

CHAMBER ACTION

1 The Committee on Business Regulation recommends the following:

2  
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to taxation and regulation of  
7 governmentally provided communications services; providing  
8 legislative findings; providing notice to local  
9 governments considering providing certain services;  
10 providing definitions; creating a moratorium restricting  
11 local governments from pledging revenues for the issuance  
12 of bonds to finance certain governmentally provided  
13 communications services; creating a legislative study  
14 commission to review regulatory and tax issues related to  
15 governmentally provided communications services;  
16 specifying that local governments providing specified  
17 services are subject to certain state and federal laws and  
18 regulations; prohibiting local governments from requiring  
19 residents to use governmentally provided communications  
20 services; requiring the nondiscriminatory application of  
21 certain policies and provisions of law related to  
22 communications services; subjecting local governments  
23 providing communications services to specified

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24 prohibitions applicable to private providers; providing  
25 severability; providing an effective date.

26

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

28

29 Section 1. Legislative intent.--

30 (1) The Legislature finds that it is the policy of this  
31 state to ensure that local governments operate on a level  
32 playing field with private providers of communications services,  
33 especially that local governments not enjoy any undue advantages  
34 simply due to their status as a local government.

35 (2) The Legislature hereby provides notice to all local  
36 governments in this state that in the ensuing year the  
37 Legislature will be conducting a study of the appropriate level  
38 of state regulation for local governments wishing to offer  
39 communications services in competition with private providers.  
40 This legislative study will be comprehensive and will be  
41 considered for adoption in the 2005 Regular Session. Any local  
42 government which is providing such services currently or is  
43 considering providing such services in the future is hereby  
44 given notice of these legislative deliberations and should be  
45 prepared to comply with said regulations upon adoption.

46 Section 2. Definitions.--For purposes of this act:

47 (1) "Local government" means any political subdivision as  
48 defined in s. 1.01, Florida Statutes, and any utility authority,  
49 other authority, board, branch, department, or unit thereof.

50 (2) "Advanced service" means high-speed Internet access  
51 service capability in excess of 144 kilobits per second in the

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52 upstream or the downstream direction, including any service  
53 application provided over the high-speed access service or any  
54 information service as defined in 47 U.S.C. s. 153(20).

55 (3) "Communications services" includes the offering of any  
56 "advanced service," "cable service," or "telecommunications  
57 service" and should be construed in the broadest sense.

58 (4) "Cable service" has the same meaning as that provided  
59 in 47 U.S.C. s. 522(6).

60 (5) "Providing," with respect to a named service, means  
61 offering or supplying a service for a fee to a person, including  
62 any portion of the public or a local government or private  
63 provider.

64 (6) "Subscriber" means a person who receives a named  
65 service.

66 (7) "Telecommunications services" means the transmission  
67 of signs, signals, writing, images, sounds, messages, data, or  
68 other information of the user's choosing, by wire, radio, light  
69 waves, or other electromagnetic means, without change in the  
70 form or content of the information as sent and received by the  
71 user and regardless of the facilities used.

72 Section 3. Moratorium.--No local government shall pledge  
73 any revenues in support of the issuance of any bonds to be used  
74 to finance a business venture outside of its home county in  
75 competition with providers for the provision of communications  
76 services until July 1, 2005.

77 Section 4. Legislative study.--

78           (1) The Government-owned Communications Services Study  
 79 Commission is created. The commission shall be composed of nine  
 80 members, appointed as follows:

81           (a) Four members appointed by the Speaker of the House of  
 82 Representatives, at least two of whom shall be members of the  
 83 House of Representatives.

84           (b) Four members appointed by the President of the Senate,  
 85 at least two of whom shall be members of the Senate.

86           (c) One member appointed by the Attorney General.

87  
 88 Members of the Legislature shall be ex officio, nonvoting  
 89 members of the commission.

90           (2) The Legislature shall provide staffing for the members  
 91 of the study commission, whose meetings shall be noticed and  
 92 held with access to the public.

93           (3) The study commission shall issue a report to the  
 94 President of the Senate, the Speaker of the House of  
 95 Representatives, and the Governor no later than January 15,  
 96 2005.

97           (4) The study commission shall review any and all  
 98 regulatory and tax issues related to the provision of  
 99 communications services by any local government in this state.

100           Section 5. (1) Any local government that provides a cable  
 101 service shall comply with the Cable Communications Policy Act of  
 102 1984, 47 U.S.C. 521, et seq., the regulations issued by the  
 103 Federal Communications Commission under the Cable Communications  
 104 Policy Act of 1984, 47 U.S.C. 521, et seq., and applicable state

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105 statutes and rules, including s. 166.046, Florida Statutes, and  
 106 to the extent applicable, chapter 202, Florida Statutes.

107 (2) A local government that provides a telecommunications  
 108 service or advanced service shall comply with the  
 109 Telecommunications Act of 1996, Pub. L. No. 104-104, the  
 110 regulations issued by the Federal Communications Commission  
 111 under the Telecommunication Act of 1996, Pub. L. No. 104-104,  
 112 and applicable state laws and rules, including those of the  
 113 Public Service Commission, and, to the extent applicable,  
 114 chapter 202, Florida Statutes.

115 (3) Exercise of a local government's power or authority in  
 116 any area, including zoning or land use, to require use by any  
 117 person, including residents of a particular development, of any  
 118 of the local government's communications services is prohibited.

119 (4) A local government shall apply the local government's  
 120 ordinances, rules, and policies, including those relating to the  
 121 following subjects, without discrimination as to itself and any  
 122 private provider of communications services:

123 (a) Access to public rights-of-way.

124 (b) Permitting, access to, use of, and payment for use of  
 125 local government-owned poles, such that the local government  
 126 shall be subject to the same terms, conditions, and fees, if  
 127 any, for access to government-owned poles that the local  
 128 government applies to a private provider for such access.

129 (5) Notwithstanding s. 542.235, Florida Statutes, or any  
 130 other provision of law, a local government that provides  
 131 communications services is subject to the same prohibitions

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132 | applicable to private providers under ss. 542.18 and 542.19,  
133 | Florida Statutes.

134 |       Section 6. If any provision of this act or the application  
135 | of any provision of this act is found to be invalid, the  
136 | remainder of this act shall be given effect without the invalid  
137 | provision or application.

138 |       Section 7. This act shall take effect upon becoming law.