HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 789 Lifeline Services
SPONSOR(S): Payne and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 7036

FINAL HOUSE FLOOR ACTION: 111 **Y's** 0 **N's** **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

HB 789 passed the House on March 4, 2022, as SB 7036.

Since 1985, the Lifeline program (Lifeline) has provided telecommunications service discounts for qualifying low-income consumers. The Federal Communications Commission (FCC) has designated the Universal Service Administrative Company (USAC), an independent not-for-profit corporation, as the program's administrator. Consumers can qualify for Lifeline either through program-based or income-based eligibility standards.

In Florida, the Public Service Commission (PSC) oversees Lifeline. Under Florida law, an eligible telecommunications carrier (ETC) must provide Lifeline to qualified residential subscribers. Florida law provides for automatic enrollment in Lifeline for individuals already enrolled in a qualifying program.

The bill updates Florida's Lifeline statute to be consistent with federal Lifeline regulations. In summary, the bill:

- Clarifies that an ETC must notify a Lifeline subscriber of impending termination of Lifeline service if it has reason to believe that the subscriber no longer qualifies for Lifeline.
- Provides that a Lifeline subscriber upon request, must provide proof of continued eligibility for Lifeline to the ETC, the FCC, or the FCC's designee.
- Removes obsolete references to state agencies no longer involved in Lifeline.
- Removes state standards for the provision of Lifeline that are inconsistent with the FCC's ETC eligibility requirements.
- Authorizes certain information exempt from public records laws to be released to the FCC or its designee as required to administer Lifeline.

The bill does not have a fiscal impact on state or local governments.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2022.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Lifeline Program

Since 1985, the Lifeline program (Lifeline) has provided telecommunications service discounts for qualifying low-income consumers. Lifeline's initial goal was to ensure that all Americans had the opportunity and security that basic phone service provides. Over time, that goal has evolved to include broadband Internet service. Qualifying households can receive up to a $9.25 discount on their monthly phone or broadband Internet bills from wireline service providers that have been designated as eligible telecommunications carriers (ETCs). Alternatively, consumers may choose to receive monthly wireless minutes and/or measured data service from designated wireless providers.[1]

The Federal Communications Commission (FCC) establishes rules governing Lifeline. The FCC has designated the Universal Service Administrative Company (USAC), an independent not-for-profit corporation, as Lifeline's administrator. USAC is responsible for data collection and maintenance, support calculation, and disbursement for Lifeline.[2]

Consumers may qualify to participate in Lifeline either through program-based or income-based eligibility standards. Program-based eligibility is determined by a customer's enrollment in specific qualifying programs. Customers can qualify for Lifeline by being enrolled in any of the following programs:

- Supplemental Nutrition Assistance Program (SNAP)
- Medicaid
- Federal Public Housing Assistance
- Supplemental Security Income
- Veterans or Survivors Pension Program
- Bureau of Indian Affairs Programs, including Tribal Temporary Assistance to Needy Families, Head Start Subsidy, and National School Lunch Program.[3]

Consumers whose total household income is less than 135 percent of the Federal Poverty Guidelines may participate in Lifeline under the income-based standard. The Federal Poverty Guidelines are annually updated by the United States Department of Health and Human Services.[4]

Florida Lifeline Law

In Florida, the Public Service Commission (PSC) oversees Lifeline. Under Florida law, an ETC[5] must provide Lifeline service to qualified residential subscribers, as defined in the ETC's published schedules.[6]

[1] Public Service Commission (PSC), *2021 Florida Lifeline Assistance Report,* December 2021, p. 3. http://floridapsc.com/Files/PDF/Publications/Reports/Telecommunication/LifelineReport/2021.pdf (last visited Dec. 16, 2021)
[2] *Id.*
[3] *Id.*
[4] *Id.* at 4.
[5] Section 364.10(1)(a), F.S., defines the term "eligible telecommunications carrier" to mean a telecommunications company, as defined by s. 364.02, F.S., which is designated as an eligible telecommunications carrier by the PSC pursuant to 47 C.F.R. s. 54.201.
[6] S. 364.10(1)(a), F.S.

Each local exchange telecommunications company[7] with more than one million access lines and which is designated as an ETC must, and any wireless service provider designated as an ETC[8] may, upon filing a notice of election to do so with the PSC, provide Lifeline to any otherwise eligible customer or potential customer whose household income is 150 percent or less of the federal poverty guidelines for Lifeline. The Office of Public Counsel (OPC)[9] certifies and maintains claims submitted by customers for Lifeline eligibility under the income test.[10] Customers may also be eligible for Lifeline under the eligibility standards established by federal law based on participation in certain low-income assistance programs.[11]

Additionally, each intrastate interexchange telecommunications company[12] must file or publish a schedule providing at a minimum the intrastate interexchange telecommunications company's current Lifeline benefits and exemptions to Lifeline customers who meet the income eligibility test.[13]

Each state agency which provides benefits to persons eligible for Lifeline service, in cooperation with the Department of Children and Families (DCF), the Department of Education (DOE), the PSC, the OPC, and ETCs must develop procedures to promote Lifeline participation. The departments, the PSC, and OPC may exchange sufficient information with the appropriate ETCs, such as a person's name, date of birth, service address, and telephone number, so that the ETCs can identify and enroll an eligible person in Lifeline. This information is confidential and exempt from public disclosure but may be released to the applicable ETC for purposes of determining eligibility and enrollment in the Lifeline programs.[14]

If any state agency determines that a person is eligible for Lifeline services, the agency must immediately forward the information to the PSC to ensure that the person is automatically enrolled in the program with the appropriate ETC. The state agency must include an option for an eligible customer to choose not to subscribe to the Lifeline service. The PSC and DCF must adopt rules creating procedures to automatically enroll eligible customers in Lifeline service.[15]

Current law requires the PSC, DCF, OPC, and each ETC offering Lifeline to convene a workgroup to discuss how the eligible subscriber information will be shared, the obligations of each party with respect to the use of that information, and the procedures to be implemented to increase enrollment and verify eligibility.[16]

Under Florida law, an ETC must notify a Lifeline subscriber of impending termination of Lifeline service if the ETC reasonably believes that the subscriber no longer qualifies for Lifeline service. This notification must be sent in a letter that is separate from the subscriber's bill. The ETC must allow a subscriber 60 days following the date of the pending termination letter to demonstrate continued eligibility, and the subscriber must present proof of continued eligibility. The ETC may transfer a subscriber off of Lifeline service if the subscriber fails to demonstrate continued eligibility.[17]

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[7] Section 364.02(8), F.S., defines the term “local exchange telecommunications company” to mean any company certificated by the commission to provide local exchange telecommunications service in this state on or before June 30, 1995.
[8] Since 2016, no wireline carriers in Florida have had more than a million access lines. Wireless ETCs are given more flexibility in that they “may” provide Lifeline services at the 150 percent threshold. However, it is unlikely that any wireless ETC is currently qualifying customers using this expanded criterion because those customers would not qualify for reimbursement from USAC under the 135 percent guideline.
[9] The Office of Public Counsel provides representation for the people of the state in proceedings in front of the PSC. (S. 350.0611, F.S.).
[10] S. 364.10(2)(a), F.S.
[11] S. 364.10(2)(a), F.S.
[12] Section 364.02 (7) defines the term “intrastate interexchange telecommunications company” to mean any entity that provides intrastate interexchange telecommunications services.
[13] S. 364.10(2)(a), F.S.
[14] S. 364.10(2)(g)1., F.S.
[15] S. 364.10(2)(g)2., F.S.
[16] S. 364.10(2)(g)3., F.S.
[17] S. 364.10(1)(e), F.S.

Lifeline Modernization

In April 2016, the FCC released its Lifeline Modernization Order (2016 Order) to modernize Lifeline by including broadband as a supported service, designating minimum service standards for Lifeline, and establishing the National Verifier.[18]

Prior to the FCC's 2016 Order, a state that mandated Lifeline support could establish its own qualification criteria. Therefore, a state could have income eligibility standards different from the FCC's or include additional state qualifying programs. The FCC's 2016 Order eliminated this provision to simplify the administration of the Lifeline program and establish eligibility criteria that do not vary from state to state.[19]

Further, the 2016 Order directed the USAC to develop a national Lifeline eligibility verifier as a way to fight waste, fraud, and abuse. The National Verifier's purpose is to determine initial subscriber eligibility, conduct annual recertification, populate a national database consisting of Lifeline customers, and provide support payments to providers serving these customers.[20]

The National Verifier's efficiency is contingent upon the establishment of automated verification interface processes connected to qualifying program databases. To assist in Florida's transition to the National Verifier, in 2019, the PSC coordinated an informal meeting between DCF and USAC. The meeting established the groundwork for an automated verification process that would allow USAC to interface with DCF's qualifying program database. The DCF database would provide USAC with confirmation that a customer is a participant in a qualifying program without revealing the program itself or any other customer information. Once a customer is verified as a qualifying program participant through this process, they are enrolled in the Lifeline program with no need for any further documentation. As of January 2021, USAC's connection to the DCF database has been established.[21]

Effect of the Bill

The bill conforms Florida's Lifeline laws to be consistent with federal Lifeline regulations.

The bill clarifies that an ETC must notify a Lifeline subscriber of impending termination of Lifeline service if it has reason to believe that the subscriber no longer qualifies for Lifeline service. The bill requires the subscriber to provide proof of continued eligibility for Lifeline service upon request to the ETC, the FCC, or the FCC's designee.

The bill also removes references to OPC and DOE because neither entity remains involved in Lifeline. The bill clarifies that the only entities involved in Lifeline are the PSC, DCF, and the FCC. The bill also eliminates state eligibility standards that conflict with the FCC's eligibility standards.

The bill also removes an obsolete Lifeline working group consisting of the PSC, DCF, OPC, and ETCs to discuss procedures regarding the implementation the Lifeline program.

The bill amends the Lifeline public records exemption, authorizing certain information to be released to the FCC or its designee as required to administer the program.

The bill has an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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[18] PSC *supra* note 1 at 15.
[19] *Id.*
[20] *Id***.** at 17.
[21] *Id.*

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:

None.

D. FISCAL COMMENTS:

None