

1 A bill to be entitled
2 An act relating to the communications services tax;
3 amending s. 202.105, F.S.; revising legislative intent
4 regarding local communications services tax rates;
5 amending s. 202.11, F.S.; revising the definition of
6 the term "video service"; amending s. 202.12, F.S.;
7 revising downward the tax rate on the retail sale of
8 communications services; amending s. 202.13, F.S.;
9 conforming provisions to changes made by the act;
10 amending s. 202.18, F.S.; deleting a provision that
11 specifies where proceeds of a communication services
12 tax must be deposited and disbursed; amending s.
13 202.19, F.S.; revising the local communications
14 services tax rates levied by counties and
15 municipalities at certain dates; requiring reductions
16 of certain tax rates at specified dates; requiring
17 dealers to collect and remit local communications
18 services taxes under certain conditions; specifying
19 the fees, taxes, charges, and other impositions that
20 the revised local communications services tax rates
21 replaces; providing an exception; conforming
22 provisions to changes made by the act; creating s.
23 202.197, F.S.; requiring the Legislature to
24 appropriate moneys to offset specified direct
25 reductions of the local communications services tax by

26 certain counties and municipalities; providing a
27 procedure for use by certain counties and
28 municipalities that expect an insufficient revenue
29 amount as a result of reduced local communications
30 services tax rates; requiring the Department of
31 Revenue to submit a report to the Legislature
32 regarding aggregate taxable sales amounts and expected
33 shortfalls in revenues; amending s. 202.21, F.S.;
34 deleting provisions authorizing local governments to
35 adjust the rate of their local communications services
36 taxes for specified reasons; authorizing the
37 department to amend specified forms without first
38 adopting a rule; amending ss. 202.24, 202.37, and
39 337.401, F.S.; conforming provisions to changes made
40 by the act; repealing s. 202.20, F.S., relating to the
41 local communications services tax conversion rates;
42 providing a directive to the Division of Law Revision;
43 providing effective dates.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Subsection (2) of section 202.105, Florida
48 Statutes, is amended to read:

49 202.105 Legislative findings and intent.—

50 (2) It is declared to be a specific legislative finding

51 that to promote greater tax transparency and improve tax
 52 compliance, the local communications services tax rates, which
 53 vary substantially across more than 480 jurisdictions, should be
 54 replaced by a streamlined rate system with one tax rate for
 55 municipalities and charter counties and a second tax rate for
 56 noncharter counties ~~that this chapter will not reduce the~~
 57 ~~authority that municipalities or counties had to raise revenue~~
 58 ~~in the aggregate, as such authority existed on February 1, 1989.~~

59 Section 2. Effective upon this act becoming a law,
 60 subsection (24) of section 202.11, Florida Statutes, is amended
 61 to read:

62 202.11 Definitions.—As used in this chapter, the term:

63 (24) "Video service" means the transmission of video,
 64 audio, or other programming service to a purchaser, and the
 65 purchaser interaction, if any, required for the selection or use
 66 of a programming service, regardless of whether the programming
 67 is transmitted over facilities owned or operated by the video
 68 service provider or over facilities owned or operated by another
 69 dealer of communications services. The term includes:

70 (a) Point-to-point and point-to-multipoint distribution
 71 services through which programming is transmitted or broadcast
 72 by microwave or other equipment directly to the purchaser's
 73 premises, but does not include direct-to-home satellite service.

74 (b) ~~The term includes~~ Basic, extended, premium, pay-per-
 75 view, digital video, two-way cable, and music services.

76 (c) The rental of digital video content and subscriptions
 77 to digital video content delivered to a Florida service address
 78 by download, streaming, or some combination thereof, and where
 79 the access to such content expires at a specific time or on the
 80 occurrence of a condition subsequent.

81
 82 The term does not include the sale of digital video content
 83 stored online or downloaded to a customer's device if the
 84 purchaser's access to such content does not expire and may be
 85 viewed as long as the purchaser retains the digital video
 86 content.

87 Section 3. Paragraph (a) of subsection (1) of section
 88 202.12, Florida Statutes, is amended to read:

89 202.12 Sales of communications services.—The Legislature
 90 finds that every person who engages in the business of selling
 91 communications services at retail in this state is exercising a
 92 taxable privilege. It is the intent of the Legislature that the
 93 tax imposed by chapter 203 be administered as provided in this
 94 chapter.

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

97 (a) Except as otherwise provided in this subsection, at
 98 the rate of 4.9 ~~4.92~~ percent applied to the sales price of the
 99 communications service that:

100 1. Originates and terminates in this state;7 or

101 2. Originates or terminates in this state and is charged
102 to a service address in this state,
103
104 when sold at retail, computed on each taxable sale for the
105 purpose of remitting the tax due. The gross receipts tax imposed
106 by chapter 203 shall be collected on the same taxable
107 transactions and remitted with the tax imposed by this
108 paragraph. If no tax is imposed by this paragraph due to the
109 exemption provided under s. 202.125(1), the tax imposed by
110 chapter 203 shall nevertheless be collected and remitted in the
111 manner and at the time prescribed for tax collections and
112 remittances under this chapter.

113 Section 4. Subsection (3) of section 202.13, Florida
114 Statutes, is amended to read:

115 202.13 Intent.—

116 (3) The tax on dealers of communications services
117 authorized under this chapter, including the tax imposed by
118 local governments under s. ss. 202.19 and 202.20, supersedes
119 ~~shall supersede~~ the authority of local governments to levy
120 franchise fees as set out in 47 U.S.C. s. 542 without regard to
121 the fact that this is a tax of general applicability on all
122 providers of communications services.

123 Section 5. Paragraphs (a) and (c) of subsection (3) of
124 section 202.18, Florida Statutes, are amended to read:

125 202.18 Allocation and disposition of tax proceeds.—The

126 | proceeds of the communications services taxes remitted under
 127 | this chapter shall be treated as follows:

128 | (3) (a) Notwithstanding any law to the contrary, the
 129 | proceeds of each local communications services tax levied by a
 130 | municipality or county pursuant to s. 202.19(1) ~~or s. 202.20(1)~~,
 131 | less the department's costs of administration, shall be
 132 | transferred to the Local Communications Services Tax Clearing
 133 | Trust Fund and held there to be distributed to such municipality
 134 | or county. ~~However, the proceeds of any communications services~~
 135 | ~~tax imposed pursuant to s. 202.19(5) shall be deposited and~~
 136 | ~~disbursed in accordance with ss. 212.054 and 212.055.~~ For
 137 | purposes of this section, the proceeds of any tax levied by a
 138 | municipality or, county, ~~or school board~~ under s. 202.19(1) ~~or~~
 139 | ~~s. 202.20(1)~~ are all funds collected and received by the
 140 | department pursuant to a specific levy authorized ~~by such~~
 141 | ~~sections~~, including any interest and penalties attributable to
 142 | the tax levy.

143 | (c)1. Except as otherwise provided in this paragraph,
 144 | proceeds of the taxes levied pursuant to s. 202.19, less amounts
 145 | deducted for costs of administration in accordance with
 146 | paragraph (b), shall be distributed monthly to the appropriate
 147 | jurisdictions. ~~The proceeds of taxes imposed pursuant to s.~~
 148 | ~~202.19(5) shall be distributed in the same manner as~~
 149 | ~~discretionary surtaxes are distributed, in accordance with ss.~~
 150 | ~~212.054 and 212.055.~~

151 2. The department shall make any adjustments to the
152 distributions pursuant to this section which are necessary to
153 reflect the proper amounts due to individual jurisdictions or
154 trust funds. In the event that the department adjusts amounts
155 due to reflect a correction in the situsing of a customer, such
156 adjustment shall be limited to the amount of tax actually
157 collected from such customer by the dealer of communication
158 services.

159 3.a. Adjustments in distributions which are necessary to
160 correct misallocations between jurisdictions shall be governed
161 by this subparagraph. If the department determines that
162 misallocations between jurisdictions occurred, it shall provide
163 written notice of such determination to all affected
164 jurisdictions. The notice shall include the amount of the
165 misallocations, the basis upon which the determination was made,
166 data supporting the determination, and the identity of each
167 affected jurisdiction. The notice shall also inform all affected
168 jurisdictions of their authority to enter into a written
169 agreement establishing a method of adjustment as described in
170 sub-subparagraph c.

171 b. An adjustment affecting a distribution to a
172 jurisdiction which is less than 90 percent of the average
173 monthly distribution to that jurisdiction for the 6 months
174 immediately preceding the department's determination, as
175 reported by all communications services dealers, shall be made

176 | in the month immediately following the department's
177 | determination that misallocations occurred.

178 | c. If an adjustment affecting a distribution to a
179 | jurisdiction equals or exceeds 90 percent of the average monthly
180 | distribution to that jurisdiction for the 6 months immediately
181 | preceding the department's determination, as reported by all
182 | communications services dealers, the affected jurisdictions may
183 | enter into a written agreement establishing a method of
184 | adjustment. If the agreement establishing a method of adjustment
185 | provides for payments of local communications services tax
186 | monthly distributions, the amount of any such payment agreed to
187 | may not exceed the local communications services tax monthly
188 | distributions available to the jurisdiction that was allocated
189 | amounts in excess of those to which it was entitled. If affected
190 | jurisdictions execute a written agreement specifying a method of
191 | adjustment, a copy of the written agreement shall be provided to
192 | the department no later than the first day of the month
193 | following 90 days after the date the department transmits notice
194 | of the misallocation. If the department does not receive a copy
195 | of the written agreement within the specified time period, an
196 | adjustment affecting a distribution to a jurisdiction made
197 | pursuant to this sub-subparagraph shall be prorated over a time
198 | period that equals the time period over which the misallocations
199 | occurred.

200 | Section 6. Section 202.19, Florida Statutes, is amended to

201 read:

202 202.19 Authorization to impose local communications
 203 services tax.—

204 (1) The governing authority of each county and
 205 municipality may, by ordinance, levy a local discretionary
 206 communications services tax as provided in this section.

207 (2) (a) Local communications services tax rates in effect
 208 on January 1, 2020, that are 5 percent or less may not be
 209 amended beyond their current rates. Local communications
 210 services tax rates in effect on January 1, 2020, that are
 211 greater than 5 percent must be reduced to 5 percent or less on
 212 January 1, 2021. Each county and municipality must adopt a local
 213 communications services tax rate ordinance of 5 percent or less
 214 by September 1, 2020, as provided in s. 202.21. If a county or
 215 municipality fails to adopt a rate ordinance on or before
 216 September 1, 2020, a dealer may not collect or remit the local
 217 communications services tax in excess of 5 percent on or after
 218 January 1, 2021 ~~Charter counties and municipalities may levy the~~
 219 ~~tax authorized by subsection (1) at a rate of up to 5.1 percent~~
 220 ~~for municipalities and charter counties that have not chosen to~~
 221 ~~levy permit fees, and at a rate of up to 4.98 percent for~~
 222 ~~municipalities and charter counties that have chosen to levy~~
 223 ~~permit fees.~~

224 (b) 1. Beginning January 1, 2022, a charter county or
 225 municipality may levy the tax authorized by subsection (1) at a

226 flat rate of 4 percent. To levy the local communications
227 services tax beginning January 1, 2022, each charter county and
228 municipality must adopt by ordinance a flat 4 percent tax rate
229 by September 1, 2021, as provided in s. 202.21. If a charter
230 county or municipality that levies the local communications
231 services tax on January 1, 2021, fails to adopt an ordinance
232 before September 1, 2021, to adjust its tax rate to 4 percent, a
233 dealer must collect and remit the local communications services
234 tax at a rate of 4 percent on and after January 1, 2022. Each
235 charter county and municipality may levy a 4 percent tax or
236 repeal a tax at any time. However, the 4 percent tax rate or
237 repeal is effective for bills dated on or after the following
238 January 1.

239 2. Beginning January 1, 2022, a noncharter county may levy
240 the tax authorized by subsection (1) at a flat rate of 2
241 percent. If a noncharter county that levies the local
242 communications services tax on January 1, 2021, fails to adopt
243 an ordinance before September 1, 2021, to adjust its tax rate to
244 2 percent, a dealer must collect and remit the local
245 communications services tax at a rate of 2 percent on and after
246 January 1, 2022. A noncharter county may levy a 2 percent tax
247 rate or repeal a tax at any time. However, the 2 percent tax
248 rate or repeal is effective for bills dated on or after the
249 following January 1 ~~Noncharter counties may levy the tax~~
250 ~~authorized by subsection (1) at a rate of up to 1.6 percent.~~

251 ~~(c) The maximum rates authorized by paragraphs (a) and (b)~~
252 ~~do not include the add-ons of up to 0.12 percent for~~
253 ~~municipalities and charter counties or of up to 0.24 percent for~~
254 ~~noncharter counties authorized pursuant to s. 337.401, nor do~~
255 ~~they supersede conversion or emergency rates authorized by s.~~
256 ~~202.20 which are in excess of these maximum rates.~~

257 (3) (a) The tax authorized under this section replaces
258 other revenue sources for municipalities and counties and
259 includes the following taxes, charges, fees, and other
260 impositions to the extent that the respective local taxing
261 jurisdictions were authorized to impose those taxes, charges,
262 fees, and other impositions before July 1, 2000, and after
263 October 1, 2020:

264 1. With respect to a charter county or municipality:

265 a. The public service tax on telecommunications authorized
266 by s. 166.231(9), Florida Statutes (2001).

267 b. Franchise fees on providers of cable television
268 services as authorized by 47 U.S.C. s. 542.

269 c. The public service tax on prepaid calling arrangements.

270 d. Franchise fees on dealers of communications services
271 that use the public roads or rights-of-way.

272 e. Actual permit fees relating to placing or maintaining
273 facilities in or on public roads or rights-of-way collected from
274 providers of long-distance, cable, and mobile communications
275 services for the fiscal year ending September 30, 1999; however,

276 if a municipality or charter county elected to continue charging
277 permit fees as authorized by s. 337.401 on or before January 1,
278 2019, the fees may not be included as a replaced revenue source.

279 f. Application fees, transfer fees, renewal fees, or
280 claims for related costs to which the municipality or county is
281 otherwise entitled for granting permission to dealers of
282 communications services, including providers of cable television
283 services as authorized by 47 U.S.C. s. 542, to use or occupy its
284 roads or rights-of-way for the placement, construction, and
285 maintenance of poles, wires, and other fixtures used in the
286 provision of communications services.

287 2. With respect to a noncharter county, franchise fees on
288 providers of cable television services as authorized by 47
289 U.S.C. s. 542 ~~The tax authorized under this section includes and~~
290 ~~is in lieu of any fee or other consideration, including, but not~~
291 ~~limited to, application fees, transfer fees, renewal fees, or~~
292 ~~claims for related costs, to which the municipality or county is~~
293 ~~otherwise entitled for granting permission to dealers of~~
294 ~~communications services, including, but not limited to,~~
295 ~~providers of cable television services, as authorized in 47~~
296 ~~U.S.C. s. 542, to use or occupy its roads or rights-of-way for~~
297 ~~the placement, construction, and maintenance of poles, wires,~~
298 ~~and other fixtures used in the provision of communications~~
299 ~~services.~~

300 (b) This subsection does not supersede or impair the

301 right, if any, of a municipality or county to require the
302 payment of consideration or to require the payment of regulatory
303 fees or assessments by persons using or occupying its roads or
304 rights-of-way in a capacity other than that of a dealer of
305 communications services.

306 (4) (a) 1. Except as otherwise provided in this section, the
307 tax imposed by any municipality shall be on all communications
308 services subject to tax under s. 202.12 which:

- 309 a. Originate or terminate in this state; and
310 b. Are charged to a service address in the municipality.

311 2. With respect to private communications services, the
312 tax shall be on the sales price of such services provided within
313 the municipality, which shall be determined in accordance with
314 the following provisions:

- 315 a. Any charge with respect to a channel termination point
316 located within such municipality;
317 b. Any charge for the use of a channel between two channel
318 termination points located in such municipality; and
319 c. Where channel termination points are located both
320 within and outside of the municipality:

321 (I) If any segment between two such channel termination
322 points is separately billed, 50 percent of such charge; and

323 (II) If any segment of the circuit is not separately
324 billed, an amount equal to the total charge for such circuit
325 multiplied by a fraction, the numerator of which is the number

326 of channel termination points within such municipality and the
 327 denominator of which is the total number of channel termination
 328 points of the circuit.

329 (b)1. Except as otherwise provided in this section, the
 330 tax imposed by any county under subsection (1) shall be on all
 331 communications services subject to tax under s. 202.12 which:

- 332 a. Originate or terminate in this state; and
- 333 b. Are charged to a service address in the unincorporated
 334 area of the county.

335 2. With respect to private communications services, the
 336 tax shall be on the sales price of such services provided within
 337 the unincorporated area of the county, which shall be determined
 338 in accordance with the following provisions:

- 339 a. Any charge with respect to a channel termination point
 340 located within the unincorporated area of such county;
- 341 b. Any charge for the use of a channel between two channel
 342 termination points located in the unincorporated area of such
 343 county; and
- 344 c. Where channel termination points are located both
 345 within and outside of the unincorporated area of such county:
 - 346 (I) If any segment between two such channel termination
 347 points is separately billed, 50 percent of such charge; and
 - 348 (II) If any segment of the circuit is not separately
 349 billed, an amount equal to the total charge for such circuit
 350 multiplied by a fraction, the numerator of which is the number

351 of channel termination points within the unincorporated area of
352 such county and the denominator of which is the total number of
353 channel termination points of the circuit.

354 ~~(5) In addition to the communications services taxes~~
355 ~~authorized by subsection (1), a discretionary sales surtax that~~
356 ~~a county or school board has levied under s. 212.055 is imposed~~
357 ~~as a local communications services tax under this section, and~~
358 ~~the rate shall be determined in accordance with s. 202.20(3).~~

359 ~~(a) Except as otherwise provided in this subsection, each~~
360 ~~such tax rate shall be applied, in addition to the other tax~~
361 ~~rates applied under this chapter, to communications services~~
362 ~~subject to tax under s. 202.12 which:~~

363 ~~1. Originate or terminate in this state; and~~

364 ~~2. Are charged to a service address in the county.~~

365 ~~(b) With respect to private communications services, the~~
366 ~~tax shall be on the sales price of such services provided within~~
367 ~~the county, which shall be determined in accordance with the~~
368 ~~following provisions:~~

369 ~~1. Any charge with respect to a channel termination point~~
370 ~~located within such county;~~

371 ~~2. Any charge for the use of a channel between two channel~~
372 ~~termination points located in such county; and~~

373 ~~3. Where channel termination points are located both~~
374 ~~within and outside of such county:~~

375 ~~a. If any segment between two such channel termination~~

376 ~~points is separately billed, 50 percent of such charge; and~~
377 ~~b. If any segment of the circuit is not separately billed,~~
378 ~~an amount equal to the total charge for such circuit multiplied~~
379 ~~by a fraction, the numerator of which is the number of channel~~
380 ~~termination points within such county and the denominator of~~
381 ~~which is the total number of channel termination points of the~~
382 ~~circuit.~~

383 (5)~~(6)~~ Notwithstanding any other provision of this
384 section, a tax imposed under this section does not apply to any
385 direct-to-home satellite service.

386 (6)~~(7)~~ Notwithstanding any law to the contrary, a tax
387 imposed under this section shall not exceed \$25,000 per calendar
388 year on communications services charges billed to a service
389 address located in a municipality or county imposing a local
390 communications services tax for interstate communications
391 services that originate outside this state and terminate within
392 this state. This subsection applies only to holders of a direct-
393 pay permit issued under s. 202.12(3). A person who does not
394 qualify for a direct-pay permit under s. 202.12(3) does not
395 qualify for a direct-pay permit under this subsection. A refund
396 may not be given for taxes paid before receiving a direct-pay
397 permit. Upon application, the department shall identify the
398 service addresses qualifying for the limitation provided by this
399 subsection on the direct-pay permit issued under s. 202.12(3)
400 and authorize such purchaser to pay the local communications tax

401 on such interstate services directly to the department if the
402 application indicates that the majority of such services used by
403 such person and billed to a service address are for
404 communications originating outside of this state and terminating
405 in this state. The direct-pay permit shall also indicate the
406 counties or municipalities to which it applies. Any dealer of
407 communications services furnishing communications services to
408 the holder of a valid direct-pay permit is relieved of the
409 obligation to collect and remit the tax on such services. Tax
410 payments and returns pursuant to a direct-pay permit shall be
411 monthly. As used in this subsection, "person" means a single
412 legal entity and does not mean a group or combination of
413 affiliated entities or entities controlled by one person or
414 group of persons.

415 (7)~~(8)~~ The revenues raised by any tax imposed under
416 subsection (1) ~~or s. 202.20(1)~~, or distributed to a local
417 government pursuant to s. 202.18, may be used by a municipality
418 or county for any public purpose, including, but not limited to,
419 pledging such revenues for the repayment of current or future
420 bonded indebtedness. ~~Revenues raised by a tax imposed under~~
421 ~~subsection (5) shall be used for the same purposes as the~~
422 ~~underlying discretionary sales surtax imposed by the county or~~
423 ~~school board under s. 212.055.~~

424 (8)~~(9)~~ Notwithstanding any provision of law to the
425 contrary, the exemption set forth in s. 202.125(1) does ~~shall~~

426 not apply to the local communications services a tax imposed by
427 this section a municipality, school board, or county pursuant to
428 ~~subsection (4) or subsection (5)~~.

429 (9)~~(10)~~ To the extent that a provider of communications
430 services is required to pay to a local taxing jurisdiction a
431 tax, charge, or other fee under any franchise agreement or
432 ordinance with respect to the services or revenues that are also
433 subject to the tax imposed by this section, such provider is
434 entitled to a credit against the amount payable to the state
435 pursuant to this section in the amount of such tax, charge, or
436 fee with respect to such services or revenues. The amount of
437 such credit shall be deducted from the amount that such local
438 taxing jurisdiction is entitled to receive under s. 202.18(3).

439 (10)~~(11)~~ Notwithstanding any other provision of this
440 section, with respect to mobile communications services, the
441 rate of a local communications services tax levied under this
442 section shall be applied to the sales price of all mobile
443 communications services deemed to be provided to a customer by a
444 home service provider pursuant to s. 117(a) of the Mobile
445 Telecommunications Sourcing Act, Pub. L. No. 106-252, if such
446 customer's service address is located within the municipality
447 levying the tax or within the unincorporated area of the county
448 levying the tax, as the case may be.

449 Section 7. Section 202.197, Florida Statutes, is created
450 to read:

451 202.197 Offset for certain local communications services
452 tax loss associated with tax rate reductions.—

453 (1) If in any year, as a direct result of the tax rate
454 changes required by this act, local communications services tax
455 revenues are expected to be insufficient to timely pay principal
456 and interest or to comply with any covenant under a bond
457 resolution for bonds or other indebtedness outstanding as of
458 January 1, 2020, the Legislature may appropriate to the affected
459 jurisdiction an amount needed to eliminate the insufficiency.
460 The fact that the revenues of a local communications services
461 tax are pledged generally or that multiple revenue streams are
462 pledged creates a presumption that the jurisdiction's
463 insufficient revenue amount does not directly result from the
464 tax rate changes. Local communications services tax revenue
465 decreases due to consumer price reductions for taxable services
466 or due to reduced purchases of taxable services are not a direct
467 result of the tax rate changes required by this act.

468 (2) On or before November 15, each affected jurisdiction
469 expecting an insufficient revenue amount under subsection (1)
470 shall apply for an appropriation to the department on a form and
471 in the manner prescribed by the department. The department shall
472 review the application and report the jurisdiction's aggregate
473 taxable sales amounts for each of the 2 prior 12-month periods
474 to allow the Legislature to calculate any reductions due to the
475 affected jurisdiction as a result of changes in taxable sales.

476 On or before January 1, the department shall submit a report to
477 the Legislature containing each jurisdiction's application,
478 aggregate taxable sales amounts, and any supporting
479 documentation provided by the jurisdiction to substantiate the
480 expected shortfall in revenues to meet debt service or bond
481 covenant requirements.

482 Section 8. Section 202.21, Florida Statutes, is amended to
483 read:

484 202.21 Effective dates; procedures for informing dealers
485 of communications services of tax levies and rate adoptions or
486 repeals ~~changes~~.—Any adoption or, ~~repeal,~~ ~~or change~~ in the rate
487 of a local communications services tax imposed under s. 202.19
488 is effective with respect to taxable services included on bills
489 that are dated on or after the January 1 subsequent to such
490 adoption or, ~~repeal,~~ ~~or change~~. A municipality or county
491 adopting or, ~~repealing,~~ ~~or changing~~ the rate of such tax must
492 notify the department of the adoption or, ~~repeal,~~ ~~or change~~ by
493 September 1 immediately preceding such January 1. Notification
494 must be furnished on a form prescribed by the department and
495 must specify the rate of tax; the effective date of the adoption
496 or, ~~repeal,~~ ~~or change~~ thereof; and the name, mailing address,
497 and telephone number of a person designated by the municipality
498 or county to respond to inquiries concerning the tax. The
499 department shall provide notice of such adoption or, ~~repeal,~~ ~~or~~
500 ~~change~~ to all affected dealers of communications services at

501 least 90 days before the effective date of the tax. The
502 department is not required to adopt by rule as set forth in s.
503 120.54 amendments to the communications services tax return form
504 that solely add local communications services tax rates which
505 adopted or remove local communications services tax rates which
506 were repealed ~~Any local government that adjusts the rate of its~~
507 ~~local communications services tax by emergency ordinance or~~
508 ~~resolution pursuant to s. 202.20(2) shall notify the department~~
509 ~~of the new tax rate immediately upon its adoption. The~~
510 ~~department shall provide written notice of the adoption of the~~
511 ~~new rate to all affected dealers within 30 days after receiving~~
512 ~~such notice. In any notice to providers or publication of local~~
513 ~~tax rates for purposes of this chapter, the department shall~~
514 ~~express the rate for a municipality or charter county as the sum~~
515 ~~of the tax rates levied within such jurisdiction pursuant to s.~~
516 ~~202.19(2)(a) and (5), and shall express the rate for any other~~
517 ~~county as the sum of the tax rates levied pursuant to s.~~
518 ~~202.19(2)(b) and (5). The department is not liable for any loss~~
519 ~~of or decrease in revenue by reason of any error, omission, or~~
520 ~~untimely action that results in the nonpayment of a tax imposed~~
521 ~~under s. 202.19.~~

522 Section 9. Paragraph (c) of subsection (2) of section
523 202.24, Florida Statutes, is amended to read:

524 202.24 Limitations on local taxes and fees imposed on
525 dealers of communications services.—

- 526 (2)
- 527 (c) This subsection does not apply to:
- 528 1. Local communications services taxes levied under this
- 529 chapter.
- 530 2. Ad valorem taxes levied pursuant to chapter 200.
- 531 3. Business taxes levied under chapter 205.
- 532 4. "911" service charges levied under chapter 365.
- 533 5. Amounts charged for the rental or other use of property
- 534 owned by a public body which is not in the public rights-of-way
- 535 to a dealer of communications services for any purpose,
- 536 including, but not limited to, the placement or attachment of
- 537 equipment used in the provision of communications services.
- 538 6. Permit fees of general applicability which are not
- 539 related to placing or maintaining facilities in or on public
- 540 roads or rights-of-way.
- 541 7. Permit fees related to placing or maintaining
- 542 facilities in or on public roads or rights-of-way pursuant to s.
- 543 337.401.
- 544 8. Any in-kind requirements, institutional networks, or
- 545 contributions for, or in support of, the use or construction of
- 546 public, educational, or governmental access facilities allowed
- 547 under federal law and imposed on providers of video service
- 548 pursuant to any existing ordinance or an existing franchise
- 549 agreement granted by each municipality or county, under which
- 550 ordinance or franchise agreement service is provided before July

551 1, 2007, or as permitted under chapter 610. This subparagraph
552 does not prohibit providers of video service from recovering the
553 expenses as allowed under federal law.

554 9. Special assessments and impact fees.

555 10. Pole attachment fees that are charged by a local
556 government for attachments to utility poles owned by the local
557 government.

558 11. Utility service fees or other similar user fees for
559 utility services.

560 12. Any other generally applicable tax, fee, charge, or
561 imposition authorized by general law on July 1, 2000, which is
562 not specifically prohibited by this subsection or included as a
563 replaced revenue source in s. 202.19 ~~s. 202.20~~.

564 Section 10. Paragraphs (a) and (b) of subsection (1) and
565 subsection (2) of section 202.37, Florida Statutes, are amended
566 to read:

567 202.37 Special rules for administration of local
568 communications services tax.—

569 (1) (a) Except as otherwise provided in this section, all
570 statutory provisions and administrative rules applicable to the
571 communications services tax imposed by s. 202.12 apply to any
572 local communications services tax imposed under s. 202.19, and
573 the department shall administer, collect, and enforce all taxes
574 imposed under s. 202.19, including interest and penalties
575 attributable thereto, in accordance with the same procedures

576 used in the administration, collection, and enforcement of the
577 communications services tax imposed by s. 202.12. Audits
578 performed by the department shall include a determination of the
579 dealer's compliance with the jurisdictional situsing of its
580 customers' service addresses and a determination of whether the
581 rate collected for the local tax pursuant to s. ~~ss.~~ 202.19 ~~and~~
582 ~~202.20~~ is correct. The person or entity designated by a local
583 government pursuant to s. 213.053(8) may provide evidence to the
584 department demonstrating a specific person's failure to fully or
585 correctly report taxable communications services sales within
586 the jurisdiction. The department may request additional
587 information from the designee to assist in any review. The
588 department shall inform the designee of what action, if any, the
589 department intends to take regarding the person.

590 (b) The department may contract with one or more private
591 entities to assist it in fulfilling its obligation of
592 administering the local communications services taxes imposed
593 under this chapter, including, but not limited to, the
594 compilation, maintenance, and publication of data pursuant to
595 s. ~~ss.~~ 202.21 ~~and~~ 202.22.

596 (2) Each dealer of communications services obligated to
597 collect and remit one or more local communications services
598 taxes imposed under s. 202.19 shall separately report and
599 identify each such tax to the department, by jurisdiction, on a
600 form prescribed by the department, and shall pay such taxes to

601 the department. ~~However, taxes imposed under s. 202.19(5) shall~~
602 ~~be added to and included in the amounts reported to the~~
603 ~~department as taxes imposed under s. 202.19(1).~~ A dealer of
604 communications services may include in a single payment to the
605 department:

606 (a) The total amount of all local communications services
607 taxes imposed pursuant to s. 202.19; and

608 (b) The amount of communications services tax imposed by
609 ss. 202.12 and 203.01.

610 Section 11. Paragraph (c) of subsection (3) of section
611 337.401, Florida Statutes, is amended to read:

612 337.401 Use of right-of-way for utilities subject to
613 regulation; permit; fees.—

614 (3)

615 (c) Any municipality or county that, as of January 1,
616 2019, elected to require permit fees from any provider of
617 communications services that uses or occupies municipal or
618 county roads or rights-of-way pursuant to former paragraph (c)
619 or former paragraph (j), Florida Statutes 2018, may continue to
620 require and collect such fees. A municipality or county that
621 elected as of January 1, 2019, to require permit fees may elect
622 to forego such fees as provided herein. A municipality or county
623 that elected as of January 1, 2019, not to require permit fees
624 may not elect to impose permit fees. All fees authorized under
625 this paragraph must be reasonable and commensurate with the

626 | direct and actual cost of the regulatory activity, including
627 | issuing and processing permits, plan reviews, physical
628 | inspection, and direct administrative costs; must be
629 | demonstrable; and must be equitable among users of the roads or
630 | rights-of-way. A fee authorized under this paragraph may not be
631 | offset against the tax imposed under chapter 202; include the
632 | costs of roads or rights-of-way acquisition or roads or rights-
633 | of-way rental; include any general administrative, management,
634 | or maintenance costs of the roads or rights-of-way; or be based
635 | on a percentage of the value or costs associated with the work
636 | to be performed on the roads or rights-of-way. In an action to
637 | recover amounts due for a fee not authorized under this
638 | paragraph, the prevailing party may recover court costs and
639 | attorney fees at trial and on appeal. In addition to the
640 | limitations set forth in this section, a fee levied by a
641 | municipality or charter county under this paragraph may not
642 | exceed \$100. However, permit fees may not be imposed with
643 | respect to permits that may be required for service drop lines
644 | not required to be noticed under s. 556.108(5) or for any
645 | activity that does not require the physical disturbance of the
646 | roads or rights-of-way or does not impair access to or full use
647 | of the roads or rights-of-way, including, but not limited to,
648 | the performance of service restoration work on existing
649 | facilities, extensions of such facilities for providing
650 | communications services to customers, and the placement of micro

651 wireless facilities in accordance with subparagraph (7)(e)3.

652 1. If a municipality or charter county elects to not
653 require permit fees, the total rate for the local communications
654 services tax ~~as computed under s. 202.20~~ for that municipality
655 or charter county may be increased by ordinance or resolution by
656 an amount not to exceed a rate of 0.12 percent.

657 2. If a noncharter county elects to not require permit
658 fees, the total rate for the local communications services tax
659 ~~as computed under s. 202.20~~ for that noncharter county may be
660 increased by ordinance or resolution by an amount not to exceed
661 a rate of 0.24 percent, to replace the revenue the noncharter
662 county would otherwise have received from permit fees for
663 providers of communications services.

664 Section 12. Section 202.20, Florida Statutes, is repealed.

665 Section 13. The Division of Law Revision is directed to
666 replace the phrase "this act" in Section 7 of this act with the
667 chapter law of this act.

668 Section 14. Except as otherwise expressly provided in this
669 act and except for this section, which shall take effect upon
670 this act becoming a law, this act shall take effect January 1,
671 2021.