

1                                   A bill to be entitled  
2           An act relating to the communications services tax;  
3           providing legislative findings and intent; amending s.  
4           202.11, F.S.; deleting the definition of the term  
5           "enhanced zip code" and revising the definition of the  
6           term "video service"; amending s. 202.12, F.S.;  
7           revising the communications services tax rate on sales  
8           of communications services; deleting provisions that  
9           impose a communications services tax on the retail  
10          sale of direct-to-home satellite services and require  
11          the collection and remittance of the gross receipts  
12          tax on the same transaction; conforming a cross-  
13          reference; amending s. 202.125, F.S.; deleting an  
14          exemption from the communications services tax and  
15          gross receipts tax for the separately stated sales  
16          price of communications services sold to residential  
17          households and the exception to such exemption for  
18          transient public lodging establishments, mobile  
19          communications services, video services, or direct-to-  
20          home satellite services; conforming cross-references;  
21          amending ss. 202.13, and 202.151, F.S.; conforming  
22          cross-references; amending s. 202.155, F.S.; providing  
23          for the future repeal of such section relating to  
24          special rules for establishing a customer's place of  
25          primary use of mobile communications services;  
26          conforming a cross-reference; amending s. 202.16,  
27          F.S.; conforming a cross-reference; amending s.  
28          202.18, F.S.; revising the allocation and disposition

29 formula applicable to proceeds of the communications  
30 services tax and certain proceeds of the gross  
31 receipts tax; requiring a local government to reduce  
32 its ad valorem tax mileage rate to offset certain  
33 increases in communications services tax revenues;  
34 authorizing a local government to elect not to offset  
35 such revenues by adoption of a resolution in a  
36 specified manner; providing responsibilities and  
37 duties for local governments and the Department of  
38 Revenue relating to such resolutions; conforming  
39 provisions to changes made by the act; repealing s.  
40 202.19, F.S., relating to the authorization to impose  
41 the local communications services tax; amending ss.  
42 202.193 and 202.195, F.S.; conforming cross-  
43 references; repealing ss. 202.20, 202.21, and 202.22,  
44 F.S., relating to the local communications services  
45 tax conversion rates, the effective dates and  
46 procedures for informing dealers of communications  
47 services of tax levies and rate changes, and the  
48 determination of the local tax situs for imposition of  
49 the tax, respectively; amending s. 202.23, F.S.;  
50 conforming cross-references; amending s. 202.231,  
51 F.S.; providing for the future repeal of such section  
52 relating to providing information to local taxing  
53 jurisdictions concerning the local communications  
54 services tax; amending s. 202.24, F.S.; conforming  
55 cross-references; defining the term "replaced revenue  
56 sources"; amending s. 202.26, F.S.; revising the

57 Department of Revenue's authority to adopt rules  
58 relating to a dealer's exercise of due diligence with  
59 respect to certain records and methods necessary for  
60 the collection of the local communications services  
61 tax; conforming cross-references; amending ss. 202.27,  
62 202.28, and 202.35, F.S.; conforming cross-references;  
63 repealing ss. 202.37, 202.38, 202.381, and 203.001,  
64 F.S., relating to special rules for administration of  
65 the local communications services tax, special rules  
66 for bad debts and adjustments under specified  
67 previously existing taxes, the transition from  
68 previously existing taxes, and the combined rate for  
69 communications services and the gross receipts tax on  
70 utility services, respectively; amending s. 203.01,  
71 F.S.; conforming cross-references; revising the tax  
72 rate levied on communications services; amending ss.  
73 218.67, 288.1045, 288.106, and 213.053, F.S.;

74 conforming cross-references; amending s. 337.401,  
75 F.S.; deleting the authority for municipalities,  
76 charter counties, and noncharter counties to collect  
77 permit fees from providers of communications services  
78 that use or occupy municipal or county roads or  
79 rights-of-way and deleting the procedures,  
80 requirements, and limitations with respect thereto;  
81 conforming cross-references; providing application  
82 relating to the replacement of taxes or fees repealed  
83 by this act with respect to the impairment of bonded  
84 indebtedness secured by such taxes or fees; providing

85 application relating to the imposition of taxes on  
 86 billing statements for communications services;  
 87 providing an effective date.

88

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

90

91 Section 1. Legislative findings and intent.—

92 (1) The Legislature finds that:

93 (a) Florida has one of the highest rates of taxation on  
 94 communications services in the nation;

95 (b) Communications services are heavily used and relied on  
 96 by consumers and businesses in today's information age; and

97 (c) The current administration of Florida's communications  
 98 services tax is overly burdensome on both the Department of  
 99 Revenue and dealers of communications services and is confusing  
 100 to consumers.

101 (2) The Legislature intends to:

102 (a) Move to a unified tax on communications services in  
 103 order to address many of the concerns expressed in subsection  
 104 (1); and

105 (b) Work towards future reductions in the overall rate of  
 106 taxation while also preserving the significant funding source  
 107 that this tax provides to state and local governments.

108 (c) Ensure that Florida's local governments in the  
 109 aggregate are treated in a revenue-neutral manner.

110 Section 2. Subsections (19) through (23) of section  
 111 202.11, Florida Statutes, are renumbered as subsections (18)  
 112 through (22), respectively, and present subsections (18) and

113 (24) of that section are amended to read:

114 202.11 Definitions.—As used in this chapter, the term:

115 ~~(18) "Enhanced zip code" means a United States postal zip~~  
 116 ~~code of 9 or more digits.~~

117 (23) ~~(24)~~ "Video service" means the transmission of video,  
 118 audio, or other programming service to a purchaser, and the  
 119 purchaser interaction, if any, required for the selection or use  
 120 of a programming service, regardless of whether the programming  
 121 is transmitted over facilities owned or operated by the video  
 122 service provider or over facilities owned or operated by another  
 123 dealer of communications services. The term includes point-to-  
 124 point and point-to-multipoint distribution services through  
 125 which programming is transmitted or broadcast by microwave or  
 126 other equipment directly to the purchaser's premises, including  
 127 ~~but does not include~~ direct-to-home satellite service. The term  
 128 includes basic, extended, premium, pay-per-view, digital video,  
 129 two-way cable, and music services.

130 Section 3. Subsection (1) of section 202.12, Florida  
 131 Statutes, is amended to read:

132 202.12 Sales of communications services.—The Legislature  
 133 finds that every person who engages in the business of selling  
 134 communications services at retail in this state is exercising a  
 135 taxable privilege. It is the intent of the Legislature that the  
 136 tax imposed by chapter 203 be administered as provided in this  
 137 chapter.

138 (1) For the exercise of such privilege, a tax is levied on  
 139 each taxable transaction, and the tax is due and payable as  
 140 follows:

141 (a) Except as otherwise provided in this subsection, at a  
 142 rate of 10.65 ~~6.65~~ percent applied to the sales price of the  
 143 communications service which:

- 144 1. Originates and terminates in this state, or
- 145 2. Originates or terminates in this state and is charged  
 146 to a service address in this state,

147  
 148 when sold at retail, computed on each taxable sale for the  
 149 purpose of remitting the tax due. The gross receipts tax imposed  
 150 by chapter 203 shall be collected on the same taxable  
 151 transactions and remitted with the tax imposed by this  
 152 paragraph. If no tax is imposed by this paragraph ~~by reason of~~  
 153 ~~s. 202.125(1)~~, the tax imposed by chapter 203 shall nevertheless  
 154 be collected and remitted in the manner and at the time  
 155 prescribed for tax collections and remittances under this  
 156 chapter.

157 ~~(b) At the rate of 10.8 percent on the retail sales price~~  
 158 ~~of any direct-to-home satellite service received in this state.~~  
 159 ~~The proceeds of the tax imposed under this paragraph shall be~~  
 160 ~~accounted for and distributed in accordance with s. 202.18(2).~~  
 161 ~~The gross receipts tax imposed by chapter 203 shall be collected~~  
 162 ~~on the same taxable transactions and remitted with the tax~~  
 163 ~~imposed by this paragraph.~~

164 (b)(e) At the rate set forth in paragraph (a) on the sales  
 165 price of private communications services provided within this  
 166 state, which shall be determined in accordance with the  
 167 following provisions:

- 168 1. Any charge with respect to a channel termination point

169 | located within this state;

170 |         2. Any charge for the use of a channel between two channel  
171 | termination points located in this state; and

172 |         3. Where channel termination points are located both  
173 | within and outside of this state:

174 |             a. If any segment between two such channel termination  
175 | points is separately billed, 50 percent of such charge; and

176 |             b. If any segment of the circuit is not separately billed,  
177 | an amount equal to the total charge for such circuit multiplied  
178 | by a fraction, the numerator of which is the number of channel  
179 | termination points within this state and the denominator of  
180 | which is the total number of channel termination points of the  
181 | circuit.

182 |

183 | The gross receipts tax imposed by chapter 203 shall be collected  
184 | on the same taxable transactions and remitted with the tax  
185 | imposed by this paragraph.

186 |         (c)~~(d)~~ At the rate set forth in paragraph (a) applied to  
187 | the sales price of all mobile communications services deemed to  
188 | be provided to a customer by a home service provider pursuant to  
189 | s. 117(a) of the Mobile Telecommunications Sourcing Act, Pub. L.  
190 | No. 106-252, if such customer's service address is located  
191 | within this state.

192 |         Section 4. Section 202.125, Florida Statutes, is amended  
193 | to read:

194 |             202.125 Sales of communications services; specified  
195 | exemptions.—

196 |             ~~(1) The separately stated sales price of communications~~

197 | ~~services sold to residential households is exempt from the tax~~  
 198 | ~~imposed by s. 202.12 and s. 203.01(1)(b)3. This exemption does~~  
 199 | ~~not apply to any residence that constitutes all or part of a~~  
 200 | ~~transient public lodging establishment as defined in chapter~~  
 201 | ~~509, any mobile communications service, any video service, or~~  
 202 | ~~any direct-to-home satellite service.~~

203 |       (1)~~(2)~~ The sale of communications services provided to the  
 204 | Federal Government, any agency or instrumentality of the Federal  
 205 | Government, or any entity that is exempt from state taxes under  
 206 | federal law is exempt from the taxes imposed or administered  
 207 | pursuant to s. 202.12 ~~ss. 202.12 and 202.19.~~

208 |       (2)~~(3)~~ The sale of communications services to the state or  
 209 | any county, municipality, or political subdivision of the state  
 210 | when payment is made directly to the dealer by the governmental  
 211 | entity is exempt from the taxes imposed or administered pursuant  
 212 | to s. 202.12 ~~ss. 202.12 and 202.19.~~ This exemption does not  
 213 | inure to any transaction otherwise taxable under this chapter  
 214 | when payment is made by a government employee by any means,  
 215 | including, but not limited to, cash, check, or credit card even  
 216 | when that employee is subsequently reimbursed by the  
 217 | governmental entity.

218 |       (3)~~(4)~~ The sale of communications services to a home for  
 219 | the aged, religious institution or educational institution that  
 220 | is exempt from federal income tax under s. 501(c)(3) of the  
 221 | Internal Revenue Code, or by a religious institution that is  
 222 | exempt from federal income tax under s. 501(c)(3) of the  
 223 | Internal Revenue Code having an established physical place for  
 224 | worship at which nonprofit religious services and activities are

225 regularly conducted and carried on, is exempt from the taxes  
226 imposed or administered pursuant to s. 202.12 ~~ss. 202.12 and~~  
227 ~~202.19~~. As used in this subsection, the term:

228 (a) "Religious institution" means an organization owning  
229 and operating an established physical place for worship at which  
230 nonprofit religious services and activities are regularly  
231 conducted. The term also includes:

232 1. Any nonprofit corporation the sole purpose of which is  
233 to provide free transportation services to religious institution  
234 members, their families, and other religious institution  
235 attendees.

236 2. Any nonprofit state, district, or other governing or  
237 administrative office the function of which is to assist or  
238 regulate the customary activities of religious institutions.

239 3. Any nonprofit corporation that owns and operates a  
240 television station in this state of which at least 90 percent of  
241 the programming consists of programs of a religious nature and  
242 the financial support for which, exclusive of receipts for  
243 broadcasting from other nonprofit organizations, is  
244 predominantly from contributions from the public.

245 4. Any nonprofit corporation the primary activity of which  
246 is making and distributing audio recordings of religious  
247 scriptures and teachings to blind or visually impaired persons  
248 at no charge.

249 5. Any nonprofit corporation the sole or primary purpose  
250 of which is to provide, upon invitation, nonprofit religious  
251 services, evangelistic services, religious education,  
252 administrative assistance, or missionary assistance for a

253 religious institution, or established physical place of worship  
 254 at which nonprofit religious services and activities are  
 255 regularly conducted.

256 (b) "Educational institution" includes:

257 1. Any state tax-supported, parochial, religious  
 258 institution, and nonprofit private school, college, or  
 259 university that conducts regular classes and courses of study  
 260 required for accreditation by or membership in the Southern  
 261 Association of Colleges and Schools, the Florida Council of  
 262 Independent Schools, or the Florida Association of Christian  
 263 Colleges and Schools, Inc.

264 2. Any nonprofit private school that conducts regular  
 265 classes and courses of study which are accepted for continuing  
 266 education credit by a board of the Division of Medical Quality  
 267 Assurance of the Department of Health.

268 3. Any nonprofit library.

269 4. Any nonprofit art gallery.

270 5. Any nonprofit performing arts center that provides  
 271 educational programs to school children, which programs involve  
 272 performances or other educational activities at the performing  
 273 arts center and serve a minimum of 50,000 school children a  
 274 year.

275 6. Any nonprofit museum that is open to the public.

276 (c) "Home for the aged" includes any nonprofit  
 277 corporation:

278 1. In which at least 75 percent of the occupants are 62  
 279 years of age or older or totally and permanently disabled; which  
 280 qualifies for an ad valorem property tax exemption under s.

281 196.196, s. 196.197, or s. 196.1975; and which is exempt from  
 282 the sales tax imposed under chapter 212.

283 2. Licensed as a nursing home under chapter 400 or an  
 284 assisted living facility under chapter 429 and which is exempt  
 285 from the sales tax imposed under chapter 212.

286 Section 5. Subsection (3) of section 202.13, Florida  
 287 Statutes, is amended to read:

288 202.13 Intent.—

289 (3) The tax on dealers of communications services  
 290 authorized under this chapter, ~~including the tax imposed by~~  
 291 ~~local governments under ss. 202.19 and 202.20,~~ shall supersede  
 292 the authority of local governments to levy franchise fees as set  
 293 out in 47 U.S.C. s. 542 without regard to the fact that this is  
 294 a tax of general applicability on all providers of  
 295 communications services.

296 Section 6. Section 202.151, Florida Statutes, is amended  
 297 to read:

298 202.151 Use tax imposed on certain purchasers of  
 299 communications services.—Any person who purchases communications  
 300 services that are otherwise taxable under s. 202.12 ~~ss. 202.12~~  
 301 ~~and 202.19~~ at retail from a seller in another state, territory,  
 302 the District of Columbia, or any foreign country shall report  
 303 and remit to the department the taxes imposed by or administered  
 304 under this chapter on the communications services purchased and  
 305 used, the same as if such communications services had been  
 306 purchased at retail from a dealer in this state. This section  
 307 does not apply if the out-of-state seller registers as a dealer  
 308 in this state and collects from the purchaser the taxes imposed

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309 | by or administered under this chapter. The department may adopt  
310 | rules governing the reporting and remitting of communications  
311 | services taxes by purchasers who purchase from out-of-state  
312 | sellers who do not collect the taxes imposed by or administered  
313 | under this chapter.

314 |       Section 7. Paragraph (b) of subsection (3) of section  
315 | 202.155, Florida Statutes, is amended, and subsection (5) is  
316 | added to that section, to read:

317 |       202.155 Special rules for mobile communications services.—

318 |       (3)

319 |       (b) The department shall provide notice to the home  
320 | service provider of its intent to redetermine the assignment of  
321 | a taxing jurisdiction by a home service provider under former s.  
322 | 202.22. If a final order is entered ruling that the jurisdiction  
323 | assigned by the home service provider is incorrect, the  
324 | department shall notify the home service provider of the proper  
325 | jurisdictional assignment. The home service provider shall begin  
326 | using the correct jurisdictional assignment within 120 days.

327 |       (5) This section is repealed effective October 1, 2016.

328 |       Section 8. Paragraph (c) of subsection (3) of section  
329 | 202.16, Florida Statutes, is amended to read:

330 |       202.16 Payment.—The taxes imposed or administered under  
331 | this chapter and chapter 203 shall be collected from all dealers  
332 | of taxable communications services on the sale at retail in this  
333 | state of communications services taxable under this chapter and  
334 | chapter 203. The full amount of the taxes on a credit sale,  
335 | installment sale, or sale made on any kind of deferred payment  
336 | plan is due at the moment of the transaction in the same manner

337 as a cash sale.

338 (3)

339 (c) A dealer may apply the rounding algorithm to the taxes  
 340 imposed pursuant to ss. 202.12 and 203.01 in one of the  
 341 following ways:

342 1. Apply the rounding algorithm to the combined taxes  
 343 imposed pursuant to ss. 202.12 and 203.01.

344 2. Apply the rounding algorithm to the communications  
 345 services taxes imposed pursuant to s. 202.12(1), and apply the  
 346 rounding algorithm separately to the combined gross receipts  
 347 taxes imposed pursuant to s. 203.01(1)(b)2. and 3.

348 3. Apply the rounding algorithm to the combined taxes  
 349 imposed pursuant to ss. 202.12(1)(a) and 203.01(1)(b)3., as  
 350 allowed by s. 202.12001 ~~ss. 202.12001 and 203.001~~, and apply the  
 351 rounding algorithm separately to the gross receipts tax imposed  
 352 pursuant to s. 203.01(1)(b)2.

353 Section 9. Section 202.18, Florida Statutes, is amended to  
 354 read:

355 202.18 Allocation and disposition of tax proceeds.—The  
 356 proceeds of the communications services taxes remitted under  
 357 this chapter shall be treated as follows:

358 (1) The proceeds of the taxes remitted under s.  
 359 202.12(1)(a) shall be divided as follows:

360 (a) The portion of such proceeds which constitutes gross  
 361 receipts taxes, imposed at the rate prescribed in chapter 203,  
 362 shall be deposited as provided by law and in accordance with s.  
 363 9, Art. XII of the State Constitution.

364 (b) An amount equal to 55 percent of the remaining portion

365 shall be distributed according to s. 212.20(6).

366 ~~(2) The proceeds of the taxes remitted under s.~~  
 367 ~~202.12(1)(b) shall be divided as follows:~~

368 ~~(a) The portion of such proceeds which constitutes gross~~  
 369 ~~receipts taxes, imposed at the rate prescribed in chapter 203,~~  
 370 ~~shall be deposited as provided by law and in accordance with s.~~  
 371 ~~9, Art. XII of the State Constitution.~~

372 ~~(b) Sixty three percent of the remainder shall be~~  
 373 ~~allocated to the state and distributed pursuant to s. 212.20(6),~~  
 374 ~~except that the proceeds allocated pursuant to s. 212.20(6)(d)2.~~  
 375 ~~shall be prorated to the participating counties in the same~~  
 376 ~~proportion as that month's collection of the taxes and fees~~  
 377 ~~imposed pursuant to chapter 212 and paragraph (1)(b).~~

378 ~~(c)1. During each calendar year, the remaining portion of~~  
 379 ~~such proceeds shall be transferred to the Local Government Half-~~  
 380 ~~cent Sales Tax Clearing Trust Fund. Seventy percent of such~~  
 381 ~~proceeds shall be allocated in the same proportion as the~~  
 382 ~~allocation of total receipts of the half-cent sales tax under s.~~  
 383 ~~218.61 and the emergency distribution under s. 218.65 in the~~  
 384 ~~prior state fiscal year. Thirty percent of such proceeds shall~~  
 385 ~~be distributed pursuant to s. 218.67.~~

386 ~~2. The proportion of the proceeds allocated based on the~~  
 387 ~~emergency distribution under s. 218.65 shall be distributed~~  
 388 ~~pursuant to s. 218.65.~~

389 ~~3. In each calendar year, the proportion of the proceeds~~  
 390 ~~allocated based on the half-cent sales tax under s. 218.61 shall~~  
 391 ~~be allocated to each county in the same proportion as the~~  
 392 ~~county's percentage of total sales tax allocation for the prior~~

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393 | ~~state fiscal year and distributed pursuant to s. 218.62.~~

394 | ~~4. The department shall distribute the appropriate amount~~  
395 | ~~to each municipality and county each month at the same time that~~  
396 | ~~local communications services taxes are distributed pursuant to~~  
397 | ~~subsection (3).~~

398 | ~~(c)(3)(a)~~ Notwithstanding any law to the contrary, an  
399 | amount equal to 45 percent of the remaining proceeds of the each  
400 | local communications services tax levied by the state a  
401 | municipality or county pursuant to s. 202.12 s. 202.19(1) or s.  
402 | 202.20(1), less the department's costs of administration, shall  
403 | be transferred to the Local Communications Services Tax Clearing  
404 | Trust Fund and held there to be distributed to such municipality  
405 | or county. However, the proceeds of any communications services  
406 | tax imposed pursuant to s. 202.19(5) shall be deposited and  
407 | disbursed in accordance with ss. 212.054 and 212.055.

408 | (2) If, in fiscal year 2013-2014, a local government  
409 | receives 110 percent or more of its fiscal year 2012-2013 local  
410 | communications services tax revenues, such local government must  
411 | reduce its fiscal year 2013-2014 ad valorem tax mileage rate by  
412 | an amount to offset the increase in communications services tax  
413 | revenues. However, a local government may elect not to offset  
414 | such revenues by adopting a resolution by a majority vote at a  
415 | duly noticed, public hearing. A copy of all such resolutions  
416 | must be forwarded to the executive director of the department no  
417 | later than December 1, 2014, and the department must compile all  
418 | such resolutions and prepare a report for the Legislature and  
419 | Governor by January 1, 2015, that also includes a summary of any  
420 | other issues related to implementation of this act ~~For purposes~~

421 ~~of this section, the proceeds of any tax levied by a~~  
422 ~~municipality, county, or school board under s. 202.19(1) or s.~~  
423 ~~202.20(1) are all funds collected and received by the department~~  
424 ~~pursuant to a specific levy authorized by such sections,~~  
425 ~~including any interest and penalties attributable to the tax~~  
426 ~~levy.~~

427 ~~(b) The amount deducted for the costs of administration~~  
428 ~~may not exceed 1 percent of the total revenue generated for all~~  
429 ~~municipalities, counties, and school boards levying a tax~~  
430 ~~pursuant to s. 202.19. The amount deducted for the costs of~~  
431 ~~administration shall be used only for those costs that are~~  
432 ~~attributable to the taxes imposed pursuant to s. 202.19. The~~  
433 ~~total cost of administration shall be prorated among those~~  
434 ~~jurisdictions levying the tax on the basis of the amount~~  
435 ~~collected for a particular jurisdiction to the total amount~~  
436 ~~collected for all such jurisdictions.~~

437 ~~(c)1. Except as otherwise provided in this paragraph,~~  
438 ~~proceeds of the taxes levied pursuant to s. 202.19, less amounts~~  
439 ~~deducted for costs of administration in accordance with~~  
440 ~~paragraph (b), shall be distributed monthly to the appropriate~~  
441 ~~jurisdictions. The proceeds of taxes imposed pursuant to s.~~  
442 ~~202.19(5) shall be distributed in the same manner as~~  
443 ~~discretionary surtaxes are distributed, in accordance with ss.~~  
444 ~~212.054 and 212.055.~~

445 ~~2. The department shall make any adjustments to the~~  
446 ~~distributions pursuant to this section which are necessary to~~  
447 ~~reflect the proper amounts due to individual jurisdictions or~~  
448 ~~trust funds. In the event that the department adjusts amounts~~

449 ~~due to reflect a correction in the situsing of a customer, such~~  
450 ~~adjustment shall be limited to the amount of tax actually~~  
451 ~~collected from such customer by the dealer of communication~~  
452 ~~services.~~

453 ~~3.a. Adjustments in distributions which are necessary to~~  
454 ~~correct misallocations between jurisdictions shall be governed~~  
455 ~~by this subparagraph. If the department determines that~~  
456 ~~misallocations between jurisdictions occurred, it shall provide~~  
457 ~~written notice of such determination to all affected~~  
458 ~~jurisdictions. The notice shall include the amount of the~~  
459 ~~misallocations, the basis upon which the determination was made,~~  
460 ~~data supporting the determination, and the identity of each~~  
461 ~~affected jurisdiction. The notice shall also inform all affected~~  
462 ~~jurisdictions of their authority to enter into a written~~  
463 ~~agreement establishing a method of adjustment as described in~~  
464 ~~sub-subparagraph c.~~

465 ~~b. An adjustment affecting a distribution to a~~  
466 ~~jurisdiction which is less than 90 percent of the average~~  
467 ~~monthly distribution to that jurisdiction for the 6 months~~  
468 ~~immediately preceding the department's determination, as~~  
469 ~~reported by all communications services dealers, shall be made~~  
470 ~~in the month immediately following the department's~~  
471 ~~determination that misallocations occurred.~~

472 ~~e. If an adjustment affecting a distribution to a~~  
473 ~~jurisdiction equals or exceeds 90 percent of the average monthly~~  
474 ~~distribution to that jurisdiction for the 6 months immediately~~  
475 ~~preceding the department's determination, as reported by all~~  
476 ~~communications services dealers, the affected jurisdictions may~~

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477 | ~~enter into a written agreement establishing a method of~~  
478 | ~~adjustment. If the agreement establishing a method of adjustment~~  
479 | ~~provides for payments of local communications services tax~~  
480 | ~~monthly distributions, the amount of any such payment agreed to~~  
481 | ~~may not exceed the local communications services tax monthly~~  
482 | ~~distributions available to the jurisdiction that was allocated~~  
483 | ~~amounts in excess of those to which it was entitled. If affected~~  
484 | ~~jurisdictions execute a written agreement specifying a method of~~  
485 | ~~adjustment, a copy of the written agreement shall be provided to~~  
486 | ~~the department no later than the first day of the month~~  
487 | ~~following 90 days after the date the department transmits notice~~  
488 | ~~of the misallocation. If the department does not receive a copy~~  
489 | ~~of the written agreement within the specified time period, an~~  
490 | ~~adjustment affecting a distribution to a jurisdiction made~~  
491 | ~~pursuant to this sub-subparagraph shall be prorated over a time~~  
492 | ~~period that equals the time period over which the misallocations~~  
493 | ~~occurred.~~

494 | Section 10. Section 202.19, Florida Statutes, is repealed.

495 | Section 11. Subsection (1) of section 202.193, Florida  
496 | Statutes, is amended to read:

497 | 202.193 Local Communications Services Tax Clearing Trust  
498 | Fund.—

499 | (1) The Local Communications Services Tax Clearing Trust  
500 | Fund is created within the Department of Revenue. Proceeds from  
501 | the local communications services tax levied pursuant to s.  
502 | 202.12 ~~s. 202.19~~ shall be deposited in the trust fund for  
503 | distribution to municipalities and counties as provided in s.  
504 | 202.18. Moneys deposited in the trust fund are exempt from the

505 service charges imposed under s. 215.20.

506 Section 12. Subsection (1) of section 202.195, Florida  
 507 Statutes, is amended to read:

508 202.195 Proprietary confidential business information;  
 509 public records exemption.—

510 (1) Proprietary confidential business information obtained  
 511 from a telecommunications company or franchised cable company  
 512 for the purposes of imposing fees for occupying the public  
 513 rights-of-way, assessing the local communications services tax  
 514 pursuant to s. 202.12 ~~s. 202.19~~, or regulating the public  
 515 rights-of-way, held by a local governmental entity, is  
 516 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 517 of the State Constitution. Such proprietary confidential  
 518 business information held by a local governmental entity may be  
 519 used only for the purposes of imposing such fees, assessing such  
 520 tax, or regulating such rights-of-way, and may not be used for  
 521 any other purposes, including, but not limited to, commercial or  
 522 competitive purposes.

523 Section 13. Section 202.20, Florida Statutes, is repealed.

524 Section 14. Section 202.21, Florida Statutes, is repealed.

525 Section 15. Section 202.22, Florida Statutes, is repealed.

526 Section 16. Subsections (2) and (5) of section 202.23,  
 527 Florida Statutes, are amended to read:

528 202.23 Procedure on purchaser's request for refund or  
 529 credit of communications services taxes.—

530 (2) This section provides the sole and exclusive procedure  
 531 and remedy for a purchaser who claims that a dealer has  
 532 collected communications services taxes imposed or administered

533 | under this chapter which were not due. An action that arises as  
534 | a result of the claimed collection of taxes that were not due  
535 | may not be commenced or maintained by or on behalf of a  
536 | purchaser against a dealer, a municipality, a county, or the  
537 | state unless the purchaser pleads and proves that the purchaser  
538 | has exhausted the procedures in subsection (1) and that the  
539 | defendant has failed to comply with subsection (1). However, no  
540 | determination by a dealer under paragraph (1)(c) shall be deemed  
541 | a failure to comply with subsection (1) if the dealer has  
542 | complied with the obligations imposed on the dealer by  
543 | paragraphs (1)(d), (e), and (f). In any such action, it is a  
544 | complete defense that the dealer, a municipality, a county, or  
545 | the state has refunded the taxes claimed or credited the  
546 | purchaser's account. In such an action against a dealer, it is  
547 | also a complete defense that, in collecting the tax, the dealer  
548 | used one or more of the methods set forth in former s. 202.22  
549 | for assigning the purchaser to a local taxing jurisdiction. Such  
550 | action is barred unless it is commenced within 180 days  
551 | following the date of the dealer's written response under  
552 | paragraph (1)(f), or within 1 year following submission of the  
553 | purchaser's request to the dealer if the dealer failed to issue  
554 | a timely written response. The relief available to a purchaser  
555 | as a result of collection of communications services taxes that  
556 | were not due is limited to a refund of or credit for such taxes.

557 | (5) A dealer who has collected and remitted amounts that  
558 | were not due, as determined by the department under paragraph  
559 | (1)(e), who has issued a refund or credit to the purchaser for  
560 | such amounts, and who takes a credit or receives a refund from

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561 the department for such amounts as provided in subsection (3) is  
562 not subject to assessment for any of the tax that was refunded  
563 or credited or for any interest or penalty with respect to the  
564 tax. In addition, a dealer who modifies his or her tax  
565 compliance practices to conform to a department determination  
566 under paragraph (1)(e) is not subject to assessment as a result  
567 of such modification, absent a subsequent change in law or  
568 update to a database pursuant to former s. 202.22.

569 Section 17. Subsection (4) is added to section 202.231,  
570 Florida Statutes, to read:

571 202.231 Provision of information to local taxing  
572 jurisdictions.—

573 (4) This section is repealed effective October 1, 2016.

574 Section 18. Paragraph (c) of subsection (2) of section  
575 202.24, Florida Statutes, is amended, and subsection (4) is  
576 added to that section, to read:

577 202.24 Limitations on local taxes and fees imposed on  
578 dealers of communications services.—

579 (2)

580 (c) This subsection does not apply to:

581 ~~1. Local communications services taxes levied under this~~  
582 ~~chapter.~~

583 ~~1.2.~~ Ad valorem taxes levied pursuant to chapter 200.

584 ~~2.3.~~ Business taxes levied under chapter 205.

585 ~~3.4.~~ "911" service charges levied under chapter 365.

586 ~~4.5.~~ Amounts charged for the rental or other use of  
587 property owned by a public body which is not in the public  
588 rights-of-way to a dealer of communications services for any

589 | purpose, including, but not limited to, the placement or  
590 | attachment of equipment used in the provision of communications  
591 | services.

592 | 5.6. Permit fees of general applicability which are not  
593 | related to placing or maintaining facilities in or on public  
594 | roads or rights-of-way.

595 | ~~7. Permit fees related to placing or maintaining~~  
596 | ~~facilities in or on public roads or rights-of-way pursuant to s.~~  
597 | ~~337.401.~~

598 | 6.8. Any in-kind requirements, institutional networks, or  
599 | contributions for, or in support of, the use or construction of  
600 | public, educational, or governmental access facilities allowed  
601 | under federal law and imposed on providers of video service  
602 | pursuant to any existing ordinance or an existing franchise  
603 | agreement granted by each municipality or county, under which  
604 | ordinance or franchise agreement service is provided before July  
605 | 1, 2007, or as permitted under chapter 610. This subparagraph  
606 | does not prohibit providers of video service from recovering the  
607 | expenses as allowed under federal law.

608 | 7.9. Special assessments and impact fees.

609 | 8.10. Pole attachment fees that are charged by a local  
610 | government for attachments to utility poles owned by the local  
611 | government.

612 | 9.11. Utility service fees or other similar user fees for  
613 | utility services.

614 | 10.12. Any other generally applicable tax, fee, charge, or  
615 | imposition authorized by general law on July 1, 2000, which is  
616 | not specifically prohibited by this subsection or included as a

617 replaced revenue source ~~in s. 202.20.~~

618 (4) As used in this section, the term "replaced revenue  
 619 source" means the following taxes, charges, fees, or other  
 620 impositions to the extent that the respective local taxing  
 621 jurisdictions were authorized to impose them before July 1,  
 622 2000.

623 (a) With respect to municipalities and charter counties  
 624 and the taxes authorized by former s. 202.19(1):

625 1. The public service tax on telecommunications authorized  
 626 by former s. 166.231(9).

627 2. Franchise fees on cable service providers as authorized  
 628 by 47 U.S.C. s. 542.

629 3. The public service tax on prepaid calling arrangements.

630 4. Franchise fees on dealers of communications services  
 631 which use the public roads or rights-of-way, up to the limit set  
 632 forth in s. 337.401. For purposes of calculating rates under  
 633 this section, it is the legislative intent that charter counties  
 634 be treated as having had the same authority as municipalities to  
 635 impose franchise fees on recurring local telecommunication  
 636 service revenues prior to July 1, 2000. However, the Legislature  
 637 recognizes that the authority of charter counties to impose such  
 638 fees is in dispute, and the treatment provided in this section  
 639 is not an expression of legislative intent that charter counties  
 640 actually do or do not possess such authority.

641 5. Actual permit fees relating to placing or maintaining  
 642 facilities in or on public roads or rights-of-way, collected  
 643 from providers of long-distance, cable, and mobile  
 644 communications services.

645 (b) With respect to all other counties and the taxes  
646 authorized in former s. 202.19(1), franchise fees on cable  
647 service providers as authorized by 47 U.S.C. s. 542.

648 Section 19. Paragraphs (f) and (g) of subsection (3) of  
649 section 202.26, Florida Statutes, are amended to read:

650 202.26 Department powers.—

651 (3) To administer the tax imposed by this chapter, the  
652 department may adopt rules relating to:

653 (f) ~~The records and methods necessary for~~ A dealer to  
654 demonstrate the exercise of due diligence as defined by former  
655 s. 202.22(4) (b).

656 (g) The creation of the database described in former s.  
657 202.22(2) and the certification and recertification of the  
658 databases as described in former s. 202.22(3).

659 Section 20. Subsection (6) of section 202.27, Florida  
660 Statutes, is amended to read:

661 202.27 Return filing; rules for self-accrual.—

662 (6) In addition to the contact person identified on the  
663 return, each dealer of communications services obligated to  
664 collect and remit local communications services tax imposed  
665 under former s. 202.19 may at any time, and shall within 10 days  
666 after a request, designate a managerial representative to whom  
667 the department shall direct any inquiry regarding the  
668 completeness or accuracy of the dealer's return when the  
669 response provided by the contact person identified on the return  
670 has been inadequate. When the representative designated under  
671 this subsection is contacted by the department, the dealer shall  
672 respond to the department within 30 days.

673 Section 21. Subsection (1) and paragraphs (d) and (e) of  
674 subsection (2) of section 202.28, Florida Statutes, are amended  
675 to read:

676 202.28 Credit for collecting tax; penalties.—

677 (1) Except as otherwise provided in former s. 202.22, for  
678 the purpose of compensating persons providing communications  
679 services for the keeping of prescribed records, the filing of  
680 timely tax returns, and the proper accounting and remitting of  
681 taxes, persons collecting taxes imposed under this chapter and  
682 under s. 203.01(1)(a)2. shall be allowed to deduct 0.75 percent  
683 of the amount of the tax due and accounted for and remitted to  
684 the department.

685 (a) The collection allowance may not be granted, nor may  
686 any deduction be permitted, if the required tax return or tax is  
687 delinquent at the time of payment.

688 (b) The department may deny the collection allowance if a  
689 taxpayer files an incomplete return.

690 1. For the purposes of this chapter, a return is  
691 incomplete if it is lacking such uniformity, completeness, and  
692 arrangement that the physical handling, verification, review of  
693 the return, or determination of other taxes and fees reported on  
694 the return can not be readily accomplished.

695 2. The department shall adopt rules requiring the  
696 information that it considers necessary to ensure that the taxes  
697 levied or administered under this chapter are properly  
698 collected, reviewed, compiled, reported, and enforced,  
699 including, but not limited to, rules requiring the reporting of  
700 the amount of gross sales; the amount of taxable sales; the

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701 amount of tax collected or due; the amount of lawful refunds,  
702 deductions, or credits claimed; the amount claimed as the  
703 dealer's collection allowance; the amount of penalty and  
704 interest; and the amount due with the return.

705 (c) The collection allowance and other credits or  
706 deductions provided in this chapter shall be applied to the  
707 taxes reported for the jurisdiction previously credited with the  
708 tax paid.

709 (2)

710 (d) If a dealer fails to separately report and identify  
711 local communications services taxes on the appropriate return  
712 schedule, the dealer shall be subject to a penalty of \$5,000 per  
713 return. If the department is unable to obtain appropriate return  
714 schedules, any penalty imposed by this paragraph shall be  
715 allocated in the same manner as provided in s. 202.18(1)(c) ~~s.~~  
716 ~~202.18(2)~~.

717 (e) If a dealer of communications services does not use  
718 one or more of the methods specified in former s. 202.22(1) for  
719 assigning service addresses to local jurisdictions and assigns  
720 one or more service addresses to an incorrect local jurisdiction  
721 in collecting and remitting local communications services taxes  
722 imposed under former s. 202.19, the dealer shall be subject to a  
723 specific penalty of 10 percent of any tax collected but reported  
724 to the incorrect jurisdiction as a result of incorrect  
725 assignment, except that the penalty imposed under this paragraph  
726 with respect to a single return may not exceed \$10,000.

727 Section 22. Subsection (4) of section 202.35, Florida  
728 Statutes, is amended to read:

729 202.35 Powers of department in dealing with delinquents;  
 730 tax to be separately stated.—

731 (4) Each dealer who makes retail sales of communications  
 732 services shall add the amount of the taxes imposed or  
 733 administered under this chapter to the price of the services  
 734 sold by him or her and shall state the taxes separately from the  
 735 price of the services on all invoices. The combined amount of  
 736 taxes due under ss. 202.12 and 203.01 shall be stated and  
 737 identified as the Florida communications services tax, ~~and the~~  
 738 ~~combined amount of taxes due under s. 202.19 shall be stated and~~  
 739 ~~identified as the local communications services tax.~~

740 Section 23. Section 202.37, Florida Statutes, is repealed.

741 Section 24. Section 202.38, Florida Statutes, is repealed.

742 Section 25. Section 202.381, Florida Statutes, is  
 743 repealed.

744 Section 26. Section 203.001, Florida Statutes, is  
 745 repealed.

746 Section 27. Paragraphs (a) and (b) of subsection (1) of  
 747 section 203.01, Florida Statutes, are amended to read:

748 203.01 Tax on gross receipts for utility and  
 749 communications services.—

750 (1)(a)1. A tax is imposed on gross receipts from utility  
 751 services that are delivered to a retail consumer in this state.  
 752 The tax shall be levied as provided in paragraphs (b)-(j).

753 2. A tax is levied on communications services as defined  
 754 in s. 202.11(1). The tax shall be applied to the same services  
 755 and transactions as are subject to taxation under chapter 202,  
 756 ~~and to communications services that are subject to the exemption~~

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757 ~~provided in s. 202.125(1)~~. The tax shall be applied to the sales  
758 price of communications services when sold at retail, as the  
759 terms are defined in s. 202.11, shall be due and payable at the  
760 same time as the taxes imposed pursuant to chapter 202, and  
761 shall be administered and collected pursuant to the provisions  
762 of chapter 202.

763 (b)1. The rate applied to utility services shall be 2.5  
764 percent.

765 2. The rate applied to communications services shall be  
766 2.52 ~~2.37~~ percent.

767 ~~3. There shall be an additional rate of 0.15 percent~~  
768 ~~applied to communication services subject to the tax levied~~  
769 ~~pursuant to s. 202.12(1)(a), (c), and (d). The exemption~~  
770 ~~provided in s. 202.125(1) applies to the tax levied pursuant to~~  
771 ~~this subparagraph.~~

772 Section 28. Subsection (2) of section 218.67, Florida  
773 Statutes, is amended to read:

774 218.67 Distribution for fiscally constrained counties.—

775 (2) Each fiscally constrained county government that  
776 participates in the local government half-cent sales tax shall  
777 be eligible to receive an additional distribution from the Local  
778 Government Half-cent Sales Tax Clearing Trust Fund, ~~as provided~~  
779 ~~in s. 202.18(2)(c)1.~~, in addition to its regular monthly  
780 distribution provided under this part and any emergency or  
781 supplemental distribution under s. 218.65.

782 Section 29. Paragraph (f) of subsection (2) of section  
783 288.1045, Florida Statutes, is amended to read:

784 288.1045 Qualified defense contractor and space flight

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785 business tax refund program.—

786 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

787 (f) After entering into a tax refund agreement pursuant to  
788 subsection (4), a qualified applicant may:

789 1. Receive refunds from the account for corporate income  
790 taxes due and paid pursuant to chapter 220 by that business  
791 beginning with the first taxable year of the business which  
792 begins after entering into the agreement.

793 2. Receive refunds from the account for the following  
794 taxes due and paid by that business after entering into the  
795 agreement:

796 a. Taxes on sales, use, and other transactions paid  
797 pursuant to chapter 212.

798 b. Intangible personal property taxes paid pursuant to  
799 chapter 199.

800 c. Excise taxes paid on documents pursuant to chapter 201.

801 d. Ad valorem taxes paid, as defined in s. 220.03(1)(a) on  
802 June 1, 1996.

803 e. State communications services taxes administered under  
804 chapter 202. This provision does not apply to the gross receipts  
805 tax imposed under chapter 203 and administered under chapter 202  
806 ~~or the local communications services tax authorized under s.~~  
807 ~~202.19.~~

808  
809 However, a qualified applicant may not receive a tax refund  
810 pursuant to this section for any amount of credit, refund, or  
811 exemption granted such contractor for any of such taxes. If a  
812 refund for such taxes is provided by the department, which taxes

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813 are subsequently adjusted by the application of any credit,  
814 refund, or exemption granted to the qualified applicant other  
815 than that provided in this section, the qualified applicant  
816 shall reimburse the Economic Development Trust Fund for the  
817 amount of such credit, refund, or exemption. A qualified  
818 applicant must notify and tender payment to the department  
819 within 20 days after receiving a credit, refund, or exemption,  
820 other than that provided in this section.

821 Section 30. Paragraph (d) of subsection (3) of section  
822 288.106, Florida Statutes, is amended to read:

823 288.106 Tax refund program for qualified target industry  
824 businesses.—

825 (3) TAX REFUND; ELIGIBLE AMOUNTS.—

826 (d) After entering into a tax refund agreement under  
827 subsection (5), a qualified target industry business may:

828 1. Receive refunds from the account for the following  
829 taxes due and paid by that business beginning with the first  
830 taxable year of the business that begins after entering into the  
831 agreement:

832 a. Corporate income taxes under chapter 220.

833 b. Insurance premium tax under s. 624.509.

834 2. Receive refunds from the account for the following  
835 taxes due and paid by that business after entering into the  
836 agreement:

837 a. Taxes on sales, use, and other transactions under  
838 chapter 212.

839 b. Intangible personal property taxes under chapter 199.

840 c. Excise taxes on documents under chapter 201.

841 d. Ad valorem taxes paid, as defined in s. 220.03(1).

842 e. State communications services taxes administered under  
 843 chapter 202. This provision does not apply to the gross receipts  
 844 tax imposed under chapter 203 and administered under chapter 202  
 845 ~~or the local communications services tax authorized under s.~~  
 846 ~~202.19.~~

847 Section 31. Paragraph (t) of subsection (8) of section  
 848 213.053, Florida Statutes, is amended to read:

849 213.053 Confidentiality and information sharing.—

850 (8) Notwithstanding any other provision of this section,  
 851 the department may provide:

852 (t) Information relative to chapter 202 to each local  
 853 government that imposes a tax pursuant to former s. 202.19 in  
 854 the conduct of its official duties as specified in chapter 202.  
 855 Information provided under this paragraph may include, but is  
 856 not limited to, any reports required pursuant to s. 202.231,  
 857 audit files, notices of intent to audit, tax returns, and other  
 858 confidential tax information in the department's possession  
 859 relating to chapter 202. A person or an entity designated by the  
 860 local government in writing to the department as requiring  
 861 access to confidential taxpayer information shall have  
 862 reasonable access to information provided pursuant to this  
 863 paragraph. Such person or entity may disclose such information  
 864 to other persons or entities with direct responsibility for  
 865 budget preparation, auditing, revenue or financial  
 866 administration, or legal counsel. Such information shall only be  
 867 used for purposes related to budget preparation, auditing, and  
 868 revenue and financial administration. Any confidential and

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869 exempt information furnished to a local government, or to any  
870 person or entity designated by the local government as  
871 authorized by this paragraph may not be further disclosed by the  
872 recipient except as provided by this paragraph.

873  
874 Disclosure of information under this subsection shall be  
875 pursuant to a written agreement between the executive director  
876 and the agency. Such agencies, governmental or nongovernmental,  
877 shall be bound by the same requirements of confidentiality as  
878 the Department of Revenue. Breach of confidentiality is a  
879 misdemeanor of the first degree, punishable as provided by s.  
880 775.082 or s. 775.083.

881 Section 32. Paragraphs (c) through (k) of subsection (3)  
882 and subsections (5) and (6) of section 337.401, Florida  
883 Statutes, are amended to read:

884 337.401 Use of right-of-way for utilities subject to  
885 regulation; permit; fees.—

886 (3)

887 ~~(c)1. It is the intention of the state to treat all~~  
888 ~~providers of communications services that use or occupy~~  
889 ~~municipal or charter county roads or rights-of-way for the~~  
890 ~~provision of communications services in a nondiscriminatory and~~  
891 ~~competitively neutral manner with respect to the payment of~~  
892 ~~permit fees. Certain providers of communications services have~~  
893 ~~been granted by general law the authority to offset permit fees~~  
894 ~~against franchise or other fees while other providers of~~  
895 ~~communications services have not been granted this authority. In~~  
896 ~~order to treat all providers of communications services in a~~

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897 ~~nondiscriminatory and competitively neutral manner with respect~~  
898 ~~to the payment of permit fees, each municipality and charter~~  
899 ~~county shall make an election under either sub-subparagraph a.~~  
900 ~~or sub-subparagraph b. and must inform the Department of Revenue~~  
901 ~~of the election by certified mail by July 16, 2001. Such~~  
902 ~~election shall take effect October 1, 2001.~~

903 ~~a.(I) The municipality or charter county may require and~~  
904 ~~collect permit fees from any providers of communications~~  
905 ~~services that use or occupy municipal or county roads or rights-~~  
906 ~~of-way. All fees permitted under this sub-subparagraph must be~~  
907 ~~reasonable and commensurate with the direct and actual cost of~~  
908 ~~the regulatory activity, including issuing and processing~~  
909 ~~permits, plan reviews, physical inspection, and direct~~  
910 ~~administrative costs; must be demonstrable; and must be~~  
911 ~~equitable among users of the roads or rights-of-way. A fee~~  
912 ~~permitted under this sub-subparagraph may not: be offset against~~  
913 ~~the tax imposed under chapter 202; include the costs of roads or~~  
914 ~~rights-of-way acquisition or roads or rights-of-way rental;~~  
915 ~~include any general administrative, management, or maintenance~~  
916 ~~costs of the roads or rights-of-way; or be based on a percentage~~  
917 ~~of the value or costs associated with the work to be performed~~  
918 ~~on the roads or rights-of-way. In an action to recover amounts~~  
919 ~~due for a fee not permitted under this sub-subparagraph, the~~  
920 ~~prevailing party may recover court costs and attorney's fees at~~  
921 ~~trial and on appeal. In addition to the limitations set forth in~~  
922 ~~this section, a fee levied by a municipality or charter county~~  
923 ~~under this sub-subparagraph may not exceed \$100. However, permit~~  
924 ~~fees may not be imposed with respect to permits that may be~~

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925 ~~required for service drop lines not required to be noticed under~~  
926 ~~s. 556.108(5)(a)2. or for any activity that does not require the~~  
927 ~~physical disturbance of the roads or rights-of-way or does not~~  
928 ~~impair access to or full use of the roads or rights-of-way.~~

929 ~~(II) To ensure competitive neutrality among providers of~~  
930 ~~communications services, for any municipality or charter county~~  
931 ~~that elects to exercise its authority to require and collect~~  
932 ~~permit fees under this sub-subparagraph, the rate of the local~~  
933 ~~communications services tax imposed by such jurisdiction, as~~  
934 ~~computed under s. 202.20, shall automatically be reduced by a~~  
935 ~~rate of 0.12 percent.~~

936 ~~b. Alternatively, the municipality or charter county may~~  
937 ~~elect not to require and collect permit fees from any provider~~  
938 ~~of communications services that uses or occupies municipal or~~  
939 ~~charter county roads or rights-of-way for the provision of~~  
940 ~~communications services; however, each municipality or charter~~  
941 ~~county that elects to operate under this sub-subparagraph~~  
942 ~~retains all authority to establish rules and regulations for~~  
943 ~~providers of communications services to use or occupy roads or~~  
944 ~~rights-of-way as provided in this section. If a municipality or~~  
945 ~~charter county elects to operate under this sub-subparagraph,~~  
946 ~~the total rate for the local communications services tax as~~  
947 ~~computed under s. 202.20 for that municipality or charter county~~  
948 ~~may be increased by ordinance or resolution by an amount not to~~  
949 ~~exceed a rate of 0.12 percent. If a municipality or charter~~  
950 ~~county elects to increase its rate effective October 1, 2001,~~  
951 ~~the municipality or charter county shall inform the department~~  
952 ~~of such increased rate by certified mail postmarked on or before~~

953 ~~July 16, 2001.~~

954 ~~e. A municipality or charter county that does not make an~~  
955 ~~election as provided for in this subparagraph shall be presumed~~  
956 ~~to have elected to operate under the provisions of sub-~~  
957 ~~subparagraph b.~~

958 ~~2. Each noncharter county shall make an election under~~  
959 ~~either sub-subparagraph a. or sub-subparagraph b. and shall~~  
960 ~~inform the Department of Revenue of the election by certified~~  
961 ~~mail by July 16, 2001. Such election shall take effect October~~  
962 ~~1, 2001.~~

963 ~~a. The noncharter county may elect to require and collect~~  
964 ~~permit fees from any providers of communications services that~~  
965 ~~use or occupy noncharter county roads or rights-of-way. All fees~~  
966 ~~permitted under this sub-subparagraph must be reasonable and~~  
967 ~~commensurate with the direct and actual cost of the regulatory~~  
968 ~~activity, including issuing and processing permits, plan~~  
969 ~~reviews, physical inspection, and direct administrative costs;~~  
970 ~~must be demonstrable; and must be equitable among users of the~~  
971 ~~roads or rights-of-way. A fee permitted under this sub-~~  
972 ~~subparagraph may not: be offset against the tax imposed under~~  
973 ~~chapter 202; include the costs of roads or rights-of-way~~  
974 ~~acquisition or roads or rights-of-way rental; include any~~  
975 ~~general administrative, management, or maintenance costs of the~~  
976 ~~roads or rights-of-way; or be based on a percentage of the value~~  
977 ~~or costs associated with the work to be performed on the roads~~  
978 ~~or rights-of-way. In an action to recover amounts due for a fee~~  
979 ~~not permitted under this sub-subparagraph, the prevailing party~~  
980 ~~may recover court costs and attorney's fees at trial and on~~

981 ~~appeal. In addition to the limitations set forth in this~~  
 982 ~~section, a fee levied by a noncharter county under this sub-~~  
 983 ~~subparagraph may not exceed \$100. However, permit fees may not~~  
 984 ~~be imposed with respect to permits that may be required for~~  
 985 ~~service drop lines not required to be noticed under s.~~  
 986 ~~556.108(5)(a)2. or for any activity that does not require the~~  
 987 ~~physical disturbance of the roads or rights-of-way or does not~~  
 988 ~~impair access to or full use of the roads or rights-of-way.~~

989 ~~b. Alternatively, the noncharter county may elect not to~~  
 990 ~~require and collect permit fees from any provider of~~  
 991 ~~communications services that uses or occupies noncharter county~~  
 992 ~~roads or rights-of-way for the provision of communications~~  
 993 ~~services; however, each noncharter county that elects to operate~~  
 994 ~~under this sub-subparagraph shall retain all authority to~~  
 995 ~~establish rules and regulations for providers of communications~~  
 996 ~~services to use or occupy roads or rights-of-way as provided in~~  
 997 ~~this section. If a noncharter county elects to operate under~~  
 998 ~~this sub-subparagraph, the total rate for the local~~  
 999 ~~communications services tax as computed under s. 202.20 for that~~  
 1000 ~~noncharter county may be increased by ordinance or resolution by~~  
 1001 ~~an amount not to exceed a rate of 0.24 percent, to replace the~~  
 1002 ~~revenue the noncharter county would otherwise have received from~~  
 1003 ~~permit fees for providers of communications services. If a~~  
 1004 ~~noncharter county elects to increase its rate effective October~~  
 1005 ~~1, 2001, the noncharter county shall inform the department of~~  
 1006 ~~such increased rate by certified mail postmarked on or before~~  
 1007 ~~July 16, 2001.~~

1008 ~~e. A noncharter county that does not make an election as~~

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1009 ~~provided for in this subparagraph shall be presumed to have~~  
1010 ~~elected to operate under the provisions of sub-subparagraph b.~~

1011 ~~3. Except as provided in this paragraph, municipalities~~  
1012 ~~and counties retain all existing authority to require and~~  
1013 ~~collect permit fees from users or occupants of municipal or~~  
1014 ~~county roads or rights-of-way and to set appropriate permit fee~~  
1015 ~~amounts.~~

1016 ~~(c)(d)~~ (c) ~~After January 1, 2001,~~ In addition to any other  
1017 notice requirements, a municipality must provide to the  
1018 Secretary of State, at least 10 days prior to consideration on  
1019 first reading, notice of a proposed ordinance governing a  
1020 telecommunications company placing or maintaining  
1021 telecommunications facilities in its roads or rights-of-way.  
1022 ~~After January 1, 2001,~~ In addition to any other notice  
1023 requirements, a county must provide to the Secretary of State,  
1024 at least 15 days prior to consideration at a public hearing,  
1025 notice of a proposed ordinance governing a telecommunications  
1026 company placing or maintaining telecommunications facilities in  
1027 its roads or rights-of-way. The notice required by this  
1028 paragraph must be published by the Secretary of State on a  
1029 designated Internet website. The failure of a municipality or  
1030 county to provide such notice does not render the ordinance  
1031 invalid.

1032 ~~(d)(e)~~ (d) The authority of municipalities and counties to  
1033 require franchise fees from providers of communications  
1034 services, with respect to the provision of communications  
1035 services, is specifically preempted by the state because of  
1036 unique circumstances applicable to providers of communications

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1037 services when compared to other utilities occupying municipal or  
1038 county roads or rights-of-way. Providers of communications  
1039 services may provide similar services in a manner that requires  
1040 the placement of facilities in municipal or county roads or  
1041 rights-of-way or in a manner that does not require the placement  
1042 of facilities in such roads or rights-of-way. Although similar  
1043 communications services may be provided by different means, the  
1044 state desires to treat providers of communications services in a  
1045 nondiscriminatory manner and to have the taxes, franchise fees,  
1046 and other fees paid by providers of communications services be  
1047 competitively neutral. Municipalities and counties retain all  
1048 existing authority, if any, to collect franchise fees from users  
1049 or occupants of municipal or county roads or rights-of-way other  
1050 than providers of communications services, and the provisions of  
1051 this subsection shall have no effect upon this authority. The  
1052 provisions of this subsection do not restrict the authority, if  
1053 any, of municipalities or counties or other governmental  
1054 entities to receive reasonable rental fees based on fair market  
1055 value for the use of public lands and buildings on property  
1056 outside the public roads or rights-of-way for the placement of  
1057 communications antennas and towers.

1058 (e) ~~(f)~~ Except as expressly allowed or authorized by  
1059 general law ~~and except for the rights-of-way permit fees subject~~  
1060 ~~to paragraph (c)~~, a municipality or county may not levy on a  
1061 provider of communications services a tax, fee, or other charge  
1062 or imposition for operating as a provider of communications  
1063 services within the jurisdiction of the municipality or county  
1064 which is in any way related to using its roads or rights-of-way.

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1065 A municipality or county may not require or solicit in-kind  
1066 compensation, except as otherwise provided in s. 202.24(2)(c)6.  
1067 ~~s. 202.24(2)(e)8.~~ or s. 610.109. Nothing in this paragraph shall  
1068 impair any ordinance or agreement in effect on May 22, 1998, or  
1069 any voluntary agreement entered into subsequent to that date,  
1070 which provides for or allows in-kind compensation by a  
1071 telecommunications company.

1072 (f)~~(g)~~ A municipality or county may not use its authority  
1073 over the placement of facilities in its roads and rights-of-way  
1074 as a basis for asserting or exercising regulatory control over a  
1075 provider of communications services regarding matters within the  
1076 exclusive jurisdiction of the Florida Public Service Commission  
1077 or the Federal Communications Commission, including, but not  
1078 limited to, the operations, systems, qualifications, services,  
1079 service quality, service territory, and prices of a provider of  
1080 communications services.

1081 (g)~~(h)~~ A provider of communications services that has  
1082 obtained permission to occupy the roads or rights-of-way of an  
1083 incorporated municipality pursuant to s. 362.01 or that is  
1084 otherwise lawfully occupying the roads or rights-of-way of a  
1085 municipality shall not be required to obtain consent to continue  
1086 such lawful occupation of those roads or rights-of-way; however,  
1087 nothing in this paragraph shall be interpreted to limit the  
1088 power of a municipality to adopt or enforce reasonable rules or  
1089 regulations as provided in this section.

1090 (h)~~(i)~~ Except as expressly provided in this section, this  
1091 section does not modify ~~the authority of municipalities and~~  
1092 ~~counties to levy the tax authorized in chapter 202 or the duties~~

1093 of providers of communications services under ss. 337.402-  
 1094 337.404. This section does not apply to building permits, pole  
 1095 attachments, or private roads, private easements, and private  
 1096 rights-of-way.

1097 ~~(j) Pursuant to this paragraph, any county or municipality~~  
 1098 ~~may by ordinance change either its election made on or before~~  
 1099 ~~July 16, 2001, under paragraph (c) or an election made under~~  
 1100 ~~this paragraph.~~

1101 ~~1.a. If a municipality or charter county changes its~~  
 1102 ~~election under this paragraph in order to exercise its authority~~  
 1103 ~~to require and collect permit fees in accordance with this~~  
 1104 ~~subsection, the rate of the local communications services tax~~  
 1105 ~~imposed by such jurisdiction pursuant to ss. 202.19 and 202.20~~  
 1106 ~~shall automatically be reduced by the sum of 0.12 percent plus~~  
 1107 ~~the percentage, if any, by which such rate was increased~~  
 1108 ~~pursuant to sub-subparagraph (c)1.b.~~

1109 ~~b. If a municipality or charter county changes its~~  
 1110 ~~election under this paragraph in order to discontinue requiring~~  
 1111 ~~and collecting permit fees, the rate of the local communications~~  
 1112 ~~services tax imposed by such jurisdiction pursuant to ss. 202.19~~  
 1113 ~~and 202.20 may be increased by ordinance or resolution by an~~  
 1114 ~~amount not to exceed 0.24 percent.~~

1115 ~~2.a. If a noncharter county changes its election under~~  
 1116 ~~this paragraph in order to exercise its authority to require and~~  
 1117 ~~collect permit fees in accordance with this subsection, the rate~~  
 1118 ~~of the local communications services tax imposed by such~~  
 1119 ~~jurisdiction pursuant to ss. 202.19 and 202.20 shall~~  
 1120 ~~automatically be reduced by the percentage, if any, by which~~

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1121 ~~such rate was increased pursuant to sub-subparagraph (c)2.b.~~

1122 ~~b. If a noncharter county changes its election under this~~  
1123 ~~paragraph in order to discontinue requiring and collecting~~  
1124 ~~permit fees, the rate of the local communications services tax~~  
1125 ~~imposed by such jurisdiction pursuant to ss. 202.19 and 202.20~~  
1126 ~~may be increased by ordinance or resolution by an amount not to~~  
1127 ~~exceed 0.24 percent.~~

1128 ~~3.a. Any change of election pursuant to this paragraph and~~  
1129 ~~any tax rate change resulting from such change of election shall~~  
1130 ~~be subject to the notice requirements of s. 202.21; however, no~~  
1131 ~~such change of election shall become effective prior to January~~  
1132 ~~1, 2003.~~

1133 ~~b. Any county or municipality changing its election under~~  
1134 ~~this paragraph in order to exercise its authority to require and~~  
1135 ~~collect permit fees shall, in addition to complying with the~~  
1136 ~~notice requirements under s. 202.21, provide to all dealers~~  
1137 ~~providing communications services in such jurisdiction written~~  
1138 ~~notice of such change of election by September 1 immediately~~  
1139 ~~preceding the January 1 on which such change of election becomes~~  
1140 ~~effective. For purposes of this sub-subparagraph, dealers~~  
1141 ~~providing communications services in such jurisdiction shall~~  
1142 ~~include every dealer reporting tax to such jurisdiction pursuant~~  
1143 ~~to s. 202.37 on the return required under s. 202.27 to be filed~~  
1144 ~~on or before the 20th day of May immediately preceding the~~  
1145 ~~January 1 on which such change of election becomes effective.~~

1146 ~~(k) Notwithstanding the provisions of s. 202.19, when a~~  
1147 ~~local communications services tax rate is changed as a result of~~  
1148 ~~an election made or changed under this subsection, such rate~~

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1149 | ~~shall not be rounded to tenths.~~

1150 |         (5) This section, except subsections (1) and (2) and  
1151 | paragraph (3) (f) ~~(g)~~, does not apply to the provision of pay  
1152 | telephone service on public, municipal, or county roads or  
1153 | rights-of-way.

1154 |         (6) (a) As used in this subsection, the following  
1155 | definitions apply:

1156 |             1. A "pass-through provider" is any person who places or  
1157 | maintains a communications facility in the roads or rights-of-  
1158 | way of a municipality or county ~~that levies a tax pursuant to~~  
1159 | ~~chapter 202 and~~ who does not remit taxes imposed ~~by that~~  
1160 | ~~municipality or county pursuant to chapter 202.~~

1161 |             2. A "communications facility" is a facility that may be  
1162 | used to provide communications services. Multiple cables,  
1163 | conduits, strands, or fibers located within the same conduit  
1164 | shall be considered one communications facility for purposes of  
1165 | this subsection.

1166 |             (b) A municipality ~~that levies a tax pursuant to chapter~~  
1167 | ~~202~~ may charge a pass-through provider not subject to tax under  
1168 | chapter 202 that places or maintains a communications facility  
1169 | in the municipality's roads or rights-of-way an annual amount  
1170 | not to exceed \$500 per linear mile or portion thereof. A  
1171 | municipality's roads or rights-of-way do not include roads or  
1172 | rights-of-way that extend in or through the municipality but are  
1173 | state, county, or another authority's roads or rights-of-way.

1174 |             (c) A county ~~that levies a tax pursuant to chapter 202~~ may  
1175 | charge a pass-through provider not subject to tax under chapter  
1176 | 202 that places or maintains a communications facility in the

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1177 county's roads or rights-of-way, including county roads or  
1178 rights-of-way within a municipality in the county, an annual  
1179 amount not to exceed \$500 per linear mile or portion thereof.  
1180 However, a county shall not impose a charge for any linear  
1181 miles, or portions thereof, of county roads or rights-of-way  
1182 where a ~~communications facility is placed that extend through~~  
1183 ~~any municipality within the county to which the pass-through~~  
1184 ~~provider remits payment to a municipality a tax imposed pursuant~~  
1185 ~~to chapter 202.~~ A county's roads or rights-of-way do not include  
1186 roads or rights-of-way that extend in or through the county but  
1187 are state, municipal, or another authority's roads or rights-of-  
1188 way.

1189 (d) The amounts charged pursuant to this subsection shall  
1190 be based on the linear miles of roads or rights-of-way where a  
1191 communications facility is placed, not based on a summation of  
1192 the lengths of individual cables, conduits, strands, or fibers.  
1193 The amounts referenced in this subsection may be charged only  
1194 once annually and only to one person annually for any  
1195 communications facility. A municipality or county shall  
1196 discontinue charging such amounts to a person that has ceased to  
1197 be a pass-through provider. Any annual amounts charged shall be  
1198 reduced for a prorated portion of any 12-month period during  
1199 which the person remits taxes imposed ~~by the municipality or~~  
1200 ~~county~~ pursuant to chapter 202. Any excess amounts paid to a  
1201 municipality or county under this section shall be refunded to  
1202 the person upon written notice of the excess to the municipality  
1203 or county.

1204 (e) ~~This subsection does not alter any provision of this~~

1205 | ~~section or s. 202.24 relating to taxes, fees, or other charges~~  
 1206 | ~~or impositions by a municipality or county on a dealer of~~  
 1207 | ~~communications services or authorize that any charges be~~  
 1208 | ~~assessed on a dealer of communications services, except as~~  
 1209 | ~~specifically set forth herein.~~ A municipality or county may not  
 1210 | charge a pass-through provider any amounts other than the  
 1211 | charges under this subsection as a condition to the placement or  
 1212 | maintenance of a communications facility in the roads or rights-  
 1213 | of-way of a municipality or county by a pass-through provider,  
 1214 | except that a municipality or county may impose permit fees on a  
 1215 | pass-through provider consistent with this section paragraph  
 1216 | ~~(3) (c) if the municipality or county elects to exercise its~~  
 1217 | ~~authority to collect permit fees under paragraph (3) (c).~~

1218 | (f) The charges under this subsection do not apply to  
 1219 | communications facilities placed in a municipality's or county's  
 1220 | rights-of-way prior to the effective date of this subsection  
 1221 | with permission from the municipality or county, if any was  
 1222 | required, except to the extent the facilities of a pass-through  
 1223 | provider were subject to per linear foot or mile charges in  
 1224 | effect as of October 1, 2001, in which case the municipality or  
 1225 | county may only impose on a pass-through provider charges  
 1226 | consistent with paragraph (b) or paragraph (c) for such  
 1227 | facilities. Notwithstanding the foregoing, this subsection does  
 1228 | not impair any written agreement between a pass-through provider  
 1229 | and a municipality or county imposing per linear foot or mile  
 1230 | charges for communications facilities placed in municipal or  
 1231 | county roads or rights-of-way that is in effect prior to the  
 1232 | effective date of this subsection. Upon the termination or

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1233 expiration of any such written agreement, any charges imposed  
1234 shall be consistent with this section ~~paragraph (b) or paragraph~~  
1235 ~~(c). Notwithstanding the foregoing, until October 1, 2005, this~~  
1236 ~~subsection shall not affect a municipality or county continuing~~  
1237 ~~to impose charges in excess of the charges authorized in this~~  
1238 ~~subsection on facilities of a pass-through provider that is not~~  
1239 ~~a dealer of communications services in the state under chapter~~  
1240 ~~202, but only to the extent such charges were imposed by~~  
1241 ~~municipal or county ordinance or resolution adopted prior to~~  
1242 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~  
1243 ~~shall be consistent with paragraph (b) or paragraph (c).~~

1244 (g) The charges authorized in this subsection shall not be  
1245 applied with respect to any communications facility that is used  
1246 exclusively for the internal communications of an electric  
1247 utility or other person in the business of transmitting or  
1248 distributing electric energy.

1249 Section 33. Revenue received by a taxing authority under  
1250 this act shall be deemed to replace any taxes or fees previously  
1251 imposed but repealed by this act without any further action on  
1252 the part of such taxing authority. If the repeal under this act  
1253 of a taxing authority's authority to levy taxes or fees impairs  
1254 security pledged to retire the authority's bonded indebtedness  
1255 secured by such taxes or fees, then to the extent of any such  
1256 impairment, a like sum of revenue received by the authority  
1257 under this act shall be deemed as a matter of law to replace  
1258 said taxes and fees as security for the bonded indebtedness.

1259 Section 34. The taxes imposed by ss. 202.12 and 203.01,  
1260 Florida Statutes, on communications services shall be applied in

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1261 | accordance with chapter 202, Florida Statutes, as amended by  
1262 | this act, to communications services reflected on bills dated on  
1263 | or after October 1, 2013.

1264 |       Section 35. This act shall take effect October 1, 2013.