

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 928

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Read 1st time January 10, 2008, and ordered printed.

Read 2nd time January 16, 2008, and referred to the Committee on Commerce, Energy and the Environment.

Reported from the Committee March 13, 2008, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up April 2, 2008. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

3987S.01P

AN ACT

To repeal section 392.410, RSMo, and to enact in lieu thereof one new section relating to the public service commission.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 392.410, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 392.410, to read as follows:

392.410. 1. A telecommunications company not possessing a certificate
2 of public convenience and necessity from the commission at the time this section
3 goes into effect shall have not more than ninety days in which to apply for a
4 certificate of service authority from the commission pursuant to this chapter
5 unless a company holds a state charter issued in or prior to the year 1913 which
6 charter authorizes a company to engage in the telephone business. No
7 telecommunications company not exempt from this subsection shall transact any
8 business in this state until it shall have obtained a certificate of service authority
9 from the commission pursuant to the provisions of this chapter, except that any
10 telecommunications company which is providing telecommunications service on
11 September 28, 1987, and which has not been granted or denied a certificate of
12 public convenience and necessity prior to September 28, 1987, may continue to
13 provide that service exempt from all other requirements of this chapter until a
14 certificate of service authority is granted or denied by the commission so long as

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 the telecommunications company applies for a certificate of service authority
16 within ninety days from September 28, 1987.

17 2. No telecommunications company offering or providing, or seeking to
18 offer or provide, any interexchange telecommunications service shall do so until
19 it has applied for and received a certificate of interexchange service authority
20 pursuant to the provisions of subsection 1 of this section. No telecommunications
21 company offering or providing, or seeking to offer or provide, any local exchange
22 telecommunications service shall do so until it has applied for and received a
23 certificate of local exchange service authority pursuant to the provisions of section
24 392.420.

25 3. No certificate of service authority issued by the commission shall be
26 construed as granting a monopoly or exclusive privilege, immunity or
27 franchise. The issuance of a certificate of service authority to any
28 telecommunications company shall not preclude the commission from issuing
29 additional certificates of service authority to another telecommunications
30 company providing the same or equivalent service or serving the same
31 geographical area or customers as any previously certified company, except to the
32 extent otherwise provided by section 392.450.

33 4. Any certificate of public convenience and necessity granted by the
34 commission to a telecommunications company prior to September 28, 1987, shall
35 remain in full force and effect unless modified by the commission, and such
36 companies need not apply for a certificate of service authority in order to continue
37 offering or providing service to the extent authorized in such certificate of public
38 convenience and necessity. Any such carrier, however, prior to substantially
39 altering the nature or scope of services provided under a certificate of public
40 convenience and necessity, or adding or expanding services beyond the authority
41 contained in such certificate, shall apply for a certificate of service authority for
42 such alterations or additions pursuant to the provisions of this section.

43 5. The commission may review and modify the terms of any certificate of
44 public convenience and necessity issued to a telecommunications company prior
45 to September 28, 1987, in order to ensure its conformity with the requirements
46 and policies of this chapter. Any certificate of service authority may be altered
47 or modified by the commission after notice and hearing, upon its own motion or
48 upon application of the person or company affected. Unless exercised within a
49 period of one year from the issuance thereof, authority conferred by a certificate
50 of service authority or a certificate of public convenience and necessity shall be

51 null and void.

52 6. The commission may issue a temporary certificate which shall remain
53 in force not to exceed one year to assure maintenance of adequate service or to
54 serve particular customers, without notice and hearing, pending the
55 determination of an application for a certificate.

56 7. No political subdivision of this state shall provide or offer for sale,
57 either to the public or to a telecommunications provider, a telecommunications
58 service or telecommunications facility used to provide a telecommunications
59 service for which a certificate of service authority is required pursuant to this
60 section. Nothing in this subsection shall be construed to restrict a political
61 subdivision from allowing the nondiscriminatory use of its rights-of-way including
62 its poles, conduits, ducts and similar support structures by telecommunications
63 providers or from providing to telecommunications providers, within the
64 geographic area in which it lawfully operates as a municipal utility,
65 telecommunications services or telecommunications facilities on a
66 nondiscriminatory, competitively neutral basis, and at a price which covers cost,
67 including imputed costs that the political subdivision would incur if it were a
68 for-profit business. Nothing in this subsection shall restrict a political
69 subdivision from providing telecommunications services or facilities:

- 70 (1) For its own use;
71 (2) For 911, E-911 or other emergency services;
72 (3) For medical or educational purposes;
73 (4) To students by an educational institution; or
74 (5) Internet-type services.

75 [8. The public service commission shall annually study the economic
76 impact of the provisions of this section and prepare and submit a report to the
77 general assembly by December thirty-first of each year.]

✓