

1 A bill to be entitled
2 An act relating to telecommunications; creating
3 ss. 125.421, 166.047, F.S.; specifying
4 circumstances under which a county or other
5 entity of local government may obtain or hold a
6 certificate under chapter 364, F.S., relating
7 to telecommunications companies, and under
8 which the provision of telecommunications
9 services constitutes a municipal or public
10 purpose; providing exceptions; amending s.
11 196.012, F.S.; providing that certain
12 telecommunications services provided to the
13 public for hire are not exempt from taxation
14 unless provided by the operator of a public-use
15 airport or provided by a public hospital;
16 providing that certain property used to provide
17 such services is exempt until a specified date;
18 amending s. 199.183, F.S.; providing that
19 telecommunication services provided to the
20 public for hire by the state or a political
21 subdivision are not exempt from intangible
22 personal property taxes; providing exceptions;
23 amending s. 212.08, F.S.; providing that
24 telecommunication services provided to the
25 public for hire by the state or political
26 subdivision are not exempt from sales or use
27 taxes; providing exceptions; providing a
28 finding of an important state interest;
29 providing an effective date.
30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 125. 421, Florida Statutes is
2 created to read:

3 125.421 Telecommunications services.--A
4 telecommunications company that is a county or other entity of
5 local government may obtain or hold a certificate required by
6 chapter 364, and the obtaining or holding of said certificate
7 serves a public purpose only if the county or other entity of
8 local government:(1) Separately accounts for the revenues,
9 expenses, property, and source of investment dollars
10 associated with the provision of such service;

11 (2) Is subject, without exemption, to all local
12 requirements applicable to telecommunications companies; and

13 (3) Notwithstanding any other provision of law, pays,
14 on its telecommunications facilities used to provide two-way
15 telecommunication services to the public for hire and for
16 which a certificate is required under chapter 364, ad valorem
17 taxes, or fees in amounts equal thereto, to any taxing
18 jurisdiction in which the county or other entity of local
19 government operates. Any entity of local government may pay
20 and impose such ad valorem taxes or fees. Any immunity of any
21 county or other entity of local government from taxation of
22 the property taxed by this section is hereby waived.

23
24 This section does not apply to the provision of
25 telecommunications services for internal operational needs of
26 a county or other entity of local government. This section
27 does not apply to the provision of internal information
28 services, including, but not limited to, tax records,
29 engineering records, and property records, by a county or
30 other entity of local government to the public for a fee.

1 Section 2. Section 166.047, Florida Statutes, is
2 created to read:

3 166.047 Telecommunications services.--A
4 telecommunications company that is a municipality or other
5 entity of local government may obtain or hold a certificate
6 required by chapter 364, and the obtaining or holding of said
7 certificate serves a municipal or public purpose under the
8 provision of Article VIII Section (2)b, Florida Constitution,
9 only if the municipality or other entity of local
10 government:(1) Separately accounts for the revenues,
11 expenses, property, and source of investment dollars
12 associated with the provision of such services;(2) Is
13 subject, without exemption, to all local requirements
14 applicable to telecommunications companies; and

15 (3) Notwithstanding any other provision of law, pays,
16 on its telecommunications facilities used to provide two-way
17 telecommunications services to the public for hire and for
18 which a certificate is required pursuant to chapter 364, ad
19 valorem taxes, or fees in amounts equal there to, to any
20 taxing jurisdiction in which the municipality or other entity
21 of local government operates. Any entity of local government
22 may pay and impose such ad valorem taxes or fees.

23
24 This section does not apply to the provision of
25 telecommunications services for internal operational needs of
26 a municipality or other entity of local government. This
27 sections does not apply to the provision of internal
28 information services, including, but not limited to, tax
29 records, engineering records, and property records, by a
30 municipality or other entity of local government to the public
31 for a fee.

1 Section 3. Section Subsection (6) of section 196.012,
2 Florida Statutes, is amended to read:

3 196.012 Definitions.--For the purpose of this chapter,
4 the following terms are defined as follows, except where the
5 context clearly indicates otherwise:

6 (6) Governmental, municipal, or public purpose or
7 function shall be deemed to be served or performed when the
8 lessee under any leasehold interest created in property of the
9 United States, the state or any of its political subdivisions,
10 or any municipality, agency, authority, or other public body
11 corporate of the state is demonstrated to perform a function
12 or serve a governmental purpose which could properly be
13 performed or served by an appropriate governmental unit or
14 which is demonstrated to perform a function or serve a purpose
15 which would otherwise be a valid subject for the allocation of
16 public funds. For purposes of the preceding sentence, an
17 activity undertaken by a lessee which is permitted under the
18 terms of its lease of real property designated as an aviation
19 area on an airport layout plan which has been approved by the
20 Federal Aviation Administration and which real property is
21 used for the administration, operation, business offices and
22 activities related specifically thereto in connection with the
23 conduct of an aircraft full service fixed base operation which
24 provides goods and services to the general aviation public in
25 the promotion of air commerce shall be deemed an activity
26 which serves a governmental, municipal, or public purpose or
27 function. The use by a lessee, licensee, or management company
28 of real property or a portion thereof as a convention center,
29 visitor center, sports facility with permanent seating,
30 concert hall, arena, stadium, park, or beach is deemed a use
31 that serves a governmental, municipal, or public purpose or

1 function when access to the property is open to the general
2 public with or without a charge for admission. If property
3 deeded to a municipality by the United States is subject to a
4 requirement that the Federal Government, through a schedule
5 established by the Secretary of the Interior, determine that
6 the property is being maintained for public historic
7 preservation, park, or recreational purposes and if those
8 conditions are not met the property will revert back to the
9 Federal Government, then such property shall be deemed to
10 serve a municipal or public purpose. The term "governmental
11 purpose" also includes a direct use of property on federal
12 lands in connection with the Federal government's Space
13 Exploration Program. Real property and tangible personal
14 property owned by the Federal Government and used for defense
15 and space exploration purposes or which is put to a use in
16 support thereof shall be deemed to perform an essential
17 national governmental purpose and shall be exempt. "Owned by
18 the lessee" as used in this chapter does not include personal
19 property, buildings, or other real property improvements used
20 for the administration, operation, business offices and
21 activities related specifically thereto in connection with the
22 conduct of an aircraft full service fixed based operation
23 which provides goods and services to the general aviation
24 public in the promotion of air commerce provided that the real
25 property is designated as an aviation area on an airport
26 layout plan approved by the Federal Aviation Administration.
27 For purposes of determination of "ownership," buildings and
28 other real property improvements which will revert to the
29 airport authority or other governmental unit upon expiration
30 of the term of the lease shall be deemed "owned" by the
31 governmental unit and not the lessee. Providing two-way

1 telecommunications services to the public for hire by the use
2 of a telecommunications facility, as defined in s. 364.02(13),
3 and for which a certificate is required under chapter 364 does
4 not constitute an exempt use for purposes of s. 196.199,
5 unless the telecommunications services are provided by the
6 operator of a public-use airport, as defined in s. 332.004,
7 for the operator's provision of telecommunications services
8 for the airport or its tenants, concessionaires, or licensees,
9 or unless the telecommunications services are provided by a
10 public hospital. However, property that is being used to
11 provide such telecommunications services on or before October
12 1, 1997, shall remain exempt, but such exemption expires
13 October 1, 2004.

14 Section 4. Subsection (1) of section 199.183, Florida
15 Statutes, 1996 Supplement, is amended to read:

16 199.183 Taxpayers exempt from annual and
17 nonrecurring taxes.--

18 (1) Intangible personal property owned by this state
19 or any of its political subdivisions or municipalities shall
20 be exempt from taxation under this chapter. This exemption
21 does ~~shall~~ not apply to:

22 (a) Any leasehold or other interest that ~~which~~ is
23 described in s. 199.023(1)(d).

24 (b) Property related to the provision of two-way
25 telecommunications services to the public for hire by the use
26 of a telecommunications facility, as defined in s. 364.02(13),
27 and for which a certificate is required under chapter 364,
28 when such service is provided by any county, municipality, or
29 other political subdivision of the state. Any immunity of any
30 political subdivision of the state or other entity of local
31 government from taxation of the property used to provide

1 telecommunication services that is taxed as a result of this
2 paragraph is hereby waived. However, intangible personal
3 property related to the provision of such telecommunications
4 services provided by the operator of a public-use airport, as
5 defined in s. 332.004, for the operator's provision of
6 telecommunications services for the airport or its tenants,
7 concessionaires, or licensees, and intangible personal
8 property related to the provision of such telecommunications
9 services provided by a public hospital, are exempt from
10 taxation under this chapter.

11 Section 5. Subsection (6) of section 212.08, Florida
12 Statutes, 1996 Supplement, is amended to read:

13 212.08 Sales, rental, use, consumption, distribution,
14 and storage tax; specified exemptions.--The sale at retail,
15 the rental, the use, the consumption, the distribution, and
16 the storage to be used or consumed in this state of the
17 following are hereby specifically exempt from the tax imposed
18 by this part.

19 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are
20 also exempt from the tax imposed by this chapter sales made to
21 the United States Government, a state, or any county,
22 municipality, or political subdivision of a state when payment
23 is made directly to the dealer by the governmental entity.
24 This exemption shall not inure to any transaction otherwise
25 taxable under this chapter when payment is made by a
26 government employee by any means, including, but not limited
27 to, cash, check, or credit card when that employee is
28 subsequently reimbursed by the governmental entity. This
29 exemption does not include sales of tangible personal property
30 made to contractors employed either directly or as agents of
31 any such government or political subdivision thereof when such

1 tangible personal property goes into or becomes a part of
2 public works owned by such government or political subdivision
3 thereof. This exemption does not include sales, rental, use,
4 consumption, or storage for use in any political subdivision
5 or municipality in this state of machines and equipment and
6 parts and accessories therefor used in the generation,
7 transmission, or distribution of electrical energy by systems
8 owned and operated by a political subdivision in this state
9 for transmission or distribution expansion. Likewise exempt
10 are charges for services rendered by radio and television
11 stations, including line charges, talent fees, or license fees
12 and charges for films, videotapes, and transcriptions used in
13 producing radio or television broadcasts. The exemption
14 provided in this subsection does not include sales, rental,
15 use, consumption, or storage for use in any political
16 subdivision or municipality in this state of machines and
17 equipment and parts and accessories therefor used in providing
18 two-way telecommunications services to the public for hire by
19 the use of a telecommunications facility, as defined in s.
20 364.02(13), and for which a certificate is required under
21 chapter 364, which facility is owned and operated by any
22 county, municipality, or other political subdivision of the
23 state. Any immunity of any political subdivision of the state
24 or other entity of local government from taxation of the
25 property used to provide telecommunication services that is
26 taxed as a result of this section is hereby waived. However,
27 the exemption provided in this subsection includes
28 transactions taxable under this part which are for use by the
29 operator of a public-use airport, as defined in s. 322.004, in
30 providing such telecommunications services for the airport or
31 its tenants, concessionaires, or licensees, or which are for

1 use by a public hospital for the provision of such
2 telecommunications services.

3 Section 6. Severability Clause

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5 If any section, subsection, paragraph, or other provision of
6 this act, or its application to any person or circumstances
7 shall be held invalid or unconstitutional, such holding shall
8 not affect the validity of any other section, subsection,
9 paragraph, or other provision, or its application to other
10 persons or circumstances. The legislature hereby expresses
11 the intent that it would have enacted the other provisions of
12 this act as if the invalid or unconstitutional provisions was
13 not contained within the act.

14 Section 7. Under s. 18, Art. VII of the State
15 Constitution, the Legislature determines and declares that the
16 provisions of this act fulfill an important state interest.

17 Section 8. This act shall take effect October 1, 1997.
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