

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** HB 6055 Telegraph Companies  
**SPONSOR(S):** Gregory and others  
**TIED BILLS:**           **IDEN./SIM. BILLS:** SB 1256

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**FINAL HOUSE FLOOR ACTION:** 117 Y's      0 N's      **GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

HB 6055 passed the House on February 13, 2020, and subsequently passed the Senate on March 12, 2020.

The bill repeals the entirety of chapter 363, F.S., which establishes penalties and liability provisions related to the intrastate transmission of messages by telegraph. The provisions of chapter 363, F.S., appear to be outdated and no longer applicable.

The bill has no fiscal impact on state or local government.

The bill was approved by the Governor on June 29, 2020, ch. 2020-143, L.O.F., and became effective on July 1, 2020.

### I. SUBSTANTIVE INFORMATION

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h6055z1.DOCX

**DATE:** 7/02/2020

## Present Situation

On May 26, 1844, Samuel Morse, inventor of the Morse code, sent the first message by telegraph in the United States, ushering in the telegraph era that displaced the Pony Express. It read “WHAT HATH GOD WROUGHT?”<sup>1</sup> We now have a more modern answer to that question, as transmitting and receiving messages by telegraph has been replaced almost entirely by the speed and widespread availability of e-mail, faxes, inexpensive long-distance telephone service, instant messaging, and social media, such as Facebook and Twitter.<sup>2</sup>

Still, Florida law includes an entire chapter related to the provision of telegraph service. Chapter 363, F.S., establishes penalties and liability provisions related to the transmission and delivery of telegrams. Sections 363.02 through 363.05, F.S., establish penalties and liability provisions for a telegraph company<sup>3</sup> that owns or operates a telegraph line<sup>4</sup> wholly or partly in the state and negligently fails to promptly transmit and deliver messages<sup>5</sup> or refuses to receive for transmission any legible messages provided to the company for transmission. Further, section 363.06, F.S., provides that persons engaged in the business of sending telegrams<sup>6</sup> are liable for damages for mental anguish and physical suffering resulting from negligent failure to promptly and correctly transmit or deliver a telegram. Section 363.08, F.S., establishes liability for persons engaged in the business of sending telegrams in cipher for negligent failure to promptly transmit and deliver a telegram in cipher. Section 363.10, F.S., provides that contractual provisions intended to limit the liability imposed in this chapter are illegal and void. The provisions of this chapter apply only to intrastate transmission of telegraph messages.<sup>7</sup>

The current provisions of ch. 363, F.S., have remained substantively unchanged since at least 1913.<sup>8</sup> Sections 363.02, 363.03, and 363.05, F.S., were adopted in 1907 and have remained in law since then without amendment. Section 363.04, F.S., was adopted in 1907 and was changed once, in 1945, with a one word technical amendment. Sections 363.06-.10, F.S., were adopted in 1913 and have remained in law since then without amendment. No court opinions related to this chapter have been published since 1945.<sup>9</sup>

Western Union Telegraph Company, perhaps the most well-known telegram service provider, sent its last telegram on January 27, 2006.<sup>10</sup> Based on an Internet search by staff, a handful of businesses still advertise telegram service, some claiming to utilize, at least in part, the telegraph system operated by Western Union.<sup>11</sup> The terms of service for these companies do not specify exactly how the customer’s message will be transmitted, and some specifically state that transmission may occur through means

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<sup>1</sup> See, e.g., *Telegram Passes into History*, Wired (Feb. 2, 2006), <https://www.wired.com/2006/02/telegram-passes-into-history/> (last visited Mar. 11, 2020).

<sup>2</sup> In a twist of historical irony, some commenters, at the time of the telegraph’s invention, found the service to be “superficial, sudden, unsifted, too fast for the truth.” See Adrienne LaFrance, *I Tried to Send a Telegram in 2016*, The Atlantic (Jan. 22, 2016), <https://www.theatlantic.com/technology/archive/2016/01/rip-stop-telegrams/425136/> (last visited Mar. 11, 2020).

<sup>3</sup> The term “telegraph company” is not defined for purposes of chapter 363, F.S.

<sup>4</sup> The term “telegraph line” is not defined for purposes of chapter 363, F.S.

<sup>5</sup> The provisions concerning delivery of messages apply only to deliveries in incorporated cities and towns. S. 363.02, F.S.

<sup>6</sup> The term “telegram” is not defined for purposes of chapter 363, F.S.

<sup>7</sup> *Price v. Western Union Tel. Co.*, 23 So.2d 491 (Fla. 1945) (“sending of a telegraph message from one state into another is a transaction in interstate commerce”).

<sup>8</sup> Former s. 363.01, F.S., adopted in 1885, established a per-word rate cap for telegraph messages. This provision was repealed in 2000.

<sup>9</sup> See *supra*, note 7.

<sup>10</sup> Robert Seigel, *Western Union Sends Its Last Telegram*, NPR (Feb. 2, 2006), <https://www.npr.org/templates/story/story.php?storyId=5186113?storyId=5186113> (last visited Mar. 11, 2020).

<sup>11</sup> For example, USCOMM LLC operates a service at [sendtelegram.com](http://sendtelegram.com). The website for the service indicates that “[a]fter closure of retail operations by Western Union, we effectively replaced them in the domestic market.” Further, International Telegram operates a service at [iTelegram.com](http://iTelegram.com), whose website states that the company “operate[s] the former Western Union telex/cablegram network covering most of the globe.”

other than telegraph. In each case, the ultimate service provided is the delivery of a message to the recipient on paper, with proof of delivery established by some service providers.

In a 2017 Order removing “outmoded regulations,” the Federal Communications Commission indicated that it was not aware of any interstate telegraph service providers and that “[t]elegraph service is obsolete.”<sup>12</sup> Further, none of the businesses identified in staff’s search are registered to do business in Florida. As a result, it appears that the provisions of chapter 363, F.S., are outdated and no longer applicable.

### **Effect of Proposed Changes**

The bill repeals the entirety of chapter 363, F.S.

## **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.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.

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<sup>12</sup> 32 FCC Rcd 7132 (8) (2017).