

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1402

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BURTON, MAYS (50) (Co-sponsors), HOSMER, GRAHAM, HEGEMAN, MILLER, ROARK AND WRIGHT.

Read 1<sup>st</sup> time January 9, 2002, and 1000 copies ordered printed.

Read 2<sup>nd</sup> time January 10, 2002, and referred to the Committee on Utilities Regulation, January 31, 2002.

Reported from the Committee on Utilities Regulation February 14, 2002, with recommendation that the bill Do Pass by Consent.

Perfectured by Consent February 28, 2002.

TED WEDEL, Chief Clerk

3417L.01P

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### AN ACT

To repeal section 392.410, RSMo, and to enact in lieu thereof one new section relating to the rights of a political subdivision to use their telecommunications services or facilities.

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*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Section A. Section 392.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 392.410, to read as follows: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 of public convenience and necessity from the commission at the time this section goes into effect shall have not more than ninety days in which to apply for a certificate of service authority from the commission pursuant to this chapter unless a company holds a state charter issued in or prior to the year 1913 which charter authorizes a company to engage in the telephone business. No telecommunications company not exempt from this subsection shall transact any business in this state until it shall have obtained a certificate of service authority from the commission pursuant to the provisions of this chapter, except that any telecommunications company which is providing telecommunications service on September 28, 1987, and which has not been granted or denied a certificate of public convenience and necessity prior to September 28, 1987, may continue to provide that service exempt from all other requirements of this chapter until a certificate of service authority is granted or denied by the commission so long as the

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

13 telecommunications company applies for a certificate of service authority within ninety days  
14 from September 28, 1987.

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

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

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

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

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

47         7. No political subdivision of this state shall provide or offer for sale, either to the public  
48 or to a telecommunications provider, a telecommunications service or telecommunications

49 facility used to provide a telecommunications service for which a certificate of service authority  
50 is required pursuant to this section. Nothing in this subsection shall be construed to restrict a  
51 political subdivision from allowing the nondiscriminatory use of its rights-of-way including its  
52 poles, conduits, ducts and similar support structures by telecommunications providers or from  
53 providing to telecommunications providers, within the geographic area of the political  
54 subdivision and any additional geographic areas in which it lawfully operates as a  
55 municipal utility, telecommunications services or telecommunications facilities on a  
56 nondiscriminatory, competitively-neutral basis, and at a price which covers cost, including  
57 imputed costs that the political subdivision would incur if it were a for-profit business.  
58 **Nothing in this subsection shall restrict a political subdivision from providing**  
59 telecommunications services or facilities:

- 60 (1) For its own use;  
61 (2) For 911, E-911 or other emergency services;  
62 (3) For medical or educational purposes;  
63 (4) To students by an educational institution; or  
64 (5) Internet-type services.

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66 [The provisions of this subsection shall expire on August 28, 2002.]