FCC) administers the federal Universal Service Fund (USF). The federal USF pays for four programs, including the Lifeline/Link Up (Lifeline) program that provides monthly discounts to qualifying low-income consumers for voice and broadband services and the Connect America Fund (High-Cost Support) program that subsidizes telecommunications services to rural areas of the nation. To receive funding support through the federal USF for participation in these programs, a telecommunications company must be designated as an eligible telecommunications carrier (ETC). Federal law gives state utility commissions primary responsibility for designating ETCs. The FCC is responsible for designating ETCs for each state whose utility commission lacks authority to do so. Since 2011, the Florida Public Service Commission (PSC) has lacked authority to designate wireless carriers as ETCs.

The bill amends s. 364.10, F.S., to authorize the PSC, upon petition, to designate wireless carriers as ETCs pursuant to federal law for the limited purpose of participating in the Lifeline program.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides that it will take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

“Universal Service” is the principle that all Americans should have access to communications services. The federal Telecommunications Act of 1996 established principles for universal service that specifically focused on increasing access to services for consumers living in rural and isolated areas, and for consumers with low-incomes. Additional principles called for increased access to services in the nation’s schools, libraries, and rural health care facilities.¹

To promote universal service, the Federal Communications Commission (FCC) administers the federal Universal Service Fund (USF). All telecommunications service providers and certain other providers of telecommunications must contribute to the federal USF based on a percentage of their interstate and international end-user telecommunications revenues. These companies include wireline phone companies, wireless phone companies, paging service companies, and certain Voice over Internet Protocol (VoIP) providers. Some consumers may notice a “Universal Service” line item on their telephone bills. This line item appears when a company chooses to recover its USF contributions directly from its customers by billing them this charge.²

The federal USF pays for four programs³:

- The Lifeline/Link Up (Lifeline) program provides monthly discounts to qualifying low-income consumers for voice and broadband services.
- The Connect America Fund (High-Cost Support) program ensures that consumers in all regions of the nation have access to telecommunications services at rates that are affordable and reasonably comparable to those in urban areas.
- The Schools and Libraries program makes discounts available to eligible schools and libraries for eligible telecommunications services, Internet access, and internal connections so that schools and libraries may have access to affordable telecommunications and information services
- The Rural Health Care program seeks to improve the quality of health care available to patients in rural communities by ensuring that health care providers serving those communities have access to telecom and broadband services.

To receive funding support through the federal USF for participation in the Lifeline program or the High-Cost Support program, a telecommunications company must be designated as an eligible telecommunications carrier (ETC). A company may seek a limited ETC designation to receive support only to offer services under the Lifeline program.

Federal law gives state utility commissions primary responsibility for designating ETCs. The FCC is responsible for designating ETCs for each state whose utility commission lacks authority to do so.

In 2005, the Legislature created s. 364.011, F.S., which identifies specific services, including wireless telecommunications service, as exempt from oversight by the Florida Public Service Commission (PSC) “except to the extent ... specifically authorized by federal law.”⁴ Based on its authority to designate

¹ FEDERAL COMMUNICATIONS COMMISSION, *Universal Service*, <https://www.fcc.gov/general/universal-service> (last visited January 12, 2018).

² *Id.*

³ FEDERAL COMMUNICATIONS COMMISSION, *Universal Service Support Mechanisms*, <https://www.fcc.gov/consumers/guides/universal-service-support-mechanisms> (last visited January 12, 2018).

⁴ Chapter 2005-132, Laws of Fla.

ETCs under federal law, the PSC determined that the quoted language allowed it to designate wireless carriers as ETCs.

In 2011, the Legislature passed the “Regulatory Reform Act,” completing the overall deregulation of retail landline telecommunications service in Florida.⁵ Part of the Act amended s. 364.011, F.S., to remove the exception for PSC oversight “specifically authorized by federal law.” Accordingly, the PSC has refrained from designating wireless carriers as ETCs since the Act became effective.⁶ Thus, since 2011, a wireless carrier that wishes to be designated as an ETC to provide Lifeline service in Florida must apply to the FCC.

There are currently 13 wireline ETCs and 4 wireless ETCs designated in Florida.⁷ There are currently 35 petitions for wireless ETC designation pending at the FCC, all of which request ETC designation for operations in Florida, among other states.⁸

Section 364.10, F.S., governs the provision of Lifeline service in Florida by telecommunications companies designated as ETCs.

Effect of Proposed Changes

The bill amends s. 364.10, F.S., to authorize the PSC, upon petition, to designate wireless carriers as ETCs pursuant to federal law for the limited purpose of participating in the Lifeline program. The bill provides that this authority is granted notwithstanding the exemption of wireless telecommunications service from PSC oversight in general, as specified in s. 364.011, F.S.

The bill provides that it will become effective upon becoming law.

B. SECTION DIRECTORY:

Section 1. Amending s. 364.10, F.S., relating to Lifeline service.

Section 2. Providing an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁵ Chapter 2011-36, Laws of Fla.

⁶ Florida Public Service Commission, Agency Analysis of 2018 Senate Bill 1018, p. 1 (Dec. 13, 2017).

⁷ *Id.* at p. 2

⁸ *Id.* See also FEDERAL COMMUNICATIONS COMMISSION, *Lifeline Compliance Plans & ETC Petitions*, <https://www.fcc.gov/general/lifeline-compliance-plans-etc-petitions> (last visited January 12, 2018).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Given the backlog of pending requests at the FCC, the bill may allow a wireless carrier that seeks designation as an ETC in Florida to receive such a designation more expeditiously and, as a result, to offer services to eligible customers under the Lifeline program.⁹

D. FISCAL COMMENTS:

Florida historically has been, and continues to be, a net payer into the federal USF. The FCC's most recent annual USF monitoring report shows that telecommunications carriers contributed \$525 million associated with revenues from Florida operations and received \$220 million in payments from the federal USF for use in Florida.¹⁰

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 16, 2018, the Energy & Utilities Subcommittee adopted a strike-all amendment to the bill and reported the bill favorably as a committee substitute. The amendment authorized the PSC, upon petition, to designate wireless carriers as ETCs pursuant to federal law for the limited purpose of participating in the Lifeline program.

⁹ Florida Public Service Commission, Agency Analysis of 2018 Senate Bill 1018, p. 2 (Dec. 13, 2017).

¹⁰ FEDERAL COMMUNICATIONS COMMISSION, *Universal Service Monitoring Report*, 2016, at 18, available at <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>.