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 Committee on Governmental Oversight and Accountability

BILL: SB 742

INTRODUCER: Senator Braynon

SUBJECT: Designation of Eligible Telecommunications Carriers

DATE: April 1, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	**Favorable**
2.	Ponder	McVaney	GO	**Favorable**
3.			RC	

I. Summary:

SB 742 amends s. 364.10, F.S., relating to Lifeline services, to authorize the Public Service Commission to designate a commercial mobile radio service provider as an eligible telecommunications carrier, upon petition, for the limited purpose of providing Lifeline service. The section conforms to federal Lifeline service guidelines by:

- Requiring a subscriber to present proof of continued eligibility upon request of the eligible telecommunications carrier or the Federal Communications Commission, or its designee; and
- Revising the income eligibility test to 135 from 150 percent or less of federal poverty income guidelines.

The bill removes obsolete language, and makes technical and conforming changes.

The bill amends s. 364.107, F.S., to clarify that the information made confidential and exempt under this section may be released to the Federal Communications Commission or its designee for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

This bill takes effect upon becoming a law.

II. Present Situation:

In 1985, the Federal Communications Commission (FCC) created the Lifeline program to provide phone service discounts for qualifying low-income consumers as part of the federal Universal Service Program. The Lifeline program is one of four programs[1] supported by the

[1] The other three programs supported by the Universal Service Fund include: (i) the high cost support program (known also as the Connect America Fund) which allows eligible telecommunications carriers to receive support for providing discounted voice and broadband service to eligible customers; (ii) the schools and libraries support program, also known as the "E-Rate," provides telecommunication services, internet access and internal connections to eligible schools and libraries, and (iii) the

Universal Service Fund. The Lifeline program offers eligible low-income households a discount on either a wireline *or* wireless service to offset the costs of a telephone or broadband service plan. The funding is not provided directly to consumers. Instead, Lifeline providers – telecommunications companies known as "eligible telecommunications carriers" (ETCs) – receive monthly support disbursements from the Universal Service Fund, who in turn pass these discounts to the eligible consumers.

In accordance with s. 364.10, F.S., the Florida Public Service Commission (PSC) oversees the Lifeline program. The program also includes the involvement of the Department of Children and Families (DCF), Department of Education (DOE), the Office of Public Counsel (OPC), and other state agencies. In Florida, there are several ways to apply for Lifeline assistance. For example, consumers may apply directly with an ETC by providing documentation of participation in a qualifying program along with a Lifeline application.[2] Additionally, customers applying for Medicaid or Supplemental Nutrition Assistance Program (SNAP) through the DCF may use the electronic Lifeline Coordinated Enrollment Process to apply for Lifeline. Consumers may also enroll through the National School Lunch Program's free lunch program through the DOE, or via income eligibility with the OPC.

Section 214(e) of the Telecommunications Act (the Act) provides that only common carriers designated as ETCs may receive disbursements from the Universal Service Fund. The Act directs state commissions to designate common carriers[3] as ETCs.[4] However, where state commissions do not have jurisdiction over a type of common carrier, the FCC determines ETC eligibility.[5] The PSC provides ETC designation to wireline carriers, claiming jurisdiction under 47 CFR 54.201 and s. 364.10, F.S.[6] However, the PSC is without jurisdiction to determine ETC eligibility for wireless telecommunications providers - defined by federal statute as a "commercial mobile radio service"(CMRS)[7] providers - as s. 364.011, F.S., specifically exempts "wireless telecommunications" from the PSC's jurisdiction. Thus, CMRS providers submit petition the FCC for ETC designation in Florida

On April 27, 2016, the FCC released an Order (Lifeline Order) reforming many aspects of the federal Lifeline program, including revising eligibility criteria.[8] Prior to the Lifeline Order, to gain entry into the Lifeline program, a consumer was required to:

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rural health care support program that allows rural health care providers to pay rates for telecommunications services similar to those of their urban counterparts, making telehealth services affordable, and also subsidizes internet access. https://www.fcc.gov/general/universal-service (last visited March 26, 2019).

[2] http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Telecommunication/LifelineReport/2018.pdf (last visited March 26, 2019).

[3] The term "common carrier" or "carrier" means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier. 47 C.F.R. § 153(11).

[4] 47 C.F.R. § 214(e)(1),(2).

[5] 47 C.F.R. § 214(e).

[6] *See* Order No. PSC-12-0500-PAA-TP, issued on September 28, 2012, *In re: Application for designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214(e)(2) of the Communications Act of 1934 for the limited purpose of receiving federal Universal Service Low Income support for providing Lifeline service to qualified households in its non-rural service territory, by Cox Florida Telecom, LP*.

[7] 47.C.F.R. § 20.3 (2018).

[8] *In the Matter of Lifeline & Link Up Reform & Modernization*, 31 F.C.C. Rcd. 3962, 4021 (2016).

- Have a household at or below 135% of the Federal Poverty Guidelines; or
- Receive benefits from: Medicaid, SNAP, Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; Temporary Assistance for Needy Families; or
- Meet additional eligibility criteria established by a state for its residents, provided that such state-specific criteria are based solely on income or other factors related to income.[9]

The Lifeline Order maintained the first method of qualification without revision – allowing consumers to qualify by demonstrating income of less than 135 percent of the federal poverty guidelines.[10] Currently, Florida law specifies that the income eligibility test is "150% or less of the federal poverty income guidelines for Lifeline customers."[11] The Lifeline Order removed the Low-Income Home Energy Assistance Program, National School Lunch Program's free lunch program, and Temporary Assistance for Needy Families from default federal assistance eligibility.[12] The Lifeline Order also removed state-specific eligibility.[13] The FCC determined that permitting states to develop tailored rules complicated the administration of Lifeline at a federal level.[14] Thus, the Lifeline Order removed states' flexibility to develop their own enrollment and eligibility processes for Lifeline.

Section 364.107, F.S., provides that "[p]ersonal identifying information of a participant in a telecommunications carrier's Lifeline Assistance Plan under s. 364.10, F.S., held by the Public Service Commission is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution." This information may be released to the applicable telecommunications carrier for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

III. Effect of Proposed Changes:

Section 1 amends s. 364.10, F.S., on Lifeline services, to authorize the PSC to designate a CMRS provider as an ETC, upon petition, for the limited purpose of providing Lifeline service.

The bill further revises this section to conform to federal Lifeline program requirements by:
- Requiring a subscriber to present proof of continued eligibility upon request of the eligible telecommunications carrier or the FCC, or its designee;
- Revising the income eligibility test to 135 percent; and
- Removing the Department of Education as one of the listed entities that develops procedures to promote Lifeline participation.

The bill removes obsolete language, and makes technical and conforming changes.

[9] 47 C.F.R § 54.409(a) (2016).
[10] *In the Matter of Lifeline & Link Up Reform & Modernization,* 31 F.C.C. Rcd. 3962, 4031 (2016).
[11] Section 364.10(2)(a), F.S.
[12] *In the Matter of Lifeline & Link Up Reform & Modernization,* 31 F.C.C. Rcd. at 4029, 30.
[13] *Id.* at 4038.
[14] *Id.*

Section 2 amends s. 364.107, F.S., relating to public records exemptions, to clarify that the FCC or its designee may receive confidential and exempt information for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

Section 3 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CMRS providers and Lifeline customers may benefit from the PSC having jurisdiction over CMRS ETC. The process before the PSC, as opposed to the FCC, may be more efficient and streamlined; thereby possibly allowing Lifeline customers to receive service and CMRS providers to receive subsidies more quickly.

C. Government Sector Impact:

The PSC may incur costs associated with processing applications and determining ETC eligibility for CRMS providers..

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 364.10 and 364.107.

IX. Additional Information:

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

None.

B. Amendments:

None.