

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 971 Interruption of Services  
**SPONSOR(S):** Energy & Utilities Subcommittee; Fine  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1368

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	9 Y, 3 N, As CS	Keating	Keating
2) Commerce Committee			

### SUMMARY ANALYSIS

The bill prohibits certain service providers from charging customers for service that has been discontinued, interrupted, or not timely provided, as defined in the bill. Specifically, the bill:

- Prohibits a municipality or private company, as applicable, from charging a customer for garbage pick-up service that is not provided on the normally scheduled pick-up date, unless the missed service is provided within 4 calendar days after the originally scheduled pick-up date.
- Prohibits a telecommunications company or a cable or video service provider from charging a customer for service that has been interrupted for longer than 24 consecutive hours, unless: the interruption was caused by a negligent or willful act of the customer; as a result of damage or loss of electrical power on the customer's side of the service demarcation point that prevents the customer from taking service that is otherwise available; or the company or service provider offers access at no additional cost to the same or substantially similar service through another platform during the interruption.
- Provides that a customer who receives month-to-month service from a telecommunications company or a cable or video service provider and who requests that service be discontinued before the end of the normal billing period may be charged only for that portion of the billing period in which service was provided and must be credited for any overpayment.

To effectuate these prohibitions, the bill requires these service providers to calculate a pro-rata adjustment to the customer's regular bill and apply that amount as a credit or refund to the customer. The bill provides timeframes for the provision of such credits or refunds and requires the imposition of fines for failure to provide such credits or refunds as required by the bill. For a municipality or private company that fails to provide a credit or refund as required by the bill for failure to provide timely garbage pick-up service, the bill imposes a fine, payable to the customer, equal to 10 times the charge billed for service that was not timely provided. For a telecommunications company or a cable or video service provider that fails to provide a credit or refund as required by the bill, the bill requires the Department of Agriculture and Consumer Services (DACS) to impose a fine equal to 10 times the amount of the appropriate credit or refund and to remit any collected fines to its General Inspection Trust Fund. The bill authorizes DACS to adopt implementing rules.

The bill may have an indeterminate positive impact on state government revenues and will have an indeterminate negative impact on state government expenditures. The bill may have an indeterminate negative impact on local government revenues and does not appear to impact local government expenditures. See Fiscal Analysis, below.

The bill provides an effective date of July 1, 2018.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### Garbage Collection

Florida law authorizes municipalities and private companies to provide for the collection and disposal of garbage.<sup>1</sup> Counties also are authorized to provide solid waste collection service,<sup>2</sup> and have the option to contract with municipalities and special districts to provide such service.<sup>3</sup> A local government may provide solid waste collection service in direct competition with a private company under certain conditions.<sup>4</sup> Further, under certain conditions, a local government may choose to provide such service and effectively prohibit a private company from continuing to provide the same service.<sup>5</sup> In any event, Florida law requires local governments to use the most cost-effective means to provide solid waste management services and encourages contracts with private persons to provide such services.<sup>6</sup> Rates and terms of service for garbage collection vary by city and county.

##### Telephone Service

Florida's regulatory framework for local telephone service, or "local exchange service," historically has been codified in Chapter 364, F.S. This chapter established the Public Service Commission's ("PSC") jurisdiction to regulate telecommunication services.

In 1995, the Legislature found that competition for the provision of local exchange service would be in the public interest and opened local telephone markets to competition on January 1, 1996.<sup>7</sup> The law sought to establish a competitive market by granting competitive local exchange companies access to the existing telecommunications network. This began a gradual transition to the deregulation of incumbent local exchange companies' rates and terms of service, which culminated in 2011 with the Legislature determining that competition had progressed sufficiently to justify eliminating most of the PSC's remaining regulatory authority over telecommunications services.<sup>8</sup> Much of that competition has come from wireless services and Voice-over-Internet Protocol (VoIP) service rather than competitors offering traditional wireline service.<sup>9</sup>

Prior to 2011, local exchange telecommunications companies were required to adjust customer bills or provide refunds, on a pro-rata basis, if service was interrupted and remained out of order in excess of 24 hours after the customer notified the company of the interruption.<sup>10</sup>

Since 2011, there has been no legal requirement for local exchange telecommunications companies to provide credits or refunds to reflect the duration of service interruptions.

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<sup>1</sup> s. 180.06, F.S. For purposes of ch. 180, F.S., a "private company" is defined as "any company or corporation duly authorized under the laws of the state to construct or operate water works systems, sewerage systems, sewage treatment works, garbage collection and garbage disposal plants." s. 180.05, F.S.

<sup>2</sup> s. 125.01(1), F.S.

<sup>3</sup> s. 125.0101, F.S.

<sup>4</sup> s. 403.70605(1), F.S.

<sup>5</sup> s. 403.70605(3), F.S.

<sup>6</sup> s. 403.7063, F.S.

<sup>7</sup> Ch. 95-403, Laws of Fla.

<sup>8</sup> Ch. 2011-36, Laws of Fla. The PSC retains authority to oversee certain related areas, such as the Lifeline program (s. 364.10, F.S.) and carrier-to-carrier relationships (s. 364.16, F.S.).

<sup>9</sup> See FLORIDA PUBLIC SERVICE COMMISSION, *Report on the Status of Competition in the Telecommunications Industry*, December 31, 2016, available at <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Telecommunication/TelecommunicationIndustry/2017.pdf> (last visited Jan. 26, 2018).

<sup>10</sup> Rule 25-4.110(6), F.A.C. (repealed Oct. 13, 2011).

As of December 2016, local exchange telecommunications companies served approximately 3 million wireline access lines in Florida.<sup>11</sup> AT&T, CenturyLink, and Frontier are the largest of these companies providing wireline service in the state.<sup>12</sup> AT&T's general terms for local exchange service in Florida allow it to make pro-rata billing adjustments for services or facilities rendered useless or inoperative by an interruption that continues in excess of 24 hours from the time it is reported to, or detected by, the company.<sup>13</sup> Such adjustments are not made when the interruption is due to the negligence or willful act of the customer or the failure of customer-provided facilities.<sup>14</sup> CenturyLink's terms of service for Florida include substantially the same provision.<sup>15</sup> These provisions allow, but do not require, the company to provide a refund or credit. Both companies indicate that their systems are not capable of automatically detecting service outages for individual customers. Staff does not have information as to the practices of the numerous local exchange telecommunications companies in Florida. In any event, an individual company may modify its terms of service.

For monitoring purposes, wireline service providers must report certain outages to the Federal Communications Commission (FCC) within 120 minutes of becoming aware of the outages.<sup>16</sup>

### Cable and Video Service

Prior to 2007, an entity that wished to provide cable service was required to enter into a franchise agreement with each municipality or county in which the service provider intended to operate. These local franchise agreements commonly addressed rates and customer service standards, among other matters.<sup>17</sup>

Since 2007, any entity that provides cable or video service<sup>18</sup> in Florida must apply for and maintain a state-issued certificate of franchise authority through the Department of State that describes the areas within which the certification applies.<sup>19</sup> Cable and video service providers are required to comply with the customer service requirements established by rule of the FCC,<sup>20</sup> and the Department of Agriculture

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<sup>11</sup> *Supra* note 3, at p. 18. Competitive local exchange companies in Florida accounted for 38% of the business market and 1% of the residential market for local exchange service in Florida as of December 2016.

<sup>12</sup> *Supra* note 3, at p. 14. Six additional incumbent local exchange companies provide wireline service in rural areas or smaller service territories. See FLORIDA PUBLIC SERVICE COMMISSION, *Florida Local Exchange Telephone Companies Map* (2016), available at <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Telecommunication/exchangemap.pdf> (last visited Jan. 26, 2018).

<sup>13</sup> AT&T Florida, *General Exchange Guidebook*, Section A2.4.4, <http://cpr.att.com/pdf/fl/g002.pdf> (last visited Jan. 26, 2018).

<sup>14</sup> *Id.*

<sup>15</sup> EMBARQ Florida, Inc. d/b/a CenturyLink, *Local Terms of Service, Florida*, Section A2, Sheet 22 [http://www.centurylink.com/tariffs/fl\\_eqfl\\_loc\\_terms.pdf](http://www.centurylink.com/tariffs/fl_eqfl_loc_terms.pdf) (last visited Jan. 26, 2018).

<sup>16</sup> See 47 C.F.R. Part 4 – Disruptions to Communications.

<sup>17</sup> See House of Representatives Staff Analysis of CS/CS/HB 579 (2007), Policy & Budget Council (March 16, 2007) at 4.

<sup>18</sup> These services generally involve the delivery of video programming service via wireline facilities and exclude video programming delivered via satellite or wireless provider. See s. 601.103, F.S.

<sup>19</sup> s. 601.104, F.S.

<sup>20</sup> Specifically, the statute identifies 47 C.F.R. s. 76.309(c) as the applicable FCC rule. This provision reads:

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability -

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

and Consumer Service (DACS) has the sole authority to respond to customer complaints. DACS may not impose customer service standards inconsistent with the FCC's rule.<sup>21</sup> DACS may assist in resolving customer complaints through informal mediation.<sup>22</sup>

The applicable FCC rule does not address specific circumstances under which a credit or refund may be required.<sup>23</sup> The FCC rule specifies that it does not prohibit the state, as the franchising authority, from enacting any consumer protection law not specifically preempted by the rule.<sup>24</sup>

There are 25 active certificates of franchise authority that the Department of State has issued to cable and video service providers in the state.<sup>25</sup> A review of the published customer agreements for several

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- (iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.
  - (iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.
  - (v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.
- (2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:
- (i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
  - (ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.
  - (iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)
  - (iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
  - (v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.
- (3) Communications between cable operators and cable subscribers -
- (i) Refunds - Refund checks will be issued promptly, but no later than either -
    - (A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or
    - (B) The return of the equipment supplied by the cable operator if service is terminated.
  - (ii) Credits - Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.
- (4) Definitions -
- (i) Normal business hours - The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.
  - (ii) Normal operating conditions - The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
  - (iii) Service interruption - The term "service interruption" means the loss of picture or sound on one or more cable channels.

<sup>21</sup> s. 601.108, F.S.

<sup>22</sup> *Id.* See, also, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, *A to Z Resource Guide*, <https://csapp.800helpfla.com/CSPublicApp/AZGuide/AZSearchResult.aspx#610731034> (last visited Jan. 27, 2018).

<sup>23</sup> *Supra* note 20.

<sup>24</sup> 47 C.F.R. §76.309(b)(3).

<sup>25</sup> FLORIDA DEPARTMENT OF STATE, Division of Corporations, *Cable Franchise Name List*, <http://search.sunbiz.org/Inquiry/CableFranchiseSearch/SearchResults?inquiryType=CableFranchiseNameList&currentPage=1> (last visited Jan. 26, 2018).

major cable and video service providers in Florida shows similar approaches to service interruptions with some slight differences between providers.<sup>26</sup> Though each agreement uses different language, all state that the provider is not required to provide a refund or credit for service interruptions caused by circumstances beyond the provider's control, including, among other things, power outages, natural disasters, and causes attributable to the customer.<sup>27</sup> Some agreements indicate that the customer may be entitled to a pro-rata credit or refund for some service interruptions that exceed 24 hours, though the circumstances under which these provisions would apply are not clear.<sup>28</sup>

Though these service providers are not generally obligated under the terms of their service agreements to provide credits or refunds for service interruptions, many cable and video service providers provided credits to customers, upon request or on a case-by-case basis, whose service was interrupted as a result of Hurricane Irma.<sup>29</sup> Further, AT&T indicates that it provides a credit adjustment to customers for each day that service is partially or completely out, if notified of the service interruption. The Florida Internet and Television Association indicates that its members also work with customers on a case-by-case basis to provide credits for service interruptions, if notified of the interruption. Staff does not have information as to the practices of all cable and video service providers in Florida.

For monitoring purposes, cable service providers must report certain outages to the FCC within 120 minutes of becoming aware of the outages.<sup>30</sup>

## Effect of Proposed Changes

### Garbage Collection

The bill provides that a municipality or private company, as applicable, that provides garbage pick-up service may not charge a customer for pick-up service that is not provided on the normally scheduled pick-up date unless the missed service is provided within 4 calendar days after the originally scheduled pick-up date. If service is not provided within this time frame, the bill requires the municipality or private company to make a pro-rata adjustment to the customer's next regular bill to reflect the missed service date. A municipality or private company that fails to provide a credit or refund within 60 days from the next bill must pay the customer a fine equal to 10 times the charge billed for service that was not timely provided.

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<sup>26</sup> Xfinity, *Comcast Agreement for Residential Services*, Section 11.f. Disruption of Service, <https://www.xfinity.com/corporate/customers/policies/subscriberagreement> (last visited Jan. 27, 2018); Spectrum, *Spectrum Residential Cable Services Agreement*, Section 3. Disruption of Cable Service, <https://www.spectrum.com/policies/residential-terms.html> (last visited Jan. 27, 2018); Cox, *Residential Customer Service Agreement*, Section 9. Power Supply, and Section 17.b. Force Majeure, <https://www.cox.com/aboutus/policies/customer-service-agreement.html#power> (last visited Jan. 27, 2018); Mediacom, *Mediacom Residential Customer and User Agreement*, Section 4. Service Interruptions, Section 12. Refunds, and Section 22. Miscellaneous, <https://mediacomcable.com/legal/residential-customer-and-user-agreement/> (last visited Jan. 27, 2018); AT&T, *AT&T U-verse and AT&T Phone Terms of Service*, Section 8. Interruptions, Limitations, and Modifications of Service, <https://www.att.com/legal/terms.uverseAttTermsOfService.html> (last visited Jan. 27, 2018); Frontier Communications, *Frontier TV Terms of Service*, Section 12. Warranties and Limitation of Liability, <https://frontier.com/~media/corporate/terms/tv-tos.ashx?la=en> (last visited Jan. 27, 2018); CenturyLink, *CenturyLink Prism TV Services Subscriber Agreement*, Section 5.E. Force Majeure Events, [http://www.centurylink.com/legal/docs/Prism\\_TV\\_Services\\_Subscriber\\_Agreement\\_EN.pdf](http://www.centurylink.com/legal/docs/Prism_TV_Services_Subscriber_Agreement_EN.pdf) (last visited Jan. 27, 2018).

<sup>27</sup> See, e.g., Xfinity, *Comcast Agreement for Residential Services*, Section 11.f. Disruption of Service, <https://www.xfinity.com/corporate/customers/policies/subscriberagreement> (last visited Jan. 27, 2018); and Mediacom, *Mediacom Residential Customer and User Agreement*, Section 4. Service Interruptions, Section 12. Refunds, and Section 22. Miscellaneous, <https://mediacomcable.com/legal/residential-customer-and-user-agreement/> (last visited Jan. 27, 2018)

<sup>28</sup> *Id.*  
<sup>29</sup> See, e.g., Danny Monteverde, *Cable, phone, internet companies waive fees, offer rebates for Irma victims*, WTSP (Sep. 15, 2017), <http://www.wtsp.com/weather/irma/cable-phone-internet-companies-waive-fees-offer-rebates-for-irma-victims/474910296>; Lawrence Mower, *Missed Comcast service from Irma? Here's how to get a credit*, PALM BEACH POST (Sep. 21, 2017), <http://www.palmbeachpost.com/news/missed-comcast-service-from-irma-here-how-get-credit/nN99YX7yfc39E1Fjb5vQ0L/>; Michael D. Bates, *Spectrum: Credits available — if you ask*, CITRUS COUNTY CHRONICLE (Sep. 20, 2017), [http://www.chronicleonline.com/news/local/spectrum-credits-available-if-you-ask/article\\_43dcd766-9e2e-11e7-afc2-87b3ccc68e7f.html](http://www.chronicleonline.com/news/local/spectrum-credits-available-if-you-ask/article_43dcd766-9e2e-11e7-afc2-87b3ccc68e7f.html).

<sup>30</sup> *Supra* note 10.

Municipalities and private companies that provide service by contract with those municipalities may renegotiate the terms of their contracts to account for the requirements and potential fines imposed by the bill.

### Telephone Service

The bill provides that a telecommunications company<sup>31</sup> may not charge a customer for service that has been interrupted for longer than 24 consecutive hours. If service is restored for less than one hour during the interruption, the interruption is deemed to have continued through that time. The bill provides an exception if:

- The interruption is caused by a negligent or willful act of the customer;
- The interruption is caused by damage or loss of electrical power on the customer's side of the service demarcation point that prevents the customer from taking service that is otherwise available; or
- The service provider makes substantially similar services available to the customer via another platform during the period of the interruption at no additional cost.

The bill requires a telecommunications company to make a pro-rata adjustment to the customer's bill to reflect the number of days that service was interrupted as a percentage of the number of days in the customer's billing period. If the interrupted service was provided as part of a bundled package that includes services not covered by the bill, the appropriate credit or refund must be calculated based only on the portion of the normal billing amount attributable to the interrupted services covered by the bill. Any required billing adjustment must be provided as a credit or refund within 30 days after the date that service is restored or the date of the customer's next bill following restoration, whichever is later.

In addition, the bill provides that a customer who requests that service be discontinued by the telecommunications company before the end of the normal billing period may be charged only for that portion of the billing period in which service was provided prior to, and including the date of, discontinuance. The bill requires that the telecommunications company provide a credit or refund to the customer for any overpayment within 30 days from the date that service is discontinued or the date of the customer's next regular bill following discontinuance, whichever is later. The bill specifies that it does not reduce any applicable penalty or fee that applies when a customer discontinues service during the term of a contract if the customer has agreed to take service at a specified rate for the full term of the contract and the contract includes more than one billing period.

If an appropriate credit or refund is not provided as required by the bill, DACS must impose a fine equal to 10 times the amount of the appropriate credit or refund. The bill provides that fines collected by DACS must be remitted to its General Inspection Trust Fund.

The bill authorizes DACS to adopt rules that implement these provisions.

### Cable and Video Service

The bill provides that a cable or video service provider may not charge a customer for service that has been interrupted for longer than 24 consecutive hours. If service is restored for less than one hour during the interruption, the interruption is deemed to have continued through that time. The bill provides an exception if:

- The interruption is caused by a negligent or willful act of the customer;
- The interruption is caused by damage or loss of electrical power on the customer's side of the service demarcation point that prevents the customer from taking service that is otherwise available; or
- The service provider makes substantially similar services available to the customer via another platform during the period of the interruption at no additional cost.

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<sup>31</sup> The term "telecommunications company" includes all wireline local exchange service providers. *See* s. 364.02(13), F.S.

The bill requires a cable or video service provider to make a pro-rata adjustment to the customer's bill to reflect the number of days that service was interrupted as a percentage of the number of days in the customer's billing period. If the interrupted service was provided as part of a bundled package that includes services not covered by the bill, the appropriate credit or refund must be calculated based only on the portion of the normal billing amount attributable to the interrupted services covered by the bill. Any required billing adjustment must be provided as a credit or refund within 30 days after the date that service is restored or the date of the customer's next bill following restoration, whichever is later.

In addition, the bill provides that a customer who requests that service be discontinued by the cable or video service provider before the end of the normal billing period may be charged only for that portion of the billing period in which service was provided prior to, and including the date of, discontinuance. The bill requires that the service provider provide a credit or refund to the customer for any overpayment within 30 days from the date that service is discontinued or the date of the customer's next regular bill following discontinuance, whichever is later. The bill specifies that it does not reduce any applicable penalty or fee that applies when a customer discontinues service during the term of a contract if the customer has agreed to take service at a specified rate for the full term of the contract and the contract includes more than one billing period.

If an appropriate credit or refund is not provided as required by the bill, DACS must impose a fine equal to 10 times the amount of the appropriate credit or refund. The bill provides that fines collected by DACS must be remitted to its General Inspection Trust Fund.

The bill authorizes DACS to adopt rules that implement these provisions.

**B. SECTION DIRECTORY:**

**Section 1.** Amending s. 180.06, F.S., relating to garbage pick-up services provided by municipalities and private companies.

**Section 2.** Amending s. 364.04, F.S., relating to telecommunications company service interruptions.

**Section 3.** Amending s. 601.018, F.S., relating to customer service standards for cable and video service providers.

**Section 4.** Providing an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

The bill may have an indeterminate positive impact on state government revenues. DACS is authorized to impose fines under the bill and is required to remit any collected fines to its General Inspection Trust Fund. The potential extent of these fines is unknown.

**2. Expenditures:**

The bill will have an indeterminate negative impact on state government expenditures. DACS estimates that it will need one FTE in FY 2018-19 to implement the bill and may require additional staff in FY 2019-20 depending on the level of complaints received.<sup>32</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

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<sup>32</sup> Florida Department of Agriculture and Consumer Services, Agency Analysis of 2018 House Bill 971, pp. 1-2 (Jan. 26, 2018).

The bill requires a refund or credit for municipal garbage pick-up service that is not timely provided to a customer (i.e., within 4 calendar days of the originally scheduled pick-up date). Thus, the bill may have an indeterminate negative impact on the revenues of municipalities that provide garbage pick-up service but miss scheduled pick-up dates.

2. Expenditures:

The bill does not appear to have an impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The systems operated by telecommunications companies and cable and video service providers may be incapable of automatically detecting certain service interruptions. Such systems may require modification to provide this functionality to ensure compliance with the bill and to avoid fines required by the bill.

The bill may encourage telecommunications companies and cable and video service providers to undertake additional measures to identify and minimize service interruptions. Similarly, the bill may encourage municipalities and private companies who provide garbage collection services to minimize missed pick-up services.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DACS to adopt rules to implement provisions related to refunds or credits that are due to customers of telecommunications companies and cable and video service providers, including the imposition of fines.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 29, 2018, the Energy & Utilities Subcommittee adopted amendments to the bill and reported the bill favorably as a committee substitute. The amendments:

- Require garbage pick-up within 4 calendar days of the originally scheduled pick-up date to avoid the requirement to provide a credit or refund.



- Clarify that any applicable credit or refund must be applied to the customer's next regular bill and specifies that a fine must be paid if the applicable credit or refund is not provided within 60 days of the next bill.
- Provide that a credit or refund is not required if a service interruption is caused by a loss of electrical power to the customer or if the service provider makes substantially similar services available to the customer via another platform during the period of the interruption at no additional cost.
- Provide that if the interrupted service is provided as part of a bundled package that includes services not covered by the bill, the appropriate credit or refund will be calculated based only on the portion of the normal billing amount attributable to the interrupted services covered by the bill.
- Replace the PSC with DACS as the agency responsible for imposing fines for a telecommunications company's failure to properly issue credit or refunds.
- Provide that a customer who receives month-to-month service from a telecommunications company or cable or video service provider and who requests that service be discontinued before the end of the normal billing period may be charged only for that portion of the billing period in which service was provided and must be credited for any overpayment, and require DACS to impose a fine equal to 10 times any credit or refund due to the customer but not timely provided.
- Authorize DACS to adopt implementing rules, and provide that fines collected by DACS must be remitted to its General Inspection Trust Fund.

This analysis addresses the committee substitute.