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A bill to be entitled
 An act relating to governmental authority in communication services; creating the Governmental Authority Provision for Communication Services Act; providing definitions; authorizing governmental authorities to provide communication services in certain circumstances; providing requirements for the provision of communication services; requiring a referendum for the provision of such services; requiring regulatory compliance by governmental authorities and service providers; providing for the use of certain structures and facilities; authorizing governmental authorities to secure funding for certain costs; providing for the payment of taxes on certain acquired entities; providing severability; providing an effective date.

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

Section 1. Governmental authority provision of communication services.--

(1) This section may be cited as the "Governmental Authority Provision of Communication Services Act of 2005."

(2) As used in this section:

(a) "Covered service" includes any cable service or telecommunications service and should be construed in the broadest sense.

(b) "Cable service" has the same meaning as in 47 U.S.C. s. 522(6).

29 (c) "Governmental authority" means any political
30 subdivision as defined in s. 1.01, Florida Statutes, and any
31 utility authority, other authority, board, branch, department,
32 or unit thereof. The term includes any person owned, operated,
33 or controlled by a governmental authority or in which a
34 governmental authority otherwise has an interest, whether direct
35 or indirect.

36 (d) "Omitted service" means a covered service that a
37 governmental authority determines is desired by the authority's
38 residents but is not being provided to the residents by any
39 private provider of covered services.

40 (e) "Person" has the same meaning as defined in s. 1.01,
41 Florida Statutes.

42 (f) "Private provider" means a provider of covered
43 services that is not a governmental authority.

44 (g) "Providing," "provide," or "provision," with respect
45 to a covered service, means offering or supplying a service for
46 a fee or other consideration to a person, including any portion
47 of the public or a governmental authority or private provider. A
48 provider is a person that provides a covered service.

49 (h) "Subscriber" means a person who receives a covered
50 service.

51 (i) "Supplying," with respect to a covered service, means
52 actually supplying a service for a fee or other consideration to
53 a person, including any portion of the public or a governmental
54 authority or private provider.

55 (j) "Telecommunications services" means the transmission
56 of signs, signals, writing, images, sounds, messages, data, or

57 other information of the user's choosing, by wire, radio, light
58 waves, or other electromagnetic means, without change in the
59 form or content of the information as sent and received by the
60 user and regardless of the facilities used, and including fixed
61 and mobile terrestrial wireless technologies or applications.

62 (3) Except as specified in subsection (4), no governmental
63 authority shall provide a covered service or a facility used to
64 provide a covered service. The foregoing prohibition shall not
65 apply to, and shall not prohibit, a governmental authority from
66 supplying a covered service, or a facility used to provide a
67 covered service, to itself for its internal operational needs.

68 (4)(a) Any governmental authority that is supplying a
69 covered service on May 1, 2005, shall be permitted to continue
70 supplying such service; however, the governmental authority may
71 not extend or expand its services or service areas for existing
72 or new subscribers.

73 (b) If a governmental authority determines that there are
74 omitted services, the governmental authority may commence
75 providing the omitted services only upon the following
76 conditions in the following order:

77 1. The governmental authority provides written notice to
78 all dealers of communications services registered under chapter
79 202, Florida Statutes, with the Department of Revenue describing
80 the omitted services.

81 2. No provider commences to provide the noticed omitted
82 services or other substantially similar services within 240 days
83 after the date of the written notice.

84 3. The governmental authority retains a feasibility

85 consultant to assess, in a written report, the feasibility of
86 the governmental authority's provision of the omitted services,
87 including consideration of the capital investment in facilities
88 to be used to provide the omitted services; the expenditure of
89 funds for labor, financing, and administering the proposed
90 omitted services; using full-cost accounting, the projected
91 annual operating expenses and revenues; and the governmental
92 authority's proposed method of financing.

93 4. If the feasibility study indicates that the
94 governmental authority's provision of the omitted services is
95 feasible, the governing body schedules a public hearing to be
96 held to consider the feasibility study, to afford the public an
97 opportunity to offer comments on whether the governmental
98 authority should provide one or more of the noticed omitted
99 services, and to then vote on whether to proceed.

100 5. If the governing body votes in favor of proceeding, it
101 calls an election on whether the governmental authority may
102 provide the omitted services that were the subject of the
103 governing body's vote. The notice of the election shall include,
104 with any other information required by law, a summary of the
105 omitted services and a statement that the feasibility study is
106 available for inspection and copying at a designated location.
107 The ballot at the election shall pose the question substantially
108 as follows: "Shall [insert name of the governmental authority]
109 operate a business providing [telecovered or advanced services,
110 or cable services, as applicable (meaning those services
111 identified in the governing body's vote)] to the inhabitants of
112 the [governmental authority] at a total cost of approximately

113 [insert amount from feasibility study] per year?"

114 (c) The ballot proposition may not take effect until
 115 submitted to the electors and approved by a majority of those
 116 voting on the ballot.

117 (d) If a majority of the electors vote to approve the
 118 ballot question, the governmental authority may thereafter
 119 provide the omitted services that were referenced in the ballot
 120 question.

121 (5)(a) A governmental authority that provides a cable
 122 service shall comply with the Cable Communications Policy Act of
 123 1984, 47 U.S.C. ss. 521 et seq.; the regulations issued by the
 124 Federal Communications Commission under the Cable Communications
 125 Policy Act of 1984, 47 U.S.C. ss. 521 et seq.; and all
 126 applicable state and federal rules and regulations, including,
 127 but not limited, to s. 166.046, Florida Statutes, and those
 128 provisions of chapters 202, 212, and 337, Florida Statutes,
 129 applicable to a provider of such services.

130 (b) A governmental authority that provides a
 131 telecommunications service or advanced service shall comply, if
 132 applicable, with chapter 364, Florida Statutes, and rules
 133 adopted by the Florida Public Service Commission; chapter 166,
 134 Florida Statutes; and all applicable state and federal rules and
 135 regulations, including, but not limited to, those provisions of
 136 chapters 202, 212, and 337, Florida Statutes, applicable to a
 137 provider of such services.

138 (c) Exercise of a governmental authority's power or
 139 authority in any area, including zoning or land use, to require
 140 use by any person, including residents of a particular

141 development, of any of the governmental authority's covered
 142 services is prohibited.

143 (d) A governmental authority shall apply the governmental
 144 authority's ordinances, rules, and policies and exercise any
 145 authority under state or federal laws, including those relating
 146 to the following subjects, without discrimination as to itself
 147 and any private provider of covered services:

148 1. Allowing access to and use of public rights-of-way.

149 2. Allowing access to, use of, and payment for use of
 150 governmental authority-owned or controlled poles, conduits,
 151 easements, and similar facilities, such that the governmental
 152 authority shall be subject to the same terms, conditions, and
 153 fees, if any, for access to such poles, conduits, easements, or
 154 similar facilities that the governmental authority applies to a
 155 private provider for such access.

156 (e) A governmental authority may not pledge any revenues
 157 in support of the issuance of any bonds to finance the provision
 158 of covered services outside the governmental authority's
 159 geographical boundaries. The governing body of a governmental
 160 authority may, upon approval by a vote of the electors, issue
 161 one or more bonds to finance the capital costs for facilities to
 162 provide covered services. The election shall be conducted as
 163 specified in chapter 100, Florida Statutes. Any bonds issued to
 164 finance the governmental authority's provision of covered
 165 services shall be secured and paid solely from the revenues
 166 generated by the governmental authority from its provision of
 167 covered services. A governmental authority may not pay any such
 168 bonds, or any origination, financing, or other costs associated

169 with such bonds, from the general funds or other enterprises of
170 the governmental authority or from the proceeds of bonds secured
171 and to be paid by the general taxing powers of the governmental
172 authority. This paragraph shall not apply to bonds issued by a
173 governmental authority prior to the effective date of this act.

174 (f) Notwithstanding s. 542.235, Florida Statutes, or any
175 other provision of law, a governmental authority that provides
176 covered services is subject to the same prohibitions applicable
177 to private providers under ss. 542.18 and 542.19, Florida
178 Statutes.

179 (6) If a governmental authority acquires any tax-paying
180 entity that is providing water or wastewater services, the
181 governmental authority must continue to pay the applicable taxes
182 levied upon the entity.

183 (7) In all decisions concerning governmental authority
184 relating to the acquisition of, or contracting with, covered
185 services, water services, or wastewater services, the Public
186 Services Commission shall rule in favor of tax-paying entities.

187 (8) If any provisions of this section or the application
188 of any provision of this section is found invalid, the remainder
189 of this act shall be given effect without the invalid provision
190 or application.

191 Section 2. This act shall take effect upon becoming a law.