

STORAGE NAME: h2123.ei

DATE: April 12, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION INNOVATION
ANALYSIS**

BILL #: HB 2123 (PCB UCO 99-03)

RELATING TO: Telecommunications Services

SPONSOR(S): Committee on Utilities and Communications and Representative Rojas

COMPANION BILL(S): SB 2296(c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) UTILITIES AND COMMUNICATIONS YEAS 10 NAYS 0

(2) EDUCATION INNOVATION

(3)

(4)

(5)

I. SUMMARY:

The bill provides that by July 1, 1999, the Public Service Commission, (PSC), shall initiate a comprehensive and ongoing consumer telecommunications information program.

The bill provides for a \$1 million appropriation from the Florida Public Service Regulatory Trust Fund to the PSC, and two positions, for the purpose of carrying out its consumer telecommunications information program.

The bill removes from definitions used in the Education Facilities Infrastructure Improvement Act, Chapter 364, Part II, Florida Statutes, the words "Network" and "Plan."

The bill provides that the Department of Education (DOE) assume the duties of the Florida Distance Learning Network Advisory Council board of directors, and the bill outlines its duties concerning distance learning.

The bill creates within the DOE the Florida Distance Learning Network Advisory Council.

The bill provides for the Florida Distance Learning Advisory Council membership, organization, and meetings.

The bill provides for DOE administrative support for the advisory council.

The bill provides that the DOE assume the board of directors duties relating to the Educational Technology Grant Program.

The bill repeals Sections 364.511, 364.512, and 364.513, Florida Statutes.

The bill provides that a telecommunications company may provide through telephonic means a customer's own account information.

The bill takes effect on July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Florida has initiated the task of dealing with all aspects of a competitive telecommunications market and the Public Service Commission (PSC) has initiated efforts to educate the public to the results of competition. A major thrust of the PSC's consumer information and protection effort has been in the areas of "slamming," "cramming," and other service and billing problems. According to the PSC from March 1998 through February 1999, its Division of Consumer Affairs received 131,534 consumer calls, and answered 48,278 consumer issues with a staff of five phone analysts.

The Lifeline service is a need-based assistance program aimed at promoting universal service by maintaining subsidized rates for targeted low income telephone customers. The program subsidizes local telephone service up to \$10.50 per month. Of that amount, \$7.00 is provided by the federal government and \$3.50 is provided by the local exchange company. The \$3.50 portion of these rates is simply "absorbed" by the local exchange companies and recouped implicitly through higher rates being charged for other services.

Consumer qualification for Lifeline is set forth at 47 C.F.R. 54.409, which provides the following:

(a) To qualify to receive Lifeline service in states that provide state Lifeline service support, a consumer must meet the criteria established by the state commission. The state commission shall establish narrowly targeted qualification criteria that are based solely on income or factors directly related to income.

(b) To qualify to receive Lifeline support in states that do not provide state Lifeline support, a consumer must participate in one of the following programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or Low-Income Home Energy Assistance Program. In states not providing Lifeline support, each carrier offering Lifeline service to a customer must obtain that consumer's signature on a document certifying under penalty of perjury that the consumer receives benefits from one of the programs mentioned in this paragraph and identifying the program or programs from which that consumer receives benefits. On the same document, a qualifying low-income consumer also must agree to notify the carrier if that consumer ceases to participate in the program or programs.

The PCS has adopted a Lifeline program qualification standard that includes participants in programs funded under "Temporary Aid for Needy Families," (TANF), in addition to the programs described under federal standard at subsection (b) above. This additional qualification is the result of the PSC adopting qualification standards before the federal government adopted its standards.

Link-up (Florida) is also a need-based assistance program for low income telephone customers aimed at providing up to a 50% reduction in the telephone service hook-up charge, up to a maximum of \$30.00. The qualifications for Link-up are the same as for Lifeline customers. According to the PSC, as of July 31, 1998, there were 129,396 subscribers to Lifeline services in Florida. The PSC estimates that 816,278 subscribers are eligible for the service.

With the advent of increased consumer awareness efforts by the PSC to the availability of Lifeline and Link-up support programs for certain telephone customers, it is expected that the volume of calls to the PSC from consumers about programs and competitive market issues will dramatically increase.

Florida Distance Learning Network (FDLN)

In 1994, the State University System, SUS, convened a distance learning task force to make recommendations to the system's Master Plan. The task force was comprised of representatives from both the SUS and the Community College System. The task force's work resulted in a distance learning addendum to the SUS Master Plan.

One recommendation in the addendum was a proposal to create the Florida Distance Learning Network, FDLN. Such a network was proposed to pull the SUS and the Community College System together to work on distance learning issues and initiatives that affected both systems. This network would recommend policy issues, identify needed courses and programs, and serve as a resource clearinghouse.

In 1995, the idea of creating FDLN became the substance of HB 2497. HB 2497 created the FDLN in ss. 241.001-241.006, F.S. Other provisions of the bill included: 1) legislative intent - create a coordinated system for cost-efficient distance education; increase student access to education; and maximize the use of telecommunications technologies and their application to provide affordable distance education. 2) membership included heads of educational departments and agencies, as well as the Secretary of DMS and a member from each house of the Legislature. 3) duties, although similar to duties identified in part II of ch. 364, F.S., the membership was an attempt to pull the education delivery systems together and work with DMS and the Legislature to move distance learning forward in Florida.

The bill passed the House and its provisions were adopted as an amendment to SB 1554 in the Senate. SB 1554 was passed by the Legislature in 1995 and substantially rewrote ch. 364, F.S. It created part II of ch. 364, F.S. entitled, the "Education Facilities Infrastructure Improvement Act." The changes that were made, most notably, were to the membership. It went from a 7 member board to a 17 member board with industry representatives, labor unions, teaching and rural hospitals, and public libraries being added, and corporate authority. However, the scope of FDLN duties and its authority did not change, including taking action by consensus only. Consensus was defined by the board as unanimity.

During the 1994-95 fiscal year the Legislature appropriated the sum of \$12.75 million from the Public Education Capital Outlay and Debt Service Trust Fund, (PECO), of the Public School System, Community College System, and the State University System, to permit the Department of Education, (DOE), to acquire a satellite transponder and encoders to benefit public education. The Education Facilities Infrastructure Improvement Act also assigned responsibility for the management of the satellite transponder to the DMS. The FDLN was assigned the responsibility of coordinating the use of existing resources, including but not limited to the satellite transponder.

Chapter 94-356, Section 2010, Laws of Florida, stated in part that:

"until such time as this transponder is fully utilized for state education activities, all rental fees received shall be deposited in the Public Education Capital Outlay and Debt Service (PECO) Trust Fund to offset the cost of acquisition."

With the purchase of the transponder to further the state's public educational system, representatives of DOE anticipated the cost for utilizing the transponder would be set at an approximate amount of \$50.00 per hour.

However, according to the Florida Distance Learning Consortium, the rate was set at \$300.00 per hour and no reimbursements have been made to PECO to offset the transponder acquisition costs. The rate has also discouraged educational use which is the complete opposite of the initial intent.

The Department of Management Service has subcontracted certain responsibilities to the Florida State University, WFSU-TV, beginning July 1, 1998, through June 30, 1999, with the option to renew for three (3) one year terms.

However, on December 30, 1998 and January 6, 1999 signatures were obtained from representatives of the DOE, the DMS, and the Florida State University, WFSU-TV, to enter into an Interagency Cooperative Agreement. On June 19, 1998, the parties agreed, among other things, that DMS would assign to DOE all of its rights and obligations under the Interagency Agreement with Florida State University, WFSU-TV. The Department of Education would accept all of the rights and obligations from DMS, including but not limited to the right to receive the lease proceeds and the obligation to pay the costs of operating the satellite transponder. The DOE agreed to remit any net proceeds to the FDLN as required by Section 364.511(1)(k), F.S.

Further the parties agree to collaborate with each other in advising the Governor and Legislature to amend s. 364.511(1)(k), F.S., by deleting the reference to DMS and inserting DOE. It is anticipated that such an amendment would constitute a type two transfer as provided in s. 20.06(2), F.S. In the event that the Governor does not support the amendment to s. 364.511(1)(k), F.S., neither party shall be obligated to pursue the amendment with the Legislature or its staff.

Section 20.06(2), F.S., reads in part:

A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or sub-units, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.

The DOE currently has an agreement with Loral Skynet concerning skynet transponder service which extends to the year 2004.

Disclosure of Account Records

According to Bell South, it offers its customers in nine states the ability to receive through an interactive voice system information concerning their individual accounts without input of an access code.

Section 364.24(2), F.S., provides that:

Any officer or person in the employ of any telecommunications company shall not intentionally disclose customer account records except as authorized by the customer or as necessary for billing purposes, or required by subpoena, court order, other process of court, or as otherwise allowed by law. Any person who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Nothing herein precludes disclosure of customers' names, addresses, or telephone numbers to the extent they are otherwise publicly available.

B. EFFECT OF PROPOSED CHANGES:

The bill provides that by July 1, 1999, that the PSC shall further expand its consumer information programs to incorporate a comprehensive ongoing consumer education effort which informs telephone customers to the issues of a competitive telecommunications market, and the Lifeline and Link-up programs.

The bill provides for a \$1 million appropriation from the Florida Public Service Regulatory Trust Fund and two positions to the PSC for the purpose of carrying out the consumer education initiative.

Florida Distance Learning Network

The bill removes from the definitions used in the Education Facilities Infrastructure Improvement Act, Chapter 364, Part II, F.S., the words "Network" and "Plan."

The bill eliminates the Florida Distance Learning Network (FDLN) board of directors.

The bill provides that the Department of Education (DOE) assume the duties of the FDLN board of directors.

The bill outlines DOE duties concerning distance learning which include but are not limited to:

- (1) Facilitate the implementation of a statewide coordinated and cost effective advanced telecommunication services and distance education system.
- (2) Coordinate the use of existing resources.
- (3) Assist in the coordination of the utilization of the production and uplink capabilities.
- (4) Seek the assistance and cooperation of Florida's cable television and telecommunications carriers.
- (5) Coordinate partnerships for distance learning.

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- (6) Secure and administer funds for distance learning programs and activities.
- (7) Manage the state's satellite transponder resources and enter into lease agreements.
- (8) Hire appropriate staff.

The bill provides that nothing in ss. 364.506-364.514, F.S., shall be construed to abrogate, supersede, alter, or amend the powers and duties of any state agency, district school boards, community college boards of trustees, the State Board of Community Colleges, or the Board of Regents.

The bill establishes within the DOE the Florida Distance Learning Advisory Council.

The bill provides that the Florida Distance Learning Advisory Council is created to advise and assist the DOE in carrying out its duties relating to distance learning.

The bill provides for the requirements of the membership, organization, and meetings of the advisory council.

The bill provides that the membership shall not exceed 13 members who are appointed by and serve at the pleasure of the Commissioner of Education.

The bill provides that the representation of the advisory council may include, but is not limited to, public and private elementary and secondary schools; public and private postsecondary institutions, including vocational and technical centers; state agencies; libraries; the health care community, including urban, rural, and teaching hospitals; the cable telecommunications industry; the local exchange telecommunications industry and the interexchange industry. Two members shall be the Chancellor of the State University System or the chancellor's designee and the Executive Director of the Florida Community College System or the executive director's designee. One member may be a lay citizen.

The bill provides that the advisory council meet at least annually, and hold elections for one-year terms. Officers may be re-elected. The council shall meet at the call of its chair, at the request of the majority of its membership, the commissioner, or at such times as its membership may prescribe.

The DOE shall provide administrative and support services to the advisory council.

The bill provides that the DOE assume the FDLN duties relating to the Educational Technology Grant Program.

The bill repeals ss. 364.511, (powers of the directors of FDLN), 364.512, (board of directors of FDLN), and 364.513, (annual report of FDLN), F.S.

The bill provides telephone customers with the capability to receive their account information from a telephonic system without keying in an access code.

The bill takes effect on July 1, 1999.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

No.

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(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amends s. 364.0252, 364.24, 364.507, 364.508, 364.509, 364.510, 364.511, 364.512, 364.513, 364.514, F.S.

E. SECTION-BY-SECTION ANALYSIS:

N/A.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

<u>Revenues:</u>	<u>1999-00</u>
Florida Public Service Regulatory Trust Fund	\$1 m

<u>Expenditures:</u>	
Florida Public Service Commission	
Consumer Education	
Salaries & Benefits (2 FTE)	
Florida Public Service Regulatory Trust Fund	\$1 m

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

<u>Revenues:</u>	<u>1999-00</u>
Florida Public Service Regulatory Trust Fund	\$1 m

<u>Expenditures:</u>	
Florida Public Service Commission	
Consumer Education	
Salaries & Benefits (2 FTE)	
Florida Public Service Regulatory Trust Fund	\$1 m

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the state tax shared with counties or municipalities.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 29, 1999, the Committee on Utilities and Communications adopted two amendments. The first amendment removes from the definitions of s. 364.508, F.S. the words "network" and "plan." The amendment provides that the DOE assume the duties of the FDLN board of directors and the amendment outlines the DOE's duties concerning distance learning. The amendment creates within the DOE the Florida Distance Learning Network Advisory Council, and the amendment provides for the purpose, membership, organization, and meetings of the Florida Distance Learning Network Advisory Council. The amendment further provides that the DOE assume the board of directors duties relating to the Educational Technology Grant Program. The amendment repeals ss. 364.511, 364.512, and 364.513, F.S.

The second amendment provides telephone customers with the capability to receive their individual account information from an interactive telephonic voice system without keying in an access code.

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VII. SIGNATURES:

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