

1 A bill to be entitled
2 An act relating to public records; providing an
3 exemption from public records requirements for
4 certain telecommunications or cable company
5 records; providing for future review and
6 repeal; providing a finding of public
7 necessity; providing an effective date.

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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. (1) Any proprietary confidential business
12 information obtained from a telecommunications company or
13 franchised cable company by a local governmental entity
14 relating to imposing fees for occupying the public
15 rights-of-way or assessing the local communications services
16 tax pursuant to s. 202.19, Florida Statutes, or otherwise
17 relating to regulating the public rights-of-way is
18 confidential and exempt from the provisions of s. 119.07(1),
19 Florida Statutes, and Section 24(a), Article I of the State
20 Constitution, may be used only for the purposes of imposing
21 such fees or assessing such tax or regulating such
22 rights-of-way, and may not be used for any other purposes,
23 including, but not limited to, commercial or competitive
24 purposes.

25 (2) For the purposes of this exemption, "proprietary
26 confidential business information" includes any proprietary or
27 otherwise confidential information or documentation, including
28 maps, plans, billing and payment records, trade secrets, or
29 other information relating to the provision of or facilities
30 for communications service that is intended to be and is
31 treated by the company as confidential and is not otherwise

1 publicly available to the same extent and in the same format
2 as requested by the local governmental entity. Proprietary
3 confidential business information does not include schematics
4 indicating the location of facilities for a specific site that
5 are provided in the normal course of the local governmental
6 entity's permitting process.

7 (3) Nothing in this exemption expands the information
8 or documentation that a local governmental entity may properly
9 request under applicable law pursuant to the imposition of
10 fees for occupying the rights-of-way or the local
11 communication services tax or the regulation of its public
12 rights-of-way.

13 (4) Any information in the possession of a local
14 government entity which consists of maps, plans, schematics,
15 diagrams, or other engineering data relating to the exact
16 location and capacity of facilities for the provision of
17 communications services by the local government entity shall
18 be exempt from the provisions of s. 119.07(1), and Section
19 24(a), Article I of the State Constitution. Such information
20 shall remain exempt only for a period of sixty days after
21 completion of the construction of the communications services
22 facilities.

23 (5) This section is subject to the Open Government
24 Sunset Review Act of 1995 in accordance with section 119.15,
25 Florida Statutes, and shall stand repealed on October 1, 2005,
26 unless reviewed and saved from repeal through reenactment by
27 the Legislature.

28 Section 2. The Legislature finds that it is a public
29 necessity that proprietary confidential business information
30 be kept confidential when held by a local governmental entity
31 pursuant to the imposition of fees for occupying the public

1 rights-of-way or the assessment of the local communications
 2 tax or the regulation of the public rights-of-way. Disclosure
 3 of proprietary confidential business information in a local
 4 governmental entity's possession would adversely affect the
 5 business interests of telecommunications companies and
 6 franchised cable companies providing the information by
 7 harming them in the marketplace and compromising the security
 8 of the communications network. Further, disclosure of such
 9 proprietary confidential business information would impair
 10 competition in the communications industry. Disclosure of
 11 data prepared by or in the possession of a local government
 12 which reveals the type and size of facilities for providing
 13 telecommunications services creates a competitive disadvantage
 14 for the local government and an unfair advantage for its
 15 competitors. Competitors can use such information to impair
 16 full and fair competition and impede competition in the
 17 telecommunications marketplace to the disadvantage of the
 18 consumers of telecommunications services. Thus, the public
 19 and private harm in disclosing this information significantly
 20 outweighs any public benefit derived from disclosure, and the
 21 public's ability to scrutinize and monitor agency action is
 22 not diminished by non disclosure of this information.

23 Section 3. This act shall take effect upon becoming a
 24 law.

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