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LEGISLATIVE ACTION

Senate . House

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Senator Bogdanoff moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 202.105, Florida
Statutes, is amended to read:

202.105 Legislative findings and intent.—

(1) It is declared to be a specific legislative finding
that the creation of this chapter fulfills important state
interests by reforming the tax laws to provide a fair,
efficient, and uniform method for taxing communications services
sold in this state. This chapter is essential to the continued
economic vitality of this increasingly important industry



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14 because it restructures state and local taxes and fees to
15 account for the impact of federal legislation, industry
16 deregulation, and the multitude of convergence of service
17 offerings that is now taking place among providers offering
18 functionally equivalent communications services in today's
19 marketplace. This chapter promotes the increased competition
20 that accompanies deregulation by embracing a competitively
21 neutral tax policy that will free consumers to choose a provider
22 based on tax-neutral considerations. This chapter further spurs
23 new competition by simplifying an extremely complicated state
24 and local tax and fee system. Simplification will lower the cost
25 of collecting taxes and fees, increase service availability, and
26 place downward pressure on price. Newfound administrative
27 efficiency is demonstrated by a reduction in the number of
28 returns that a provider must file each month. By restructuring
29 separate taxes and fees into a revenue-neutral communications
30 services tax centrally administered by the department, this
31 chapter will ensure that the growth of the industry is
32 unimpaired by excessive governmental regulation. The tax imposed
33 pursuant to this chapter is a replacement for taxes and fees
34 previously imposed and is not a new tax. The taxes imposed and
35 administered pursuant to this chapter are of general application
36 and are imposed in a uniform, consistent, and nondiscriminatory
37 manner.

38 Section 2. Section 202.11, Florida Statutes, is amended to
39 read:

40 202.11 Definitions.—As used in this chapter, the term:

41 ~~(1) "Cable service" means the transmission of video, audio,~~
42 ~~or other programming service to purchasers, and the purchaser~~



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43 ~~interaction, if any, required for the selection or use of any~~
44 ~~such programming service, regardless of whether the programming~~
45 ~~is transmitted over facilities owned or operated by the cable~~
46 ~~service provider or over facilities owned or operated by one or~~
47 ~~more other dealers of communications services. The term includes~~
48 ~~point-to-point and point-to-multipoint distribution services by~~
49 ~~which programming is transmitted or broadcast by microwave or~~
50 ~~other equipment directly to the purchaser's premises, but does~~
51 ~~not include direct-to-home satellite service. The term includes~~
52 ~~basic, extended, premium, pay per view, digital, and music~~
53 ~~services.~~

54 (1)~~(2)~~ "Communications services" means the transmission,
55 conveyance, or routing of voice, data, audio, video, or any
56 other information or signals, including video ~~cable~~ services, to
57 a point, or between or among points, by or through any
58 electronic, radio, satellite, cable, optical, microwave, or
59 other medium or method now in existence or hereafter devised,
60 regardless of the protocol used for such transmission or
61 conveyance. The term includes such transmission, conveyance, or
62 routing in which computer processing applications are used to
63 act on the form, code, or protocol of the content for purposes
64 of transmission, conveyance, or routing without regard to
65 whether such service is referred to as voice-over-Internet-
66 protocol services or is classified by the Federal Communications
67 Commission as enhanced or value-added. The term does not
68 include:

69 (a) Information services.

70 (b) Installation or maintenance of wiring or equipment on a
71 customer's premises.



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72 (c) The sale or rental of tangible personal property.

73 (d) The sale of advertising, including, but not limited to,
74 directory advertising.

75 (e) Bad check charges.

76 (f) Late payment charges.

77 (g) Billing and collection services.

78 (h) Internet access service, electronic mail service,
79 electronic bulletin board service, or similar online computer
80 services.

81 (2)~~(3)~~ "Dealer" means a person registered with the
82 department as a provider of communications services in this
83 state.

84 (3)~~(4)~~ "Department" means the Department of Revenue.

85 (4)~~(5)~~ "Direct-to-home satellite service" has the meaning
86 ascribed in the Communications Act of 1934, 47 U.S.C. s. 303(v).

87 (5)~~(6)~~ "Information service" means the offering of a
88 capability for generating, acquiring, storing, transforming,
89 processing, retrieving, using, or making available information
90 via communications services, including, but not limited to,
91 electronic publishing, web-hosting service, and end-user 900
92 number service. The term does not include ~~any video, audio, or~~
93 ~~other programming service that uses point-to-multipoint~~
94 ~~distribution by which programming is delivered, transmitted, or~~
95 ~~broadcast by any means, including any interaction that may be~~
96 ~~necessary for selecting and using the service, regardless of~~
97 ~~whether the programming is delivered, transmitted, or broadcast~~
98 ~~over facilities owned or operated by the seller or another, or~~
99 ~~whether denominated as cable service or as basic, extended,~~
100 ~~premium, pay-per-view, digital, music, or two-way cable service.~~



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101 (6) "Internet access service" has the same meaning as
102 ascribed to the term "Internet access" by s. 1105(5) of the
103 Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by
104 Pub. L. No. 110-108.

105 (7) "Mobile communications service" means commercial mobile
106 radio service, as defined in 47 C.F.R. s. 20.3 as in effect on
107 June 1, 1999. The term does not include air-ground
108 radiotelephone service as defined in 47 C.F.R. s. 22.99 as in
109 effect on June 1, 1999.

110 (8) "Person" has the meaning ascribed in s. 212.02.

111 (9) "Prepaid calling arrangement" means the separately
112 stated retail sale by advance payment of communications services
113 that consist exclusively of telephone calls originated by using
114 an access number, authorization code, or other means that may be
115 manually, electronically, or otherwise entered, and that are
116 sold in predetermined units or dollars of which the number
117 declines with use in a known amount.

118 (10) "Purchaser" means the person paying for or obligated
119 to pay for communications services.

120 (11) "Retail sale" means the sale of communications
121 services for any purpose other than for resale or for use as a
122 component part of or for integration into communications
123 services to be resold in the ordinary course of business.
124 However, any sale for resale must comply with s. 202.16(2) and
125 the rules adopted thereunder.

126 (12) "Sale" means the provision of communications services
127 for a consideration.

128 (13) "Sales price" means the total amount charged in money
129 or other consideration by a dealer for the sale of the right or



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130 privilege of using communications services in this state,
131 including any property or other service, not described in
132 paragraph (a), which is services that are part of the sale and
133 for which the charge is not separately itemized on a customer's
134 bill or separately allocated under subparagraph (b)8. The sales
135 price of communications services may ~~shall~~ not be reduced by any
136 separately identified components of the charge which ~~that~~
137 constitute expenses of the dealer, including, but not limited
138 to, sales taxes on goods or services purchased by the dealer,
139 property taxes, taxes measured by net income, and universal-
140 service fund fees.

141 (a) The sales price of communications services includes
142 ~~shall include~~, whether or not separately stated, charges for any
143 of the following:

- 144 1. The connection, movement, change, or termination of
145 communications services.
- 146 2. The detailed billing of communications services.
- 147 3. The sale of directory listings in connection with a
148 communications service.
- 149 4. Central office and custom calling features.
- 150 5. Voice mail and other messaging service.
- 151 6. Directory assistance.
- 152 7. The service of sending or receiving a document commonly
153 referred to as a facsimile or "fax," except when performed
154 during the course of providing professional or advertising
155 services.

156 (b) The sales price of communications services does not
157 include charges for any of the following:

- 158 1. An ~~Any~~ excise tax, sales tax, or similar tax levied by



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159 the United States or any state or local government on the
160 purchase, sale, use, or consumption of any communications
161 service, including, but not limited to, a ~~any~~ tax imposed under
162 this chapter or chapter 203 which is permitted or required to be
163 added to the sales price of such service, if the tax is stated
164 separately.

165 2. A ~~Any~~ fee or assessment levied by the United States or
166 any state or local government, including, but not limited to,
167 regulatory fees and emergency telephone surcharges, which must
168 ~~is required to~~ be added to the price of the ~~such~~ service if the
169 fee or assessment is separately stated.

170 3. Communications services paid for by inserting coins into
171 coin-operated communications devices available to the public.

172 4. The sale or recharge of a prepaid calling arrangement.

173 5. The provision of air-to-ground communications services,
174 defined as a radio service provided to a purchaser ~~purchasers~~
175 while on board an aircraft.

176 6. A dealer's internal use of communications services in
177 connection with its business of providing communications
178 services.

179 7. Charges for property or other services that are not part
180 of the sale of communications services, if such charges are
181 stated separately from the charges for communications services.

182 8. ~~To the extent required by federal law,~~ Charges for goods
183 or services that are not subject to tax under this chapter,
184 including Internet access services but excluding any item
185 described in paragraph (a), that ~~which~~ are not separately
186 itemized on a customer's bill, but that ~~which~~ can be reasonably
187 identified from the selling dealer's books and records kept in



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188 the regular course of business. The dealer may support the
189 allocation of charges with books and records kept in the regular
190 course of business covering the dealer's entire service area,
191 including territories outside this state.

192 (14) "Service address" means:

193 (a) Except as otherwise provided in this section:

194 1. The location of the communications equipment from which
195 communications services originate or at which communications
196 services are received by the customer;

197 2. In the case of a communications service paid through a
198 credit or payment mechanism that does not relate to a service
199 address, such as a bank, travel, debit, or credit card, and in
200 the case of third-number and calling-card calls, the term
201 "service address" means the address of the central office, as
202 determined by the area code and the first three digits of the
203 seven-digit originating telephone number; or

204 3. If the location of the equipment described in
205 subparagraph 1. is not known and subparagraph 2. is
206 inapplicable, the term "service address" means the location of
207 the customer's primary use of the communications service. For
208 purposes of this subparagraph, the location of the customer's
209 primary use of a communications service is the residential
210 street address or the business street address of the customer.

211 (b) In the case of video cable ~~cable~~ services and direct-to-home
212 satellite services, the location where the customer receives the
213 services in this state.

214 (c) In the case of mobile communications services, the
215 customer's place of primary use.

216 (15) "Unbundled network element" means a network element,



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217 as defined in 47 U.S.C. s. 153(29), to which access is provided
218 on an unbundled basis pursuant to 47 U.S.C. s. 251(c)(3).

219 (16) "Private communications service" means a
220 communications service that entitles the subscriber or user to
221 exclusive or priority use of a communications channel or group
222 of channels between or among channel termination points,
223 regardless of the manner in which such channel or channels are
224 connected, and includes switching capacity, extension lines,
225 stations, and any other associated services that ~~which~~ are
226 provided in connection with the use of such channel or channels.

227 (17) (a) "Customer" means:

228 1. The person or entity that contracts with the home
229 service provider for mobile communications services; or

230 2. If the end user of mobile communications services is not
231 the contracting party, the end user of the mobile communications
232 service. This subparagraph only applies for the purpose of
233 determining the place of primary use.

234 (b) "Customer" does not include:

235 1. A reseller of mobile communications services; or

236 2. A serving carrier under an agreement to serve the
237 customer outside the home service provider's licensed service
238 area.

239 (18) "Enhanced zip code" means a United States postal zip
240 code of 9 or more digits.

241 (19) "Home service provider" means the facilities-based
242 carrier or reseller with which the customer contracts for the
243 provision of mobile communications services.

244 (20) "Licensed service area" means the geographic area in
245 which the home service provider is authorized by law or contract



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246 to provide mobile communications service to the customer.

247 (21) "Place of primary use" means the street address
248 representative of where the customer's use of the mobile
249 communications service primarily occurs, which must be:

250 (a) The residential street address or the primary business
251 street address of the customer; and

252 (b) Within the licensed service area of the home service
253 provider.

254 (22) (a) "Reseller" means a provider who purchases
255 communications services from another communications service
256 provider and then resells, uses as a component part of, or
257 integrates the purchased services into a mobile communications
258 service.

259 (b) "Reseller" does not include a serving carrier with
260 which a home service provider arranges for the services to its
261 customers outside the home service provider's licensed service
262 area.

263 (23) "Serving carrier" means a facilities-based carrier
264 providing mobile communications service to a customer outside a
265 home service provider's or reseller's licensed service area.

266 (24) "Video service" means the transmission of video,
267 audio, or other programming service to a purchaser, and the
268 purchaser interaction, if any, required for the selection or use
269 of a programming service, regardless of whether the programming
270 is transmitted over facilities owned or operated by the video
271 service provider or over facilities owned or operated by another
272 dealer of communications services. The term includes point-to-
273 point and point-to-multipoint distribution services through
274 which programming is transmitted or broadcast by microwave or



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275 other equipment directly to the purchaser's premises, but does
276 not include direct-to-home satellite service. The term includes
277 basic, extended, premium, pay-per-view, digital video, two-way
278 cable, and music services ~~has the same meaning as that provided~~
279 ~~in s. 610.103.~~

280 Section 3. Subsection (1) of section 202.125, Florida
281 Statutes, is amended to read:

282 202.125 Sales of communications services; specified
283 exemptions.—

284 (1) The separately stated sales price of communications
285 services sold to residential households is exempt from the tax
286 imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does
287 not apply to any residence that constitutes all or part of a
288 transient public lodging establishment as defined in chapter
289 509, any mobile communications service, any video ~~cable~~ service,
290 or any direct-to-home satellite service.

291 Section 4. Paragraph (a) of subsection (2) of section
292 202.16, Florida Statutes, is amended to read:

293 202.16 Payment.—The taxes imposed or administered under
294 this chapter and chapter 203 shall be collected from all dealers
295 of taxable communications services on the sale at retail in this
296 state of communications services taxable under this chapter and
297 chapter 203. The full amount of the taxes on a credit sale,
298 installment sale, or sale made on any kind of deferred payment
299 plan is due at the moment of the transaction in the same manner
300 as a cash sale.

301 (2)(a) A sale of communications services that are used as a
302 component part of or integrated into a communications service or
303 prepaid calling arrangement for resale, including, but not



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304 limited to, carrier-access charges, interconnection charges paid
305 by providers of mobile communication services or other
306 communication services, charges paid by a video cable service
307 provider providers for the purchase of video programming or the
308 transmission of video or other programming by another dealer of
309 communications services, charges for the sale of unbundled
310 network elements, and any other intercompany charges for the use
311 of facilities for providing communications services for resale,
312 must be made in compliance with the rules of the department. A
313 Any person who makes a sale for resale which is not in
314 compliance with these rules is liable for any tax, penalty, and
315 interest due for failing to comply, to be calculated pursuant to
316 s. 202.28(2) (a).

317 Section 5. Paragraph (c) of subsection (3) of section
318 202.18, Florida Statutes, is amended to read:

319 202.18 Allocation and disposition of tax proceeds.—The
320 proceeds of the communications services taxes remitted under
321 this chapter shall be treated as follows:

322 (3)

323 (c)1. Except as otherwise provided in this paragraph,
324 proceeds of the taxes levied pursuant to s. 202.19, less amounts
325 deducted for costs of administration in accordance with
326 paragraph (b), shall be distributed monthly to the appropriate
327 jurisdictions. The proceeds of taxes imposed pursuant to s.
328 202.19(5) shall be distributed in the same manner as
329 discretionary surtaxes are distributed, in accordance with ss.
330 212.054 and 212.055.

331 2. The department shall make any adjustments to the
332 distributions pursuant to this section which are necessary to



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333 reflect the proper amounts due to individual jurisdictions or
334 trust funds. In the event that the department adjusts amounts
335 due to reflect a correction in the situsing of a customer, such
336 adjustment shall be limited to the amount of tax actually
337 collected from such customer by the dealer of communication
338 services.

339 ~~3.a. Notwithstanding the time period specified in s.~~
340 ~~202.22(5)~~, Adjustments in distributions which are necessary to
341 correct misallocations between jurisdictions shall be governed
342 by this subparagraph. If the department determines that
343 misallocations between jurisdictions occurred, it shall provide
344 written notice of such determination to all affected
345 jurisdictions. The notice shall include the amount of the
346 misallocations, the basis upon which the determination was made,
347 data supporting the determination, and the identity of each
348 affected jurisdiction. The notice shall also inform all affected
349 jurisdictions of their authority to enter into a written
350 agreement establishing a method of adjustment as described in
351 sub-subparagraph c.

352 b. An adjustment affecting a distribution to a jurisdiction
353 which is less than 90 percent of the average monthly
354 distribution to that jurisdiction for the 6 months immediately
355 preceding the department's determination, as reported by all
356 communications services dealers, shall be made in the month
357 immediately following the department's determination that
358 misallocations occurred.

359 c. If an adjustment affecting a distribution to a
360 jurisdiction equals or exceeds 90 percent of the average monthly
361 distribution to that jurisdiction for the 6 months immediately



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362 preceding the department's determination, as reported by all
363 communications services dealers, the affected jurisdictions may
364 enter into a written agreement establishing a method of
365 adjustment. If the agreement establishing a method of adjustment
366 provides for payments of local communications services tax
367 monthly distributions, the amount of any such payment agreed to
368 may not exceed the local communications services tax monthly
369 distributions available to the jurisdiction that was allocated
370 amounts in excess of those to which it was entitled. If affected
371 jurisdictions execute a written agreement specifying a method of
372 adjustment, a copy of the written agreement shall be provided to
373 the department no later than the first day of the month
374 following 90 days after the date the department transmits notice
375 of the misallocation. If the department does not receive a copy
376 of the written agreement within the specified time period, an
377 adjustment affecting a distribution to a jurisdiction made
378 pursuant to this sub-subparagraph shall be prorated over a time
379 period that equals the time period over which the misallocations
380 occurred.

381 Section 6. Subsections (5) and (6) of section 202.22,
382 Florida Statutes, are amended to read:

383 202.22 Determination of local tax situs.—

384 (5) If a dealer of communications services does not use one
385 or more of the methods specified in subsection (1) for
386 determining the local taxing jurisdiction in which one or more
387 service addresses are ~~a service address is~~ located and:

388 (a) The dealer's failure to use one or more of such methods
389 results in a net aggregate underpayment of all taxes levied
390 pursuant to s. 202.19 with respect to one or more tax periods



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391 that are being examined by the department under the provisions
392 of this chapter; and

393 (b) The department has determined the misallocations
394 between jurisdictions for all taxes levied pursuant to s. 202.19
395 and collected by the dealer with respect to any tax period being
396 examined by the department; then,

397
398 the dealer of communications services may be held liable to the
399 department for the net aggregate underpayment of any tax, and
400 for including interest and penalties attributable to the net
401 aggregate underpayment of tax, which is due as a result of
402 assigning one or more the service addresses address to an
403 incorrect local taxing jurisdiction. Subject to the provisions
404 of ss. 202.22(8), 202.34, and 202.35(3) However, the dealer of
405 communications services is not liable for any tax, interest, or
406 penalty under this subsection unless the department has
407 determined the net aggregate underpayment of tax for any tax
408 period that is being examined, taking into account all
409 underpayments and overpayments for such period or periods to the
410 extent that such amount was collected and remitted by the dealer
411 of communications services with respect to a tax imposed by
412 another local taxing jurisdiction. Upon determining that an
413 amount was collected and remitted by a dealer of communications
414 services with respect to a tax imposed by another local taxing
415 jurisdiction, the department shall adjust the respective amounts
416 of the proceeds paid to each such taxing jurisdiction under s.
417 202.18 in the month immediately following such determination.

418 (6) (a) Pursuant to rules adopted by the department, each
419 dealer of communications services must notify the department of



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420 the methods it intends to employ for determining the local
421 taxing jurisdiction in which service addresses are located.

422 (b) Notwithstanding s. 202.28, if a dealer of
423 communications services:

424 1. Employs a method of assigning service addresses other
425 than as set forth in paragraph (1) (a), paragraph (1) (b), or
426 paragraph (1) (c), the deduction allowed to the dealer of
427 communications services as compensation under s. 202.28 shall be
428 0.25 percent of that portion of the tax due and accounted for
429 and remitted to the department which is attributable to such
430 method of assigning service addresses other than as set forth in
431 paragraph (1) (a), paragraph (1) (b), or paragraph (1) (c).

432 2. Employs a method of assigning service addresses as set
433 forth in paragraph (1) (a), paragraph (1) (b), or paragraph
434 (1) (c), the department may not deny the deduction allowed to the
435 dealer of communications services as compensation allowed under
436 s. 202.28 because the dealer assigned one or more service
437 addresses to an incorrect local taxing jurisdiction.

438 Section 7. Subsection (3) is added to section 202.231,
439 Florida Statutes, to read:

440 202.231 Provision of information to local taxing
441 jurisdictions.—

442 (3) The gross taxable sales and the total net amount
443 transferred to the jurisdiction, showing the net taxes remitted
444 by dealers less the administrative fees deducted by the
445 department contained in the monthly reports required by this
446 section, shall be aggregated on a jurisdiction-by-jurisdiction
447 basis, and the aggregate jurisdiction-by-jurisdiction
448 information shall be made available by the department to the



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449 public through the department's website for each fiscal year
450 this chapter has been in effect.

451 Section 8. Paragraphs (a) and (c) of subsection (2) of
452 section 202.24, Florida Statutes, are amended to read:

453 202.24 Limitations on local taxes and fees imposed on
454 dealers of communications services.—

455 (2) (a) Except as provided in paragraph (c), each public
456 body is prohibited from:

457 1. Levying on or collecting from dealers or purchasers of
458 communications services any tax, charge, fee, or other
459 imposition on or with respect to the provision or purchase of
460 communications services.

461 2. Requiring any dealer of communications services to enter
462 into or extend the term of a franchise or other agreement that
463 requires the payment of a tax, charge, fee, or other imposition.

464 3. Adopting or enforcing any provision of any ordinance or
465 agreement to the extent that such provision obligates a dealer
466 of communications services to charge, collect, or pay to the
467 public body a tax, charge, fee, or other imposition.

468
469 Municipalities and counties may not negotiate those terms and
470 conditions related to franchise fees or the definition of gross
471 revenues or other definitions or methodologies related to the
472 payment or assessment of franchise fees on providers of ~~cable or~~
473 video services.

474 (c) This subsection does not apply to:

475 1. Local communications services taxes levied under this
476 chapter.

477 2. Ad valorem taxes levied pursuant to chapter 200.



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- 478 3. Business taxes levied under chapter 205.
- 479 4. "911" service charges levied under chapter 365.
- 480 5. Amounts charged for the rental or other use of property
481 owned by a public body which is not in the public rights-of-way
482 to a dealer of communications services for any purpose,
483 including, but not limited to, the placement or attachment of
484 equipment used in the provision of communications services.
- 485 6. Permit fees of general applicability which are not
486 related to placing or maintaining facilities in or on public
487 roads or rights-of-way.
- 488 7. Permit fees related to placing or maintaining facilities
489 in or on public roads or rights-of-way pursuant to s. 337.401.
- 490 8. Any in-kind requirements, institutional networks, or
491 contributions for, or in support of, the use or construction of
492 public, educational, or governmental access facilities allowed
493 under federal law and imposed on providers of ~~cable or~~ video
494 service pursuant to any existing ordinance or an existing
495 franchise agreement granted by each municipality or county,
496 under which ordinance or franchise agreement service is provided
497 before ~~prior to~~ July 1, 2007, or as permitted under chapter 610.
498 ~~Nothing in~~ This subparagraph does not ~~shall~~ prohibit ~~the ability~~
499 ~~of~~ providers of ~~cable or~~ video service from recovering the ~~to~~
500 ~~recover such~~ expenses as allowed under federal law.
- 501 9. Special assessments and impact fees.
- 502 10. Pole attachment fees that are charged by a local
503 government for attachments to utility poles owned by the local
504 government.
- 505 11. Utility service fees or other similar user fees for
506 utility services.



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507 12. Any other generally applicable tax, fee, charge, or
508 imposition authorized by general law on July 1, 2000, which is
509 not specifically prohibited by this subsection or included as a
510 replaced revenue source in s. 202.20.

511 Section 9. Paragraph (a) of subsection (1) of section
512 203.01, Florida Statutes, is amended to read:

513 203.01 Tax on gross receipts for utility and communications
514 services.—

515 (1)(a)1. A tax is imposed on gross receipts from utility
516 services that are delivered to a retail consumer in this state.
517 The ~~Such~~ tax shall be levied as provided in paragraphs (b)-(j).

518 2. A tax is levied on communications services as defined in
519 s. 202.11(1) ~~202.11(2)~~. The ~~Such~~ tax shall be applied to the
520 same services and transactions as are subject to taxation under
521 chapter 202, and to communications services that are subject to
522 the exemption provided in s. 202.125(1). The ~~Such~~ tax shall be
523 applied to the sales price of communications services when sold
524 at retail, as the ~~such~~ terms are defined in s. 202.11, shall be
525 due and payable at the same time as the taxes imposed pursuant
526 to chapter 202, and shall be administered and collected pursuant
527 to the provisions of chapter 202.

528 Section 10. Section 624.105, Florida Statutes, is amended
529 to read:

530 624.105 Waiver of customer liability.—Any regulated company
531 as defined in s. 350.111, any electric utility as defined in s.
532 366.02(2), any utility as defined in s. 367.021(12) or s.
533 367.022(2) and (7), and any provider of communications services
534 as defined in s. 202.11(1) ~~202.11(2)~~ may charge for and include
535 an optional waiver of liability provision in their customer



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536 contracts under which the entity agrees to waive all or a
537 portion of the customer's liability for service from the entity
538 for a defined period in the event of the customer's call to
539 active military service, death, disability, involuntary
540 unemployment, qualification for family leave, or similar
541 qualifying event or condition. Such provisions may not be
542 effective in the customer's contract with the entity unless
543 affirmatively elected by the customer. No such provision shall
544 constitute insurance so long as the provision is a contract
545 between the entity and its customer.

546 Section 11. The following changes made in this act are
547 intended to be remedial in nature and apply retroactively, but
548 do not provide a basis for an assessment of any tax not paid or
549 create a right to a refund or credit of any tax paid before the
550 general effective date of this act:

551 (1) The changes made in section 2 of this act to subsection
552 (13) of s. 202.11, Florida Statutes.

553 (2) The changes made in section 6 of this act to s. 202.22,
554 Florida Statutes.

555 Section 12. Effective upon this act becoming a law:

556 (1) The Communications Services Tax Working Group is
557 created and housed for administrative purposes within the
558 Department of Revenue.

559 (2) The working group shall consist of 9 members as
560 follows:

561 (a) The executive director of the Department of Revenue, or
562 his or her designee, who shall serve as chairperson and as a
563 nonvoting member and who shall appoint the remaining members.

564 (b) Four members, that may include, but not limited to,



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565 video service providers, direct-to-home satellite service
566 providers, local phone service providers, and wireless providers
567 who provide prepaid services.

568 (c) Two representatives of counties.

569 (d) Two representatives of municipalities.

570 (3) Members of the working group are not entitled to
571 receive reimbursement for per diem and travel expenses other
572 than reimbursement provided by their respective company, group,
573 office, or agency.

574 (4) The working group shall:

575 (a) Review national and state tax policies relating to the
576 communications industry;

577 (b) Review the historical amount of tax revenue that has
578 been generated by the communications services taxes imposed or
579 administered pursuant to chapter 202, Florida Statutes, for the
580 purposes of determining the effect that laws passed in the past
581 5 years have had on declining revenues;

582 (c) Review the extent to which this revenue has been relied
583 on to secure bonded indebtedness;

584 (d) Review the fairness of the state's communications tax
585 laws and the administrative burdens it contains, including
586 whether the applicability of the tax laws is reasonably clear to
587 communications services providers, retailers, customers, local
588 government entities and state administrators;

589 (e) Identify options for streamlining the administrative
590 system; and

591 (f) Identify options that remove competitive advantages
592 within the industry as it relates to the state's tax structure
593 without unduly reducing revenue to local governments.



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594 (5) The working group shall prepare a report that addresses
595 each issue specified in subsection (4). The group shall submit
596 the report to the Governor, the President of the Senate, and the
597 Speaker of the House of Representatives by February 1, 2013. The
598 working group shall hold meetings as frequently as deemed
599 necessary by the chair to produce the report.

600 Section 13. Except as otherwise expressly provided in this
601 act, this act shall take effect July 1, 2012.

602
603 ===== T I T L E A M E N D M E N T =====

604 And the title is amended as follows:

605 Delete everything before the enacting clause
606 and insert:

607 A bill to be entitled
608 An act relating to communications services taxes;
609 amending s. 202.105, F.S.; revising legislative
610 intent; amending s. 202.11, F.S.; modifying
611 definitions; removing the definition of the term
612 " cable service "; adding a definition for the term
613 " Internet access service "; revising the definitions of
614 the terms " communication services, " " information
615 service, " " sales price, " " service address, " and " video
616 service "; amending ss. 202.125, 202.16, and 202.24,
617 F.S.; conforming provisions to changes in terminology;
618 amending s. 202.18, F.S.; removing a cross-reference
619 to conform; amending s. 202.22, F.S.; revising
620 provisions relating to a communications services
621 dealer's liability for tax underpayments that result
622 from the incorrect assignment of service addresses to



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623 local taxing jurisdictions and providing requirements
624 and conditions with respect thereto; prohibiting the
625 Department of Revenue from denying a dealer of
626 communications services a deduction of a specified
627 amount as a collection allowance under certain
628 circumstances; amending s. 202.231, F.S.; requiring
629 the Department of Revenue to aggregate monthly and
630 make available to the public on a jurisdiction-by-
631 jurisdiction basis certain sales and net tax
632 information; amending ss. 203.01 and 624.105, F.S.;
633 conforming cross-references; providing for certain
634 retroactive effect; creating the Communications
635 Services Tax Working Group; housing the working group
636 in the Department of Revenue for administrative
637 purposes; providing for membership; limiting the
638 reimbursement of members for per diem and travel
639 expenses; providing issues that the working group will
640 study; requiring the working group to hold meetings;
641 providing for a report to the Governor and Legislature
642 by a certain date; providing effective dates.