

House Bill No. 2123

An act relating to telecommunications; amending s. 364.025, F.S.; extending the interim mechanism for maintaining universal service objectives and carrier-of-last-resort obligations until a specified date; amending s. 337.401, F.S.; specifying that specified provisions do not apply to the provision of pay telephone service on public or municipal roads or rights-of-way; amending s. 364.0252, F.S.; directing the Florida Public Service Commission to inform consumers about specific matters in the telecommunications services market; amending s. 364.24 F.S.; providing for telephonic customer account information; amending s. 240.311, F.S.; authorizing the State Board of Community Colleges to develop and produce certain work products related to distance learning; authorizing fees for such materials for purposes of educational use; requiring annual postaudits; requiring the adoption of rules; requiring the submission of reports; creating ss. 241.001-241.004, F.S.; defining terms; prescribing duties of the Department of Education with respect to distance learning; creating the Florida Distance Learning Network Advisory Council and providing for its membership, meetings, and responsibilities; creating a grant program to award grants to certain educational institutions; repealing ss. 364.509, 364.510, 364.511, 364.512, 364.513, 364.514, F.S., relating to the Education Facilities Infrastructure Improvement Act; establishing a task force in the Department of Management Services; providing for representation; providing responsibilities; providing for meetings of the task force; providing for support staff for the task force; requiring reports; providing for the dissolution of the task force; providing an appropriation; repealing s. 59(4) of SB 2502, enacted in the 1999 Regular Session of the Legislature, relating to performance measures for the Florida Public Service Commission; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 364.025, Florida Statutes, 1998 Supplement, is amended to read:

364.025 Universal service.—

(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 5 4 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, ~~2001~~ 2000, an 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. The interim mechanism shall be applied in a manner that ensures that each alternative local exchange telecommunications company contributes its fair share to the support of universal service and carrier-of-last-resort obligations. The interim mechanism applied to each alternative local exchange telecommunications company shall reflect a fair share of the local exchange telecommunications company's recovery of investments made in fulfilling its carrier-of-last-resort obligations, and the maintenance of universal service objectives. The commission shall ensure that the interim mechanism does not impede the development of residential consumer choice or create an unreasonable barrier to competition. In reaching its determination, the commission shall not inquire into or consider any factor that is inconsistent with s. 364.051(1)(c). The costs and expenses of any government program or project required in part II of this chapter shall not be recovered under this section.

(3) In the event any party, prior to January 1, ~~2001~~ 2000, believes that circumstances have changed substantially to warrant a change in the interim mechanism, that party may petition the commission for a change, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances, including that the provider's customer population includes as many residential as business customers. The commission shall act on any such petition within 120 days.

(4)(a) Prior to January 1, 2001 ~~the expiration of this 4-year period~~, 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.

(b) To assist the Legislature in establishing a permanent universal service mechanism, the commission, by February 15, 1999, shall determine and report to the President of the Senate and the Speaker of the House of Representatives the total forward-looking cost, based upon the most recent commercially available technology and equipment and generally accepted design and placement principles, of providing basic local telecommunications service on a basis no greater than a wire center basis using a cost proxy model to be selected by the commission after notice and opportunity for hearing.

(c) In determining the cost of providing basic local telecommunications service for small local exchange telecommunications companies, which serve less than 100,000 access lines, the commission shall not be required to use

the cost proxy model selected pursuant to paragraph (b) until a mechanism is implemented by the Federal Government for small companies, but no sooner than January 1, 2001. The commission shall calculate a small local exchange telecommunications company's cost of providing basic local telecommunications services based on one of the following options:

1. A different proxy model; or
2. A fully distributed allocation of embedded costs, identifying high-cost areas within the local exchange area the company serves and including all embedded investments and expenses incurred by the company in the provision of universal service. Such calculations may be made using fully distributed costs consistent with 47 C.F.R. ss. 32, 36, and 64. The geographic basis for the calculations shall be no smaller than a census block group.

(d) The commission, by February 15, 1999, shall determine and report to the President of the Senate and the Speaker of the House of Representatives the amount of support necessary to provide residential basic local telecommunications service to low-income customers. For purposes of this section, low-income customers are customers who qualify for Lifeline service as defined in s. 364.10(2).

(5) After January 1, ~~2001~~ 2000, an alternative local exchange telecommunications company may petition the commission to become the universal service provider and carrier of last resort in areas requested to be served by that alternative local exchange telecommunications company. Upon petition of an alternative local exchange telecommunications company, the commission shall have 120 days to vote on granting in whole or in part or denying the petition of the alternative local exchange company. The commission may establish the alternative local exchange telecommunications company as the universal service provider and carrier of last resort, provided that the commission first determines that the alternative local exchange telecommunications company will provide high-quality, reliable service. In the order establishing the alternative local exchange telecommunications company as the universal service provider and carrier of last resort, the commission shall set the period of time in which such company must meet those objectives and obligations and shall set up any mechanism needed to aid such company in carrying out these duties.

Section 2. Subsection (10) is added to section 337.401, Florida Statutes, 1998 Supplement, to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(10) This section, except subsections (1), (2), and (6), does not apply to the provision of pay telephone service on public or municipal roads or rights-of-way.

Section 3. Effective July 1, 1999, section 364.0252, Florida Statutes, 1998 Supplement, is amended to read:

364.0252 Expansion of consumer information programs; customer assistance; rulemaking authority.—~~By January 1, 1999, The Florida Public Ser-~~

vice Commission shall expand its current consumer information program to inform consumers of their rights as customers of competitive telecommunications services and shall assist customers in resolving any billing and service disputes that customers are unable to resolve directly with the company. The commission may, pursuant to this program, require all telecommunications companies providing local or long distance telecommunications services to develop and provide information to customers. The commission may specify by rule the types of information to be developed and the manner by which the information will be provided to the customers. The Florida Public Service Commission shall undertake a comprehensive and ongoing effort to inform consumers regarding how to protect themselves in a competitive telecommunications market. Of specific concern are informing consumers concerning the availability of the Lifeline and Link-Up Programs for low-income households and alerting consumers to how they can avoid having their service changed or unauthorized charges added to their telephone bills.

Section 4. Subsection (2) of section 364.24, Florida Statutes, is amended to read:

364.24 Penalty for making telephone message or customer account information known.—

(2) 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. Nothing herein precludes a telecommunications company from making available to its customers a customer's own customer account record through telephonic means.

Section 5. Subsection (8) is added to section 240.311, Florida Statutes, 1998 Supplement, to read:

240.311 State Board of Community Colleges; powers and duties.—

(8)(a) The State Board of Community Colleges is authorized to develop and produce work products which relate to mechanisms to provide for consolidated and coordinated program development and educational endeavors to support distance learning instruction which are subject to trademark, copyright, or patent statutes. To this end, the board shall consider the relative contribution by the personnel employed in the development of such work products and shall enter into binding agreements with such personnel, organizations, corporations, or government entities, which agreements shall establish the percentage of ownership of such trademarks, copyrights, or patents. Any other law to the contrary notwithstanding, the board is authorized in its own name to:

1. Perform all things necessary to secure letters of patent, copyrights, and trademarks on any such work products and to enforce its rights therein.

2. License, lease, assign, or otherwise give written consent to any person, firm, or corporation for the manufacture or use thereof on a royalty basis or for such other consideration as the board deems proper.

3. Take any action necessary, including legal action, to protect the same against improper or unlawful use or infringement.

4. Enforce the collection of any sums due the board for the manufacture or use thereof by any other party.

5. Sell any such work products and execute all instruments necessary to consummate any such sale.

6. Perform all other acts necessary and proper for the execution of powers and duties provided by this paragraph.

Any proceeds therefrom shall be deposited and expended by a Florida not-for-profit corporation, incorporated under the provisions of chapter 617 and approved by the Department of State, to be used as directed by the board to pay the cost of producing and disseminating educational materials and products to carry out the intent of this act. Any action taken by the board in securing or exploiting such trademarks, copyrights, or patents shall, within 30 days, be reported by the board to the Department of State.

(b) The board is authorized to publish, produce, or have produced materials and products and shall make them readily available for appropriate use in the state system of education. The board is authorized to charge an amount adequate to cover the essential cost of producing and disseminating such materials and products in the state system of education and is authorized to sell copies for educational use to nonpublic schools in the state and to the public.

(c) Any Florida not-for-profit corporation receiving funds pursuant to this section shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules to be adopted by the board. The annual audit report shall be submitted to the Auditor General and the board for review. The board and the Auditor General shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization.

(d) By December 31, 1999, and annually thereafter, the State Board of Community Colleges shall report on the implementation of this section to the Speaker of the House of Representatives and the President of the Senate.

Section 6. Section 241.001, Florida Statutes, is created to read:

241.001 Definitions.—As used in ss. 241.001-241.004, the term:

(1) “Advanced telecommunications services” means network-based or wireless services that provide additional communications capabilities en-

abling the use of applications such as distance learning, video conferencing, data communications, and access to Internet.

(2) “Department” means the Department of Education.

(3) “Eligible facilities” includes all approved campuses and instructional centers of all public universities, public community colleges, area technical centers, public elementary schools, middle schools, and high schools, including school administrative offices, public libraries, teaching hospitals, the research institute described in s. 240.512, and rural public hospitals as defined in s. 395.602. If no rural public hospital exists in a community, the public health clinic that is responsible for individuals before they can be transferred to a regional hospital shall be considered eligible.

Section 7. Section 241.002, Florida Statutes, is created to read:

241.002 Duties of the Department of Education.—The duties of the Department of Education concerning distance learning include, but are not limited to, the duty to:

(1) Facilitate the implementation of a statewide coordinated system and resource system for cost-efficient advanced telecommunications services and distance education which will increase overall student access to education.

(2) Coordinate the use of existing resources, including, but not limited to, the state’s satellite transponders on the education satellites, the SUNCOM Network, the Florida Information Resource Network (FIRN), the Department of Management Services, the Department of Corrections, and the Department of Children and Family Services’ satellite communication facilities to support a statewide advanced telecommunications services and distance learning network.

(3) Assist in the coordination of the utilization of the production and uplink capabilities available through Florida’s public television stations, eligible facilities, independent colleges and universities, private firms, and others as needed.

(4) Seek the assistance and cooperation of Florida’s cable television providers in the implementation of the statewide advanced telecommunications services and distance learning network.

(5) Seek the assistance and cooperation of Florida’s telecommunications carriers to provide affordable student access to advanced telecommunications services and to distance learning.

(6) Coordinate partnerships for development, acquisition, use, and distribution of distance learning.

(7) Secure and administer funding for programs and activities for distance learning from federal, state, local, and private sources and from fees derived from services and materials.

(8) Manage the state’s satellite transponder resources and enter into lease agreements to maximize the use of available transponder time. All net

revenue realized through the leasing of available transponder time, after deducting the costs of performing the management function, shall be recycled to support the public education distance learning in this state based upon an allocation formula of one-third to the Department of Education, one-third to the State Board of Community Colleges, and one-third to the State University System.

(9) Hire appropriate staff which may include a position that shall be exempt from part II of chapter 110 and is included in the Senior Management Service in accordance with s. 110.205.

Nothing in ss. 241.001-241.004 shall be construed to abrogate, supersede, alter, or amend the powers and duties of any state agency, district school board, community college board of trustees, the State Board of Community Colleges, or the Board of Regents.

Section 8. Section 241.003, Florida Statutes, is created to read:

241.003 The Florida Distance Learning Network Advisory Council; creation; membership; organization; meetings.—

(1) The Florida Distance Learning Network Advisory Council is created in the Department of Education to advise and assist the department in carrying out its duties relating to distance learning.

(a) Composition.—The advisory council, to be appointed by and serve at the pleasure of the Commissioner of Education, shall not exceed 13 members, selected from the various entities who have interests in distance learning, and who are, when possible, leading members of statewide or regional organizations representing institutional consumers and providers so as to establish a broadly based and representative distance learning advisory council.

(b) Representation.—The organizations represented on the advisory council may include, but are 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.

(c) Organization, procedure, and compensation.—

1. The advisory council shall meet at least annually.

2. The advisory council shall elect a chair, a vice-chair, and a secretary from its membership for 1-year terms. Officers may be reelected.

3. The advisory 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 prescribes.

(2) The advisory council may study and recommend to the department concerning:

(a) A marketing program statewide, nationally, and internationally, as deemed appropriate.

(b) The recipients of the Educational Technology Grant Program provided in s. 241.004.

(c) Suggested legislation concerning distance learning.

(d) Any other issue regarding distance learning that the council deems appropriate.

(3) The department shall provide administrative and support services to the advisory council.

Section 9. Section 241.004, Florida Statutes, is created to read:

241.004 Educational Technology Grant Program.—

(1) The Department of Education shall annually award grants to school districts, area technical centers, community colleges, state universities, and independent institutions eligible to participate in state student assistance programs established in part IV of chapter 240. The department shall give priority to cooperative proposals submitted by two or more institutions or delivery systems. The proposals shall include:

(a) Information which describes the educational significance of the program or service in addressing state educational priorities.

(b) The target population for the program.

(c) The program content to be transmitted.

(d) The support services to be provided.

(e) Provisions to use at least 20 percent of any funds awarded for training both faculty and student learners in the use and application of the products developed.

(2) Programs and courses developed through the grant program shall be marketed statewide and nationwide with a portion of any profits from the sale or use of such programs retained by the developing institutions or systems and a portion reinvested in the grant program for further program development. The distribution of any revenues received shall be determined by formal agreement between the department and the developing system or institution.

(3) The department shall identify state educational priorities and issue a request for proposals by June 1 in every year in which funds are available for grants. The department shall ensure the quality of the programs and courses produced through the grants and produce an annual status report by March 1 describing the projects funded and accounting for any proceeds.

Section 10. Sections 364.509, 364.510, 364.511, 364.512, 364.513, and 364.514, Florida Statutes, are repealed.

Section 11. (1) There is created the Information Service Technology Development Task Force which shall be located within the Department of Management Services for the purpose of developing policies that will benefit residents of this state by fostering the free-market development and beneficial use of advanced communications networks and information technologies within this state. The task force shall be composed of 34 members as follows:

(a) The Attorney General, the executive director of the Florida Department of Law Enforcement, the Chancellor of the State University System, the Commissioner of Education, the executive director of the State Board of Community Colleges, the director of the Office of Tourism, Trade, and Economic Development, the executive director of the Department of Revenue, a representative of the Florida Council of American Electronics Association, a representative of the Florida Internet Providers Association, a representative of the United States Internet Council, the chair of the State Technology Council, and the secretary of the Department of Management Services.

(b) The President of the Senate shall appoint one member from each of the following categories: a facilities-based interexchange telecommunications company, a wireless telecommunications company, an alternative local exchange telecommunications company, an internet service provider with more than one million customers, the entertainment industry, a computer or telecommunications manufacturing company, and one member of the Florida Senate.

(c) The Speaker of the House of Representatives shall appoint one member from each of the following categories: a cable television provider, a computer software company, the banking industry, an internet search engine company, a local exchange telecommunications company, the tourist industry, and one member of the House of Representatives.

(d) The Governor shall name the chair, and appoint members as follows: one college student who relies on the Internet for personal or academic use, a representative of a local government that is an alternative local exchange telecommunications company or an Internet service provider, and four members as determined by the Governor to appropriately represent technology providers, manufacturers, retailers, and users.

(e) The minority leader of the House of Representatives shall appoint one member of the House of Representatives.

(f) The minority leader of the Senate shall appoint one member of the Senate.

(2) The task force shall exist for 2 years and shall meet at least four times per year. Failure of a member to participate in three consecutive meetings shall result in the member's replacement by the Governor. The task force is encouraged to implement electronic bulletin boards and other means for the exchange of ideas throughout the year.

(3) The task force shall develop overarching principles to guide state policy decisions with respect to the free-market development and beneficial use of advanced communications networks and information technologies, identify factors that will affect whether these technologies will flourish in Florida, and develop policy recommendations for each factor.

(4) By February 14 of calendar years 2000 and 2001, the task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives outlining principles, policy recommendations, and any suggested legislation. The task force may develop and publish other documents throughout the year.

(5) The State Technology Office within the Department of Management Services shall provide support staff for the task force and promote public awareness of the development of principles and policy recommendations by the task force. The State University System shall assist the task force as necessary.

(6) The task force shall dissolve effective July 1, 2001.

Section 12. Effective July 1, 1999, the sum of \$250,000 is appropriated from the General Revenue Fund to the State Technology Office in the Department of Management Services and four positions are created in the department for the purpose of carrying out the provisions of this act which create the Information Service Technology Development Task Force.

Section 13. Subsection (4) of section 59 of Senate Bill 2502, enacted in the 1999 Regular Session of the Legislature, is repealed.

Section 14. Except as otherwise provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 11, 1999.

Filed in Office Secretary of State June 11, 1999.