SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 21, 1998 Revised:

Subject: Telecommunications

	Analyst	Staff Director	Reference	Action
1.	Masterton	Guthrie	RI	Favorable/CS
2.			WM	
3.				
4.				
5.				

I. Summary:

This bill amends the regulation of telecommunications services by the Florida Public Service Commission (PSC). To assist the Legislature in establishing a permanent universal service mechanism, the bill requires the PSC to determine a cost-proxy model reflecting the cost of basic local telecommunications services, to determine the costs for small local exchange companies to provide basic local service, and to determine the universal service support necessary for low income customers. The bill also directs the PSC to study the relationships among the costs and charges for residential basic local service, intrastate access service, and other local services and to recommend to the Legislature a “fair and reasonable rate” for basic residential local telecommunications services.

In addition, the bill requires GTE and Sprint to reduce their intrastate network access charges by 15% during 1998 and eliminates the 5% reductions currently required of all companies until they reach parity with their December 1994 interstate rates. The bill extends from 1999 to 2000 the caps on basic local rates for GTE, Sprint, and price-regulated small local exchange companies (current law caps BellSouth’s basic local rates until 2001). It also extends the caps on the rates for multi-line business and SUNCOM services for all price-regulated companies.

The bill requires the PSC to study the issue of access to multi-tenant buildings by telecommunications providers. The bill authorizes the PSC to adopt rules to prevent “slamming” and prescribes requirements for customer billing by telecommunications companies. The bill also requires the PSC to establish procedures for resolving disputes between incumbent local exchange companies and alternative local exchange companies related to the resale of telecommunications services and the sale of unbundled services. Finally, the bill corrects several glitches remaining from the 1995 Telecommunications Act.

This bill substantially amends the following sections of the Florida Statutes: 166.231, 203.01, 364.02, 364.025, 364.051, 364.161, 364.163, 364.336, 364.337, and 364.339.

This bill creates the following sections of the Florida Statutes: 364.601, 364.602, 364.603, and 364.604.

II. Present Situation:

Chapter 364, F.S., governs the regulation of telecommunications services by the PSC. The "Telecommunications Act of 1995" amended ch. 364, F.S., to allow competition for the provision of local telecommunications services in Florida. Several months after the Florida Act took effect, Congress enacted the "Telecommunications Act of 1996" to mandate that states open local telecommunications markets to competition.

Section 364.02, F.S., defines a local exchange company (LEC) as a company certificated to provide local service prior to July 1, 1995. The section defines an alternative local exchange company (ALEC) as a company certificated to provide local service after July 1, 1995. In addition, the section provides definitions of basic local telecommunications services, nonbasic services, and network access services.

Section 364.025, F.S., expresses the legislative goal of maintaining universal access to basic local telecommunications services in a competitive local telecommunications market. The PSC is required to establish an interim universal service mechanism, effective until January 1, 2000. In addition, the PSC was to report to the Legislature by January 1, 1997, with recommendations for a permanent universal service mechanisms. The PSC provided its recommendations of suggested parameters for a permanent mechanism in December 1996.

Section 364.051, F.S., caps the prices that incumbent local exchange companies may charge for basic and nonbasic local telecommunications services. Sections 364.16, 364.161, and 364.162, F.S., govern the prices for interconnection to a LEC's network, for the unbundling of the network for use by competitors, and for the resale of a LEC's services.

Section 364.163, F.S., caps the prices that LECs may charge for intrastate network access services. LECs are required to reduce the intrastate switched access charges that they collect from long distance companies by 5% each year, beginning in October 1996, until their intrastate rates reach parity with their interstate switched network access rates in effect on December 31, 1994. Long distance companies, in turn, must reduce the intrastate rates paid by toll customers to reflect these reductions. The PSC has jurisdiction to ensure that the required rate reductions are implemented. As of October 1997, eight LECs, including BellSouth, have reached parity with their December 1994 rates. Four LECs, including GTE and Sprint, have not reached parity. Under the current law, GTE is expected to reach parity by 2010 and Sprint is expected to reach parity by 2007 for Sprint/United and 2014 for Sprint/Centel.

Section 364.183, F.S., grants the PSC access to all telecommunications companies' records that are reasonably necessary for the disposition of matters within the commission's jurisdiction. In addition, the PSC has access to all records of LEC affiliates that are reasonably necessary to dispose of matters concerning affiliated transactions or claims of anti-competitive behavior.

Section 166.231, F.S., authorizes municipalities to levy a public service tax on utility services, including telecommunications services. Section 203.01, F.S., authorizes a state tax on utility gross receipts. Section 364.336, F.S., establishes the regulatory assessment fees telecommunications companies must pay, based on each company's gross operating revenues. Section 364.337, F.S., provides certification requirements for alternative local exchange companies and interexchange (long distance) companies. Section 364.339, F.S., sets forth regulatory requirements for shared tenant services providers.

During the 1997 interim, the Senate Regulated Industries Committee evaluated the current status of local service competition, access charges, and universal service. Senate Interim Project Report No. 97- P-12 (Interim Project Report) reflects the findings and recommendations of this review. The report discusses possible reasons why competition has not developed as quickly as was anticipated when the 1995 Florida Act and 1996 Federal Act were enacted. It considers the policy of universal service, its ties to access charges and implications for competition, and some possible alternatives for establishing a permanent universal service mechanism. The report also explores the effects of high access charges on competition, both in the long distance and local telecommunications markets. The report recommends several alternatives for addressing unresolved issues relating to competition, universal service, and access charges.

III. Effect of Proposed Changes:

The bill amends provisions relating to the regulation of telecommunications services, and it orders certain studies to provide a basis of information for legislation during the 1999 session regarding: a permanent universal service mechanism; a "fair and reasonable rate" for basic residential local telecommunications services; and access to multi-tenant buildings to provide competitive telecommunications services. The bill provides for accelerated reductions in intrastate network access charges. The bill also creates new sections regarding the prevention of "slamming," telecommunications companies' billing procedures, and procedures to resolve disputes among competing providers of telecommunications services. In addition, it corrects several glitches remaining from the 1995 Telecommunications Act.

Section 1 amends s. 364.025, F.S., to require the PSC to determine the total forward-looking cost of providing basic local telecommunications services on a geographic basis, using a cost proxy model, and to report this determination to the President of the Senate and the Speaker of the House by February 15, 1999. Costs for small local exchange telecommunications companies are to be calculated based on a different mechanism, as determined by the PSC, using either a different proxy model or a fully distributed allocation of embedded costs. In addition, the PSC must determine and report the amount of support necessary to provide residential basic local telecommunications services to low-income customers (defined as customers who qualify for

Lifeline). These provisions correspond to a policy alternative recommended on page 29 of the Interim Project Report to require the PSC to obtain and report to the Legislature specific information regarding the costs of basic local service to assist the Legislature in developing a permanent mechanism by January 1, 2000.

Section 2 expresses Legislative determinations that the charges for intrastate access and other services may be set above costs and may implicitly subsidize residential basic local rates. The PSC must study and report to the President of the Senate and the Speaker of the House, by February 15, 1999, the relationships among the costs and charges for basic local service, intrastate access services, and other local services. The PSC must also recommend to the President and the Speaker a "fair and reasonable rate" for basic residential local telecommunications services, considering affordability, the value of service, comparable basic local rates in other states, and the costs of residential basic local service. In determining the fair and reasonable rate, the PSC must hold at least one public hearing in each LEC's territory. To assist the PSC in making its recommendation regarding the fair and reasonable rate, LECs must provide the PSC with cost data and analysis that support the cost of providing basic residential local services in their territory. The PSC and all intervenors must have access to the LEC records related to the cost of providing basic residential local service to verify the submitted cost data. These provisions of the bill correspond to policy alternatives on pages 30 through 33 of the Interim Project Report by requiring information from the PSC to assist in addressing intrastate access charges.

Section 3 requires each LEC to offer a 30% discount on residential basic local service rates for a year after a Lifeline subscriber ceases to qualify for the Lifeline rate.

Section 4 amends s. 364.163, F.S., to cap the rates for intrastate switched network access services in effect on January 1, 1999, until January 1, 2001. In addition, it requires GTE and Sprint to reduce their rates for switched intrastate network access services by 5% on July 1, 1998, and 10% on October 1, 1998. Future 5% access charge reductions for those LECs that have not yet reached December 1994 intrastate parity are eliminated. Interexchange companies are required to pass on to residential and business customers the benefits of these rate reductions, though the specific intrastate rates to be reduced are left to the discretion of the interexchange carriers. These provisions of the bill correspond to recommendations on pages 30 through 33 of the Interim Project Report relating to access charges.

Section 5 requires the PSC to study issues associated with telecommunications companies serving customers in multi-tenant environments and report the results of this study to the President of the Senate and Speaker of the House by February 15, 1999. This corresponds to a recommendation on page 28 of the Interim Project Report to prohibit discriminatory and anti-competitive treatment of new local telecommunications companies by private building owners.

Section 6 requires the PSC to expand its current consumer information program to inform customers of their rights in a competitive telecommunications environment and to assist customers in resolving billing disputes. Pursuant to this program, the PSC may require telecommunications companies to provide information to their customers.

Section 7 creates the “Telecommunications Consumer Protection Act” in part III of ch. 364, F.S. The part authorizes the PSC to adopt rules to prevent “slamming” (i.e., the unauthorized changing of a customer’s telecommunications carrier). In addition, the part prescribes the billing practices of telecommunications companies that bill customers for telecommunications and other services. The bill must identify the originating party of a billed service and provide a toll-free number for contacting the originating party with questions about the bill. Telecommunications carriers have until July 30, 1999, to comply with these requirements. Customers are not liable for charges for services not ordered or not received, and companies must provide free blocking of 900 and 976 calls. The PSC is authorized to adopt rules to implement the billing practices provisions.

Section 8 extends the rate caps on basic local services for GTE, Sprint and price-regulated small LEC’s an additional year, to January 1, 2000 (under current law, BellSouth’s basic service rates are capped until January 1, 2001). In addition, the bill extends the caps on non-basic multi-line business services and SUNCOM services for all price-regulated companies from January 1, 1999, to January 1, 2000.

Section 9 amends s. 364.161, F.S., to require LECs to provide unbundled network elements, services for resale, repairs, and necessary support services in a timely manner. The PSC is required to maintain a file of all complaints by ALECs against LECs and to report this information to the Legislature as part of its annual report on competition. These provisions correspond to a recommendation on page 28 of the Interim Project Report to develop specific procedures for handling complaints about the implementation of interconnection, unbundling, and resale agreements between LECs and ALECs.

Sections 10 - 15 correct glitches remaining from the 1995 Telecommunications Act, including: amending ss. 166.231 and 203.01, F.S., to clarify that the PSC must publish statewide tariffs for commonly used services only; amending s. 364.02, F.S., to clarify that an entity providing telecommunications facilities only to another entity that is specifically exempt from ch. 364, F.S., is, itself, exempt; amending s. 364.336, F.S., to clarify how regulatory assessment fees are to be computed; amending s. 364.337, F.S., to provide that ALEC “911” services must be equivalent to LEC “9ll” services, to delete an inadvertent exemption for long distance companies from provisions giving the PSC access certain records, and to delete duplicate language relating to regulatory assessment fees; and amending s. 364.339, F.S., to entitle residential tenants served by a shared tenant services provider to obtain direct access to competitive providers (current law provides this assurance only to commercial tenants).

Section 16 makes the bill effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Consumers of local telecommunications services and potential competitors in the local telecommunications market should benefit from policies that increase competition in the local telecommunications market.

Telecommunications companies will incur costs to provide the information needed by the PSC to determine a cost proxy model and the “fair and reasonable rate” for basic residential local telecommunications services.

The 15% intrastate switched access charge reductions required of GTE and Sprint in 1998 represent an approximately $49.3 million reduction that will ultimately be passed on to long distance company customers. This reduction is $32.9 million more than the $16.4 million that would result from the 5% reduction required in October 1998 under current law.

C. Government Sector Impact:

The PSC will incur costs to implement the provisions of the bill related to determining a cost proxy model, recommending a “fair and reasonable rate” for basic residential local service, studying telecommunications companies’ access to multi-tenant buildings, expanding their consumer information program, adopting “‘slamming” and billing practices rules, and maintaining files on ALEC complaints against LECs.

The PSC provided the following estimate of the bill's fiscal impact:

	FY 98-99	**FY 99-00**	**FY 00-01**
Determination of Forward-looking Costs:			
Salaries and Benefits (1 Economic Analyst, 2 Senior Attorneys, & 1 Prof. Accountant)*	$197,228	$197,228	$197,228
OPS (4 Econ. Anal. equiv. & l Hearing Reporter)	$167,159	$0	$0
Expense (incl. funding for new FTEs and travel)	$39,556	$32,716	$32,716
Operating Capital Outlay	$12,860	$0	$0
Subtotal	$416,803	$229,944	$229,944
Fair and Reasonable Rate Determination			
Salaries and Benefits (2 Senior Attorneys)*	$105,490	$105,490	$105,490
OPS (incl. 4 Reg. Spec. equiv.)	$133,526	$0	$0
Expense (incl. funding for new FTEs and travel)	$19,778	$16,358	$16,358
Operating Capital Outlay	$6,430	$0	$0
Subtotal	$298,974	$121,848	$121,848
Access to Tenants Study			
Travel	$6,250	$0	$0
Subtotal	$6,250	$0	$0
Consumer Information Program			
Salaries & Benefits (3 Regulatory Specialists)*	$108,578	$108,578	$108,578
OPS (2 Regulatory Specialists equiv. Positions)	$59,483	$0	$0
Expense (Funding for new FTEs & travel)	$29,667	$24,537	$24,537
Operating Capital Outlay	$12,860	$0	$0
Subtotal	$210,588	$133,115	$133,115
Total Expenditures for Bill**	$932,615	$484,907	$484,907

* **Note:** These positions are ongoing, although the studies for which they are needed must be completed by February 15, 1999.

** **Note:** The PSC also indicated the need for $500,000 in OPS consultant fees ($200,000 for the fair and reasonable rate study and $300,000 for the multi-tenant access study). In addition, the PSC indicated a need for $874,000 to fund a print/media campaign as part of the expansion of their consumer information program.

Activities of the PSC are funded by regulatory assessment fees paid by electric and gas utilities, telecommunications companies, and water and wastewater utilities. According to the PSC, based on the current regulatory assessment fees, the projected balances in the Public Service Regulatory Trust Fund are as follows:

	FY 1998-1999	FY 1999-2000	FY 2000-2001
Trust Fund Balance:			
Total unencumbered	$14,991,094	$15,844,118	$16,653,455
Attributable to telecommunications	$2,626,152	$4,103,530	$5,873,795

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.