

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 995 Universal Telecommunications Service  
**SPONSOR(S):** Attkisson  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2052

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Telecommunications (Sub)		Holt	Liepshutz
2) Business Regulation			
3) Commerce & Local Affairs Apprs.			
4) Appropriations			
5)			

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### SUMMARY ANALYSIS

The proposed bill would amend s. 364.025, F.S., relating to universal telecommunications service. The bill extends the period in which incumbent local exchange carriers (ILECs) are required to furnish basic local exchange service to any person requesting service within the companies' service territory to January 1, 2006. It also extends the life of the Florida Public Service Commission (FPSC) established interim mechanism for maintaining universal service objectives and funding of carrier-of-last-resort (COLR) obligations to January 1, 2006. The time frame for the Legislature to establish a permanent universal service mechanism is extended to January 1, 2006. Finally, the bill amends the date after which an alternative local exchange carrier (ALEC) may petition the FPSC to become the universal service provider and COLR in areas requested to be served by that ALEC from January 1, 2001 to January 1, 2006.

This Act takes effect upon becoming law.

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

**STORAGE NAME:** h0995.br.doc  
**DATE:** March 14, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

Chapter 364, F.S., relates to Telecommunications Companies. Section 364.025, F.S., provides in part that:

(1) For the purposes of this section, the term “universal service” means an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas. It is the intent of the Legislature that universal service objectives be maintained after the local exchange market is opened to competitively provided services. It is also the intent of the Legislature that during this transition period the ubiquitous nature of the local exchange telecommunications companies be used to satisfy these objectives. For a period of 8 years after January 1, 1996, each local exchange telecommunications company shall be required to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory.

(2) The Legislature finds that each telecommunications company should contribute its fair share to the support of the universal service objectives and carrier-of-last-resort obligations. For a transitional period not to exceed January 1, 2004, the interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations shall be established by the commission, pending the implementation of a permanent mechanism.

(3) In the event any party, prior to January 1, 2004, believes that circumstances have changed substantially to warrant a change in the interim mechanism, that party may petition the commission for a change. . .

(4)(a) Prior to January 1, 2004, the Legislature shall establish a permanent universal service mechanism upon the effective date of which any interim recovery mechanism for universal service objectives or carrier-of-last-resort obligations imposed on alternative local exchange telecommunications companies shall terminate.

According to the FPSC, if the “January 1, 2004” references in the statutes are not amended, ILECs will no longer be obligated to serve as COLR for their service territories. As COLR, the ILEC is obligated to

provide basic local service including B1 (single line business service) at reasonable rates and in a reasonable time period to any customer in its territory requesting service. Section 364.025, F.S., implemented in 1995, is the only provision that explicitly refers to this obligation in these precise terms. Additionally, the 1995 changes to Chapter 364, F.S., included a specific exemption from the requirements of s. 364.03, F.S., for all price regulated ILECs. Section 364.03, F.S., states that:

(1) All rates, tolls, contracts, and charges of, and all rules and regulations of, telecommunications companies for messages, conversations, services rendered, and equipment and facilities supplied, whether such message, conversation, or service is to be performed over one company or line or over or by two or more companies or lines, shall be fair, just, reasonable, and sufficient, and the service rendered to any person by any telecommunications company shall be rendered and performed in a prompt, expeditious, and efficient manner. The telecommunications facilities furnished by a telecommunications company shall be safe and kept in good condition and repair; and its service shall be modern, adequate, sufficient, and efficient.

(2) Every telecommunications company operating in this state shall provide and maintain suitable and adequate buildings and telecommunications facilities therein, or connected therewith, for the accommodation, comfort, and convenience of its patrons and employees.

(3) Every telecommunications company shall, upon reasonable notice, furnish to all persons who may apply therefore and be reasonably entitled thereto suitable and proper telecommunications facilities and connections for telecommunications services and furnish telecommunications service as demanded upon terms to be approved by the commission.

Currently, all ILECs, except Frontier, are price-regulated, making them exempt from the provisions of s. 364.03, F.S. Further, the FPSC states there is some general authority in s. 364.01(4)(a), F.S. which it could arguably make a case for requiring the ILECs to abide by their COLR obligations.

While addressing the date reference in s. 364.025(1), F.S., appears most critical in terms of maintaining the ILECs' COLR obligations, the remaining references to "January 1, 2004" in s. 364.025, F.S., pertain to the interim and permanent mechanisms for funding COLR and universal service objectives. In accordance with the statute, the FPSC approved an implicit mechanism for funding universal service objectives by Order No. PSC-95-1592-FOF-TL. As currently stated in the statute, however, this is to be merely a transitional mechanism. The statute states that before January 1, 2004, the Legislature will establish a permanent mechanism for funding these obligations. While this does not require the FPSC to take any particular responsive action, to date no permanent mechanism has been established by the Legislature.

Finally, the federal Telecommunications Act of 1996 does include universal service provisions, as well as provisions for the designation of Eligible Telecommunications Carriers (ETCs). ETCs are eligible for federal universal service support upon designations by the state commission, in this case FPSC. As an ETC, a carrier must meet federal obligations which are somewhat similar, but not identical, to COLR obligations. However, unlike the COLR obligations, the status as an ETC may be relinquished. Currently all Florida ILECs are designated ETCs.

The FPSC further states that should the dates in s. 364.025, F.S., lapse, reliance upon the federal provisions could have the practical effect of ensuring that some semblance of COLR obligations in the state are maintained. The FPSC's ability to enforce those provisions would likely, however, be hindered by the fact that there would no longer be any underlying state authority for enforcing such obligations. Furthermore, it should be noted in Section 254(b)(5) of the Telecommunications Act of

1996, that the federal Act clearly contemplates that there would be coexistent federal and state funding mechanisms for universal service.

The bill amends s. 364.025(1), F.S., to extend until January 1, 2006, the COLR obligations required of ILECs.

The bill also amends s. 364.025(2), F.S., to extend until January 1, 2006, the FPSC continued implementation of the interim funding mechanism used in maintaining universal services and funding COLR obligations.

The bill provides that prior to January 1, 2006, the Legislature shall establish a permanent universal service mechanism upon the effective date of which any interim recovery mechanism for universal service objectives or COLR obligations imposed on ALECs shall terminate.

The bill establishes that after January 1, 2006, an ALEC may petition the FPSC to become the universal service provider and COLR in areas it requests to serve.

The bill takes effect upon becoming law.

#### C. SECTION DIRECTORY:

Section 1. Amends s. 364.025(1), F.S., to extend until January 1, 2006, the COLR obligations required of ILECs. It also extends the interim mechanism established by the FPSC for maintaining universal service objectives and funding of carrier-of-last-resort (COLR) obligations to January 1, 2006. It further provides the Legislature until January 1, 2006, to establish a permanent universal service mechanism. The bill further amends the date after which an ALEC may petition the FPSC to become the universal service provider and COLR in areas requested to be served by that ALEC from January 1, 2001 to January 1, 2006.

Section 2. Provides an effective date.

## 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:

The bill extends until January 1, 2006 the time period for which an ALEC may petition the FPSC to become the universal service provider and COLR in areas it requests to serve.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**