

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 Rules

BILL: CS/CS/SB 1018

INTRODUCER: Governmental Oversight and Accountability Committee; Communications, Energy, and Public Utilities Committee and Senator Bean

SUBJECT: Designation of Eligible Telecommunications Carriers

DATE: February 22, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>CU</u>	<u>Fav/CS</u>
2.	<u>Caldwell</u>	<u>Caldwell</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>Wiehle</u>	<u>Phelps</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1018 amends s. 364.10, F.S., relating to Lifeline services, to authorize the Public Service Commission (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 section conforms to federal Lifeline service guidelines by:

- Requiring a subscriber to present proof of continued eligibility upon request of the eligible telecommunications carrier.
- 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 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.

This bill takes effect July 1, 2018.

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 Federal Communications Commission (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, 2}

In Florida, the PSC oversees the Lifeline program³ 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, which is designated as an eligible telecommunications carrier by the commission pursuant to 47 C.F.R. s. 54.201.”⁴

The commission only evaluates applications for eligible telecommunications carrier (ETC) designation from wireline companies, leaving wireless applications to be evaluated by the FCC.⁵ 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.”⁶

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.⁷ This appears to be the statutory change that the PSC refers to as removing its authority to designate a wireless carrier as an ETC.

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.

¹ Florida Public Service Commission, *Florida Lifeline Assistance: Number of Customers Subscribing to Lifeline Service And the Effectiveness of Procedures to Promote Participation*, pg. 3(Dec. 2017).

² The FCC had already expanded the Lifeline program to include wireless voice communications services in 2005 to accommodate shifting consumer demand. *Lifeline Program for Low-Income Consumers*, available at: <https://www.fcc.gov/general/lifeline-program-low-income-consumers> (last visited Jan. 31, 2017).

³ Section 364.10, F.S.

⁴ Section 364.10(1)(a), F.S.

⁵ Fla. Public Service Commission, *supra* note 2 at 3.

⁶ Fla. Public Service Commission, *supra* note 2 at 3, FN 13.

⁷ Section 3, Ch. 2011-36, L.O.F.

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.
- 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 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 July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

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 section 364.10 of the Florida Statutes.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Governmental Oversight and Accountability on February 6, 2018:

- Retains the original intent of authorizing the Public Service Commission to certify a commercial mobile radio service provider as an eligible telecommunications carrier for the limited purpose of providing Lifeline services, but rewrites the language for clarity.
- Makes further changes to s. 364.10, F.S., as requested by the commission, to update the statute to conform to changes in the industry and in federal law;
- Amends s. 364.107, F.S., on public records relating to Lifeline services, as requested by the commission, to authorize the commission to release confidential and exempt information to the Federal Communications Commission or the Federal Communications Commission designee; and
- Makes technical and conforming changes to both statutes.

CS by Communications, Energy, and Public Utilities on January 10, 2018:

For purposes of providing Lifeline services under s. 364.10, F.S., any commercial mobile radio service provider that is certified as an eligible telecommunications carrier by the Public Service Commission is included in the term “eligible telecommunications carrier.” The provision authorizing the commission to make the designation was moved from s. 364.011, F.S.

B. Amendments:

None.

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