22-1206A-05

1 A bill to be entitled 2 An act relating to local governments; providing 3 a legislative finding that the policy of the 4 state is to prohibit local governments from 5 offering communications services in competition 6 with private providers; providing definitions; 7 authorizing a local government providing communications services on the effective date 8 9 of the act to continue offering service to 10 existing subscribers; requiring that, upon finding that it cannot obtain a service, a 11 12 local government notify dealers of 13 communications services and allow such dealers a specified period in which to provide the 14 service; providing requirements for a local 15 government with respect to its provision of 16 17 communications services and the exercise of its authority; providing that the local government 18 is subject to the ordinances, rules, and 19 policies that apply to private providers; 20 21 prohibiting a local government from pledging 22 revenues in support of bonds used to finance a 23 venture outside its boundaries in competition with private providers; providing that a local 2.4 government is subject to certain prohibitions 25 concerning restraint of trade and 26 27 monopolization; providing for severability; 28 providing an effective date. 29 Be It Enacted by the Legislature of the State of Florida: 30 31

1	Section 1. <u>Communications services offered by local</u>
2	governments
3	(1) The Legislature finds that it is the policy of
4	this state to prohibit local governments from offering
5	communications services in competition with private providers
6	of communications services.
7	(2) As used in this section, the term:
8	(a) "Local government" means any political subdivision
9	as defined in section 101.01, Florida Statutes, and any
10	utility authority or other authority, board, branch,
11	department, or unit thereof.
12	(b) "Advanced service" means high-speed Internet
13	access service capability in excess of 144 kilobits per second
14	in the upstream or the downstream direction, including any
15	service application provided over the high-speed-access
16	service or any information service as defined in 47 U.S.C. s.
17	<u>153(20).</u>
18	(c) "Communications services" includes the offering of
19	any "advanced service," "cable service," or
20	"telecommunications service" and shall be construed in the
21	broadest sense.
22	(d) "Cable service" has the same meaning as in 47
23	U.S.C. s. 522(6).
24	(e) "Providing," with respect to a named service,
25	means offering or supplying a service for a fee or other
26	consideration to a person, including any portion of the public
27	or a local government or private provider.
28	(f) "Subscriber" means a person who receives a
29	communications service.
30	(q) "Telecommunications services" means the
31	transmission of signs, signals, writing, images, sounds,

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messages, data, or other information of the user's choosing, 2 by wire, radio, light waves, or other electromagnetic means, without change in the form or content of the information as 3 4 sent and received by the user and regardless of the facilities 5 used. 6 (3) Any local government that is providing a communications service on the effective date of this act may 8 continue offering service to those existing subscribers on that date. However, such local government may not extend its 9 10 service offerings or service areas. (4) If a local government determines that it cannot 11 12 obtain a communications service, the local government shall 13 provide notice to all dealers of communications services registered with the Department of Revenue under chapter 202, 14 Florida Statutes, and allow such dealers 180 days during which 15 to provide the requested service before providing a 16 competitive communications service. If such a circumstance 18 occurs: (a) Any local government that provides a cable service 19 shall comply with the Cable Communications Policy Act of 1984, 2.0 21 47 U.S.C. 521, et seq.; the regulations issued by the Federal 2.2 Communications Commission under the Cable Communications 23 Policy Act of 1984, 47 U.S.C. 521, et seq.; and all applicable state and federal rules and regulations, including, but not 2.4 limited to, section 166.046, Florida Statutes, and those 25 provisions of chapter 202, 212, and 337, Florida Statutes, 26 2.7 which apply to a provider of such services. 2.8 (b) A local government that provides a telecommunications service or advanced service shall comply, 29 30 if applicable, with chapter 364, Florida Statutes, and rules

adopted by the Florida Public Service Commission; chapter 166,

Florida Statutes; and all applicable state and federal rules
and regulations, including, but not limited to, those
provisions of chapters 202, 212, and 337, Florida Statutes,
which apply to a provider of such services.

- (c) A local government may not exercise its power or authority in any area, including zoning or land use, to require any person, including residents of a particular development, to use the local government's communications services.
- (d) A local government shall apply its ordinances, rules, and policies and exercise any authority under state or federal laws, including those relating to the following subjects, without discrimination as to itself and any private provider of communications services:
 - 1. Access to public rights-of-way; and
- 2. Permitting, access to, use of, and payment for use of local government-owned poles. The local government is subject to the same terms, conditions, and fees, if any, for access to government-owned poles which the local government applies to a private provider for such access.
- (e) A local government may not pledge any revenues in support of the issuance of any bonds to be used to finance a business venture outside the local government's geographical boundaries in competition with providers for the provision of communications services.
- (5) Notwithstanding section 542.235, Florida Statutes, or any other provision of law, a local government that provides communications services is subject to the same prohibitions applicable to private providers under sections 542.18 and 542.19, Florida Statutes.

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1	Section 2. <u>If any provision of this act or its</u>
2	application to any person or circumstance is held invalid, the
3	invalidity does not affect other provisions or applications of
4	the act which can be given effect without the invalid
5	provision or application, and to this end the provisions of
6	this act are severable.
7	Section 3. This act shall take effect upon becoming a
8	law.
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11	SENATE SUMMARY
12	Restricts local governments from offering communications services in competition with private providers. Requires
13	that private providers be given 180 days in which to provide a requested service before the local government
14	may begin offering the service. Provides that the local government is subject to the ordinances, rules, and
15	policies that apply to private providers. Prohibits a local government from pledging revenues in support of
16 bonds used to finance a venture outside its boundaries	bonds used to finance a venture outside its boundaries in competition with private providers. Provides that a local
17	government is subject to certain prohibitions concerning restraint of trade and monopolization which apply to
18	private providers of communications services.
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