

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 Judiciary

BILL: SB 1256

INTRODUCER: Senator Albritton

SUBJECT: Telegraph Companies

DATE: February 3, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	Favorable
2.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1256 repeals chapter 363, F.S., which provides for the liability of telegraph or telegram companies for specified negligent acts, penalties, damages, and attorney fees, and legal procedures.

The bill takes effect July 1, 2020.

II. Present Situation:

Chapter 363, F.S., contains the Florida statutes on telegraph and telegram companies. The first four sections (ss. 363.02, 363.03, 363.04, and 363.05, F.S.) were enacted in 1907; the remaining five sections (ss. 363.06, 363.07, 363.08, 363.09, and 363.10, F.S.) were enacted in 1913; and none of the sections were significantly amended after enactment.

Enacted in 1907, and codified in ss. 362.02-363.05, F.S., the statutes provide for liability, penalties, and damages for failure of a telegraph company to meet statutory operational requirements. Any telegraph company engaged in the business of transmitting messages over a telegraph line in this state that negligently fails to promptly deliver a received message to the addressee is liable to the sender for a \$50 penalty and liable to both the sender and addressee for all resulting damages. These penalties apply only to deliveries in incorporated cities and towns. A failure to timely deliver a message is presumed to be negligent. Additionally, any telegraph company that refuses to accept any tendered, legible message for transmission, together with the required fee, is liable to the sender and addressee for a penalty of \$50 plus all resulting damages, unless the company shows that the line or lines over which such message should be transmitted were damaged preventing transmission. Any person recovering any of the above penalties or damages is entitled to also recover 10 percent of the amount recovered as attorney's fees.¹

¹ Chapter 5628, ss. 1-3 and ch. 5629, ss. 1 and 2, Laws of Fla. (1907).

Enacted in 1913, and codified in ss. 363.06-363.10, F.S., the statutes make a telegram company liable to the sender and addressee of any telegram received for transmission and delivery for mental anguish, distress or feeling, physical and mental pains and suffering resulting from the negligent failure to promptly transmit or promptly deliver such telegram, or because of the negligent failure to correctly transmit and deliver such telegram. In an action to seek damages for the negligence of a telegraph company, the telegraph company has the burden of proof to show, by a preponderance of the evidence, that it was free from fault. Additionally, a telegram company that receives a message in cipher is liable for damages resulting from the negligent failure to promptly transmit and deliver the telegram in cipher.² The receipt by any person engaged in the telegram business of a message for transmission constitutes notice to that person that the telegram is important, requiring prompt and correct transmission and delivery. Finally, all contractual provisions attempting to relieve or exempt a telegram company from liabilities imposed by law or to limit the time in which suits may be brought for negligent failure to perform any duty imposed by law are declared to be against the public policy of this state and to be illegal and void, and no court in this state is to give effect to any such provisions.³

It appears that telegraph offices and telegrams have largely, if not completely, been replaced by messaging methods such as emails, instant messaging, texts, and tweets. In 2017, the Federal Communications Commission updated its rules to remove regulations outmoded by technological advances and market forces. Among the deletions were a number of references to telegraph services as the commission was “not aware of any interstate telegraph service providers today”; as “[t]elegraph service is obsolete”; and as the commission found “that no purpose is served by requiring any remaining (or future) providers of telegraph service” to comply with the rules under review, “[n]or is the public interest served by maintaining outdated and unnecessary requirements in our rules.”⁴

III. Effect of Proposed Changes:

The bill repeals chapter 363, F.S., which provides for the liability of telegraph or telegram companies for specified negligent acts, penalties, damages, and attorney fees, and legal procedures.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

² The term “cipher” is not defined but appears to mean code.

³ Chapter 6522, ss. 1-5, Laws of Fla. (1913).

⁴ 32 FCC Rcd 7132 (8) (2017).

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals the following sections of the Florida Statutes: 363.02, 363.03, 363.04, 363.05, 363.06, 363.07, 363.08, 363.09, and 363.10.

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.
