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 Innovation, Industry, and Technology

BILL: SB 742

INTRODUCER: Senator Braynon

SUBJECT: Designation of Eligible Telecommunications Carriers

DATE: March 18, 2019 REVISED:

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

I. Summary:

SB 742 amends s. 364.10, F.S., relating to Lifeline services, to authorize the Public Service Commission (PSC or commission) to designate a commercial mobile radio service (CMRS) 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; 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.

Section 364.107, F.S., relating to public records exemptions, is amended to clarify that the Federal Communications Commission (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.

This bill takes effect upon becoming a law.

II. Present Situation:

The Lifeline program was created by the federal government in 1985 to provide phone service discounts for qualifying low-income consumers as part of the federal Universal Service Program. In 2016, the FCC adopted a comprehensive modernization reform adding broadband access to the Lifeline program. As a result, qualifying households may either receive up to a $9.25

discount on their monthly phone or broadband bill or receive a free Lifeline cell phone and limited voice or broadband from certain wireless carriers.[1]

In Florida, the PSC oversees the Lifeline program and Lifeline services are provided to eligible customers by an "eligible telecommunications carrier," a term defined to mean "a telecommunications company, as defined by s. 364.02, F.S., which is designated as an eligible telecommunications carrier by the commission pursuant to 47 C.F.R. s. 54.201."[2]

The commission only evaluates applications for eligible telecommunications carrier (ETC) designation from wireline companies, leaving wireless applications to be evaluated by the FCC.[3] The commission explains this position as follows: "The Florida 2011 Legislature (HB 1231), removed the FPSC authority to designate ETC wireless providers. Effective July 1, 2012, wireless providers must directly apply for Florida ETC designation with the FCC."[4]

The Public Service Commission indicated that under federal law, a common carrier[5] must be designated as an ETC to receive federal universal service support. The ETCs can receive financial support from the federal high-cost and low-income Lifeline programs. The common carriers also can seek a limited ETC designation for purposes of receiving financial support from only the federal low-income program to offer Lifeline services to residential households.[6] Federal law also establishes the state commissions as the primary agencies to designate common carriers as ETCs. Only when the state commissions lack the state authority to make these designations can the FCC take action.[7]

In 2011, the Florida Legislature passed the "Regulatory Reform Act," completing its deregulation of retail landline telecommunications service providers. Prior to this Act, s. 364.011, F.S., in part, exempted wireless communications from PSC jurisdiction except as "specifically authorized by federal law." The Act deleted the quoted language from this statute.[8] This appears to be the statutory change that the PSC refers to as removing its authority to designate a wireless carrier as an ETC.

Wireless companies must petition the FCC to be designated an ETC. There are 35 wireless ETC designation petitions pending at the FCC; the first of these petitions was filed in 2011.[9]

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[1] Florida Public Service Commission, *Florida Lifeline Assistance: Number of Customers Subscribing to Lifeline Service And the Effectiveness of Procedures to Promote Participation*, 3 (Dec. 2018), available at http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Telecommunication/LifelineReport/2018.pdf (last accessed March 13, 2019).
[2] Section 364.10, F.S.
[3] Fla. Public Service Commission, *supra* note 1 at 9.
[4] Fla. Public Service Commission, *supra* note 1 at 9, FN 13.
[5] A common carrier is an entity that is obligated to furnish communications services to the general public on a non-discriminatory basis.
[6] *2019 Bill Analysis for SB 742*, Florida Public Service Commission, February 26, 2019.
[7] *Id.*
[8] Ch. 2011-36, s. 3, Laws of Fla.
[9] *Supra* at note 6.

In April 27, 2016, the FCC released an Order reforming many aspects of the federal Lifeline program.[10] Among these changes was the prohibition of state qualifying criteria for consumers to receive federal support. The income eligibility qualifying criteria s. 364.10(2)(a), F.S., is 150 percent or less of the federal poverty income guidelines. This exceeds the criteria of 135 percent established by the FCC. The difference will not be reimbursed from the federal program.[11] The order also removed the free and reduced school lunch program as a qualifying program for Lifeline. Section 364.10(2)(f)1., F.S., provides that the Florida Department of Education as one of the agencies to promote the Lifeline program which is now no longer effective.[12]

Section 364.107, F.S., provides that personal 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. Information made confidential and exempt 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 commercial mobile radio service (CMRS) provider as an eligible telecommunications carrier, upon petition, for the limited purpose of providing Lifeline service.

The bill conforms the section to federal Lifeline service guidelines by:

- Requiring a subscriber to present proof of continued eligibility upon request of the eligible telecommunications carrier; and
- Revising the income eligibility test to 135 from 150 percent or less of federal poverty income guidelines.
- Removing the Department of Education from the agencies to promote the Lifeline Program.

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

Section 2 amends s. 364.107, F.S., relating to public records exemptions, to clarify that the Federal Communication Commission 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.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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[10] *See* Order No. FCC 16-38, in WC Docket Nos. 11-42, 09-197, and 10-90.
[11] *Supra* at note 6.
[12] *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill should allow wireless communications services providers to obtain an eligible telecommunications carrier designation quicker, thereby allowing them to provide Lifeline service to eligible customers and obtain Universal Service payments quicker. This should benefit both the carriers and customers.

C. Government Sector Impact:

The PSC may incur costs associated with designating these carriers as eligible telecommunications carriers.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.