

By Senator Torres

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1 A bill to be entitled
2 An act relating to local government communications
3 services; amending s. 125.421, F.S.; removing
4 provisions that require counties and entities of local
5 government to pay ad valorem taxes or fees under
6 specified conditions on certain telecommunications
7 facilities; removing a waiver on immunity on taxation
8 of property for counties or other entities of local
9 government under such circumstances; amending s.
10 166.047, F.S.; removing provisions that require
11 municipalities and other entities of local government
12 to pay ad valorem taxes or fees under specified
13 conditions on certain telecommunications facilities;
14 removing a waiver on immunity on taxation of property
15 for municipalities or other entities of local
16 government under such circumstances; amending ss.
17 196.012, 199.183, and 212.08, F.S.; deleting
18 provisions relating to certain tax exemptions for
19 property and the use of two-way telecommunications
20 services; amending s. 350.81, F.S.; removing
21 provisions that identify procedures that must be
22 followed by governmental entities before providing
23 communications services; removing provisions related
24 to the use of certain revenues to issue bonds to
25 finance communications services; removing provisions
26 that provide certain procedures if revenues do not
27 exceed operating costs after a specified period of
28 time; removing provisions exempting certain
29 governmental entities from certain requirements

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30 relating to telecommunications services; removing a
31 provision specifying that certain airport authorities
32 or other governmental entities are not exempt from
33 certain procedural requirements relating to
34 telecommunications services; providing an effective
35 date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Section 125.421, Florida Statutes, is amended to
40 read:

41 125.421 Telecommunications services.—A telecommunications
42 company that is a county or other entity of local government may
43 obtain or hold a certificate required by chapter 364, and the
44 obtaining or holding of said certificate serves a public purpose
45 ~~only~~ if the county or other entity of local government:

46 (1) Separately accounts for the revenues, expenses,
47 property, and source of investment dollars associated with the
48 provision of such service; and

49 (2) Is subject, without exemption, to all local
50 requirements applicable to telecommunications companies. ~~;~~ and

51 (3) ~~Notwithstanding any other provision of law, pays, on~~
52 ~~its telecommunications facilities used to provide two-way~~
53 ~~telecommunication services to the public for hire and for which~~
54 ~~a certificate is required under chapter 364, ad valorem taxes,~~
55 ~~or fees in amounts equal thereto, to any taxing jurisdiction in~~
56 ~~which the county or other entity of local government operates.~~

57 ~~Any entity of local government may pay and impose such ad~~
58 ~~valorem taxes or fees. Any immunity of any county or other~~

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59 ~~entity of local government from taxation of the property taxed~~
60 ~~by this section is hereby waived.~~

61
62 This section does not apply to the provision of
63 telecommunications services for internal operational needs of a
64 county or other entity of local government. This section does
65 not apply to the provision of internal information services,
66 including, but not limited to, tax records, engineering records,
67 and property records, by a county or other entity of local
68 government to the public for a fee.

69 Section 2. Section 166.047, Florida Statutes, is amended to
70 read:

71 166.047 Telecommunications services.—A telecommunications
72 company that is a municipality or other entity of local
73 government may obtain or hold a certificate required by chapter
74 364, and the obtaining or holding of said certificate serves a
75 municipal or public purpose under the provision of s. 2(b), Art.
76 VIII of the State Constitution, only if the municipality or
77 other entity of local government:

78 (1) Separately accounts for the revenues, expenses,
79 property, and source of investment dollars associated with the
80 provision of such services; and

81 (2) Is subject, without exemption, to all local
82 requirements applicable to telecommunications companies. ; ~~and~~

83 (3) ~~Notwithstanding any other provision of law, pays, on~~
84 ~~its telecommunications facilities used to provide two-way~~
85 ~~telecommunications services to the public for hire and for which~~
86 ~~a certificate is required pursuant to chapter 364, ad valorem~~
87 ~~taxes, or fees in amounts equal thereto, to any taxing~~

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88 ~~jurisdiction in which the municipality or other entity of local~~
89 ~~government operates. Any entity of local government may pay and~~
90 ~~impose such ad valorem taxes or fees.~~

91
92 This section does not apply to the provision of
93 telecommunications services for internal operational needs of a
94 municipality or other entity of local government. This section
95 does not apply to the provision of internal information
96 services, including, but not limited to, tax records,
97 engineering records, and property records, by a municipality or
98 other entity of local government to the public for a fee.

99 Section 3. Subsection (6) of section 196.012, Florida
100 Statutes, is amended to read:

101 196.012 Definitions.—For the purpose of this chapter, the
102 following terms are defined as follows, except where the context
103 clearly indicates otherwise:

104 (6) Governmental, municipal, or public purpose or function
105 shall be deemed to be served or performed when the lessee under
106 any leasehold interest created in property of the United States,
107 the state or any of its political subdivisions, or any
108 municipality, agency, special district, authority, or other
109 public body corporate of the state is demonstrated to perform a
110 function or serve a governmental purpose which could properly be
111 performed or served by an appropriate governmental unit or which
112 is demonstrated to perform a function or serve a purpose which
113 would otherwise be a valid subject for the allocation of public
114 funds. For purposes of the preceding sentence, an activity
115 undertaken by a lessee which is permitted under the terms of its
116 lease of real property designated as an aviation area on an

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117 airport layout plan which has been approved by the Federal
118 Aviation Administration and which real property is used for the
119 administration, operation, business offices and activities
120 related specifically thereto in connection with the conduct of
121 an aircraft full service fixed base operation which provides
122 goods and services to the general aviation public in the
123 promotion of air commerce shall be deemed an activity which
124 serves a governmental, municipal, or public purpose or function.
125 Any activity undertaken by a lessee which is permitted under the
126 terms of its lease of real property designated as a public
127 airport as defined in s. 332.004(14) by municipalities,
128 agencies, special districts, authorities, or other public bodies
129 corporate and public bodies politic of the state, a spaceport as
130 defined in s. 331.303, or which is located in a deepwater port
131 identified in s. 403.021(9)(b) and owned by one of the foregoing
132 governmental units, subject to a leasehold or other possessory
133 interest of a nongovernmental lessee that is deemed to perform
134 an aviation, airport, aerospace, maritime, or port purpose or
135 operation shall be deemed an activity that serves a
136 governmental, municipal, or public purpose. The use by a lessee,
137 licensee, or management company of real property or a portion
138 thereof as a convention center, visitor center, sports facility
139 with permanent seating, concert hall, arena, stadium, park, or
140 beach is deemed a use that serves a governmental, municipal, or
141 public purpose or function when access to the property is open
142 to the general public with or without a charge for admission. If
143 property deeded to a municipality by the United States is
144 subject to a requirement that the Federal Government, through a
145 schedule established by the Secretary of the Interior, determine

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146 that the property is being maintained for public historic
147 preservation, park, or recreational purposes and if those
148 conditions are not met the property will revert back to the
149 Federal Government, then such property shall be deemed to serve
150 a municipal or public purpose. The term "governmental purpose"
151 also includes a direct use of property on federal lands in
152 connection with the Federal Government's Space Exploration
153 Program or spaceport activities as defined in s. 212.02(22).
154 Real property and tangible personal property owned by the
155 Federal Government or Space Florida and used for defense and
156 space exploration purposes or which is put to a use in support
157 thereof shall be deemed to perform an essential national
158 governmental purpose and shall be exempt. "Owned by the lessee"
159 as used in this chapter does not include personal property,
160 buildings, or other real property improvements used for the
161 administration, operation, business offices and activities
162 related specifically thereto in connection with the conduct of
163 an aircraft full service fixed based operation which provides
164 goods and services to the general aviation public in the
165 promotion of air commerce provided that the real property is
166 designated as an aviation area on an airport layout plan
167 approved by the Federal Aviation Administration. For purposes of
168 determination of "ownership," buildings and other real property
169 improvements which will revert to the airport authority or other
170 governmental unit upon expiration of the term of the lease shall
171 be deemed "owned" by the governmental unit and not the lessee.
172 ~~Providing two-way telecommunications services to the public for~~
173 ~~hire by the use of a telecommunications facility, as defined in~~
174 ~~s. 364.02(14), and for which a certificate is required under~~

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175 ~~chapter 364 does not constitute an exempt use for purposes of s.~~
176 ~~196.199, unless the telecommunications services are provided by~~
177 ~~the operator of a public-use airport, as defined in s. 332.004,~~
178 ~~for the operator's provision of telecommunications services for~~
179 ~~the airport or its tenants, concessionaires, or licensees, or~~
180 ~~unless the telecommunications services are provided by a public~~
181 ~~hospital.~~

182 Section 4. Subsection (1) of section 199.183, Florida
183 Statutes, is amended to read:

184 199.183 Taxpayers exempt from nonrecurring taxes.—

185 (1) Intangible personal property owned by this state or any
186 of its political subdivisions or municipalities shall be exempt
187 from taxation under this chapter. This exemption does not apply
188 to:

189 (a) Any leasehold or other interest that is described in s.
190 199.023(1)(d), Florida Statutes 2005; or

191 ~~(b) Property related to the provision of two-way~~
192 ~~telecommunications services to the public for hire by the use of~~
193 ~~a telecommunications facility, as defined in s. 364.02(14), and~~
194 ~~for which a certificate is required under chapter 364, when the~~
195 ~~service is provided by any county, municipality, or other~~
196 ~~political subdivision of the state. Any immunity of any~~
197 ~~political subdivision of the state or other entity of local~~
198 ~~government from taxation of the property used to provide~~
199 ~~telecommunication services that is taxed as a result of this~~
200 ~~paragraph is hereby waived. However, Intangible personal~~
201 ~~property related to the provision of telecommunications services~~
202 ~~provided by the operator of a public-use airport, as defined in~~
203 ~~s. 332.004, for the operator's provision of telecommunications~~

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204 services for the airport or its tenants, concessionaires, or
205 licensees, and intangible personal property related to the
206 provision of telecommunications services provided by a public
207 hospital, are exempt from taxation under this chapter.

208 Section 5. Paragraph (a) of subsection (6) of section
209 212.08, Florida Statutes, is amended to read:

210 212.08 Sales, rental, use, consumption, distribution, and
211 storage tax; specified exemptions.—The sale at retail, the
212 rental, the use, the consumption, the distribution, and the
213 storage to be used or consumed in this state of the following
214 are hereby specifically exempt from the tax imposed by this
215 chapter.

216 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—

217 (a) There are also exempt from the tax imposed by this
218 chapter sales made to the United States Government, a state, or
219 any county, municipality, or political subdivision of a state
220 when payment is made directly to the dealer by the governmental
221 entity. This exemption shall not inure to any transaction
222 otherwise taxable under this chapter when payment is made by a
223 government employee by any means, including, but not limited to,
224 cash, check, or credit card when that employee is subsequently
225 reimbursed by the governmental entity. This exemption does not
226 include sales, rental, use, consumption, or storage for use in
227 any political subdivision or municipality in this state of
228 machines and equipment and parts and accessories therefor used
229 in the generation, transmission, or distribution of electrical
230 energy by systems owned and operated by a political subdivision
231 in this state for transmission or distribution expansion.
232 Likewise exempt are charges for services rendered by radio and

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233 television stations, including line charges, talent fees, or
234 license fees and charges for films, videotapes, and
235 transcriptions used in producing radio or television broadcasts.
236 ~~The exemption provided in this subsection does not include~~
237 ~~sales, rental, use, consumption, or storage for use in any~~
238 ~~political subdivision or municipality in this state of machines~~
239 ~~and equipment and parts and accessories therefor used in~~
240 ~~providing two-way telecommunications services to the public for~~
241 ~~hire by the use of a telecommunications facility, as defined in~~
242 ~~s. 364.02(14), and for which a certificate is required under~~
243 ~~chapter 364, which facility is owned and operated by any county,~~
244 ~~municipality, or other political subdivision of the state. Any~~
245 ~~immunity of any political subdivision of the state or other~~
246 ~~entity of local government from taxation of the property used to~~
247 ~~provide telecommunication services that is taxed as a result of~~
248 ~~this section is hereby waived.~~ However, the exemption provided
249 in this subsection includes transactions taxable under this
250 chapter which are for use by the operator of a public-use
251 airport, as defined in s. 332.004, in providing such
252 telecommunications services for the airport or its tenants,
253 concessionaires, or licensees, or which are for use by a public
254 hospital for the provision of such telecommunications services.

255 Section 6. Paragraphs (a) through (e), paragraphs (k) and
256 (l) of subsection (2), and subsections (4) and (6) of section
257 350.81, Florida Statutes, are amended to read:

258 350.81 Communications services offered by governmental
259 entities.—

260 (2) (a) A governmental entity that proposes to provide a
261 communications service shall hold no less than two public

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262 ~~hearings, which shall be held not less than 30 days apart. At~~
263 ~~least 30 days before the first of the two public hearings, The~~
264 ~~governmental entity must give notice of the hearing in the~~
265 ~~predominant newspaper of general circulation in the area~~
266 ~~considered for service. At least 40 days before the first public~~
267 ~~hearing, the governmental entity must electronically provide~~
268 ~~notice to the Department of Revenue and the Public Service~~
269 ~~Commission, which shall post the notice on the department's and~~
270 ~~the commission's website to be available to the public. The~~
271 ~~Department of Revenue shall also send the notice by United~~
272 ~~States Postal Service to the known addresses for all dealers of~~
273 ~~communications services registered with the department under~~
274 ~~chapter 202 or provide an electronic notification, if the means~~
275 ~~are available, within 10 days after receiving the notice. The~~
276 ~~notice must include the time and place of the hearings and must~~
277 ~~state that the purpose of the hearings is to consider whether~~
278 ~~the governmental entity will provide communications services.~~
279 ~~The notice must include, at a minimum, the geographic areas~~
280 ~~proposed to be served by the governmental entity and the~~
281 ~~services, if any, which the governmental entity believes are not~~
282 ~~currently being adequately provided. The notice must also state~~
283 ~~that any dealer who wishes to do so may appear and be heard at~~
284 ~~the public hearings.~~

285 (b) At a public hearing required by this subsection, a
286 governmental entity must, at a minimum, consider:

287 1. Whether the service that is proposed to be provided is
288 currently being offered in the community and, if so, whether the
289 service is generally available throughout the community.

290 ~~2. Whether a similar service is currently being offered in~~

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291 ~~the community and, if so, whether the service is generally~~
292 ~~available throughout the community.~~

293 2.3. ~~If the same or similar service is not currently~~
294 ~~offered, whether any other service provider proposes to offer~~
295 ~~the same or a similar service and, if so, what assurances that~~
296 ~~service provider is willing or able to offer regarding the same~~
297 ~~or similar service.~~

298 3.4. ~~The capital investment required by the government~~
299 ~~entity to provide the communications service, the estimated~~
300 ~~realistic cost of operation and maintenance and, using a full~~
301 ~~cost-accounting method, the estimated realistic revenues and~~
302 ~~expenses of providing the service and the proposed method of~~
303 ~~financing.~~

304 4.5. ~~The private and public costs and benefits of providing~~
305 ~~the service by a private entity or a governmental entity,~~
306 ~~including the affect on existing and future jobs, actual~~
307 ~~economic development prospects, tax base growth, education, and~~
308 ~~public health.~~

309 (c) ~~At one or more of the public hearings under this~~
310 ~~subsection, the governmental entity must make available to the~~
311 ~~public a written business plan for the proposed communications~~
312 ~~service venture. containing, at a minimum:~~

313 ~~1. The projected number of subscribers to be served by the~~
314 ~~venture.~~

315 ~~2. The geographic area to be served by the venture.~~

316 ~~3. The types of communications services to be provided.~~

317 ~~4. A plan to ensure that revenues exceed operating expenses~~
318 ~~and payment of principal and interest on debt within 4 years.~~

319 ~~5. Estimated capital and operational costs and revenues for~~

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320 ~~the first 4 years.~~

321 ~~6. Projected network modernization and technological~~
322 ~~upgrade plans, including estimated costs.~~

323 ~~(d) After making specific findings regarding the factors in~~
324 ~~paragraphs (b) and (c),~~ The governmental entity may authorize
325 providing a communications service by a majority recorded vote
326 and by resolution, ordinance, or other formal means of adoption.

327 ~~(e)~~1. The governing body of a governmental entity may issue
328 one or more bonds to finance the capital costs for facilities to
329 provide a communications service. ~~However:~~

330 ~~1. A governmental entity may only pledge revenues in~~
331 ~~support of the issuance of any bond to finance providing a~~
332 ~~communications service:~~

333 ~~a. Within the county in which the governmental entity is~~
334 ~~located;~~

335 ~~b. Within an area in which the governmental entity provides~~
336 ~~electric service outside its home county under an electric~~
337 ~~service territorial agreement approved by the Public Service~~
338 ~~Commission before the effective date of this act; or~~

339 ~~e. If the governmental entity is a municipality or special~~
340 ~~district, within its corporate limits or in an area in which the~~
341 ~~municipality or special district provides water, wastewater,~~
342 ~~electric, or natural gas service, or within an urban service~~
343 ~~area designated in a comprehensive plan, whichever is larger,~~
344 ~~unless the municipality or special district obtains the consent~~
345 ~~by formal action of the governmental entity within the~~
346 ~~boundaries of which the municipality or special district~~
347 ~~proposes to provide service. For consent to be effective, any~~
348 ~~governmental entity from which consent is sought shall be~~

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349 ~~located within the county in which the governmental entity is~~
350 ~~located or that county.~~

351 2. Revenue bonds issued in order to finance providing a
352 communications service are not subject to the approval of the
353 electors if the revenue bonds mature within 15 years. Revenue
354 bonds issued to finance providing a communications service that
355 does not mature within 15 years must be approved by the
356 electors. The election must be conducted as specified in chapter
357 100.

358 (k) The governmental entity shall conduct an annual review
359 at a formal public meeting to consider the progress the
360 governmental entity is making toward reaching its ~~business~~ plan
361 goals and objectives for providing communication services. At
362 the public meeting the governmental entity shall review the
363 related revenues, operating expenses, and payment of interest on
364 debt.

365 ~~(l) If, after 4 years following the initiation of the~~
366 ~~provision of communications services by a governmental entity or~~
367 ~~4 years after the effective date of this act, whichever is~~
368 ~~later, revenues do not exceed operating expenses and payment of~~
369 ~~principal and interest on the debt for a governmental entity's~~
370 ~~provision of communications services, no later than 60 days~~
371 ~~following the end of the 4-year period a governmental entity~~
372 ~~shall hold a public hearing at which the governmental entity~~
373 ~~shall do at least one of the following:~~

374 1. ~~Approve a plan to cease providing communications~~
375 ~~services;~~

376 2. ~~Approve a plan to dispose of the system the governmental~~
377 ~~entity is using to provide communications services and,~~

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378 accordingly, to cease providing communications services;

379 ~~3. Approve a plan to create a partnership with a private~~
380 ~~entity in order to achieve operations in which revenues exceed~~
381 ~~operating expenses and payment of principal and interest on~~
382 ~~debt; or~~

383 ~~4. Approve the continuing provision of communications~~
384 ~~services by a majority vote of the governing body of the~~
385 ~~governing authority.~~

386 (4) (a) If a governmental entity was providing, as of April
387 1, 2005, advanced services, cable services, or
388 telecommunications services, then ~~it is not required to comply~~
389 ~~with paragraph (2) (a), paragraph (2) (b), paragraph (2) (c),~~
390 ~~paragraph (2) (d), sub-subparagraph (2) (e) 1.c., paragraph (2) (f),~~
391 ~~or paragraph (2) (k) in order to continue to provide advanced~~
392 ~~services, cable services, or telecommunications services,~~
393 ~~respectively, but~~ it must comply with and be subject to all
394 other provisions of this section.

395 (b) If a governmental entity, as of April 1, 2005, had
396 issued debt pledging revenues from an advanced service, cable
397 service, or telecommunications service, then ~~it is not required~~
398 ~~to comply with paragraph (2) (a), paragraph (2) (b), paragraph~~
399 ~~(2) (c), paragraph (2) (d), sub-subparagraph (2) (e) 1.c., paragraph~~
400 ~~(2) (f), or paragraph (2) (k) in order to provide advanced~~
401 ~~services, cable services, or telecommunications services,~~
402 ~~respectively, but~~ it must comply with and be subject to all
403 other provisions of this section.

404 (c) If a governmental entity, as of April 1, 2005, has
405 purchased equipment specifically for the provisioning of
406 advanced service, cable service, or telecommunication service,

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407 and, as of May 6, 2005, has a population of less than 7,500, and
408 has authorized by formal action the providing of an advanced
409 service, cable service, or telecommunication service, then ~~it is~~
410 ~~not required to comply with paragraph (2) (a), paragraph (2) (b),~~
411 ~~paragraph (2) (c), paragraph (2) (d), sub-subparagraph (2) (e) 1.c.,~~
412 ~~paragraph (2) (f), or paragraph (2) (k) in order to provide~~
413 ~~advanced service, cable service, or telecommunication service,~~
414 ~~respectively,~~ but it must comply with and be subject to all
415 other provisions of this section.

416

417 This subsection does not relieve a governmental entity from
418 complying with subsection (5).

419 (6) To ensure the safe and secure transportation of
420 passengers and freight through an airport facility, as defined
421 in s. 159.27(17), an airport authority or other governmental
422 entity that provides or is proposing to provide communications
423 services only within the boundaries of its airport layout plan,
424 as defined in s. 333.01(6), to subscribers ~~which are integral~~
425 ~~and essential~~ to the ~~safe and~~ secure transportation of
426 passengers and freight through the airport facility, is exempt
427 from this section. An airport authority or other governmental
428 entity that provides or is proposing to provide shared-tenant
429 service under s. 364.339, but not dial tone enabling subscribers
430 to complete calls outside the airport layout plan, to one or
431 more subscribers within its airport layout plan which are not
432 integral and essential to the safe and secure transportation of
433 passengers and freight through the airport facility is exempt
434 from this section. ~~An airport authority or other governmental~~
435 ~~entity that provides or is proposing to provide communications~~

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436 ~~services to one or more subscribers within its airport layout~~
437 ~~plan which are not integral and essential to the safe and secure~~
438 ~~transportation of passengers and freight through the airport~~
439 ~~facility, or to one or more subscribers outside its airport~~
440 ~~layout plan, is not exempt from this section. By way of example~~
441 ~~and not limitation, the integral, essential subscribers may~~
442 ~~include airlines and emergency service entities, and the~~
443 ~~nonintegral, nonessential subscribers may include retail shops,~~
444 ~~restaurants, hotels, or rental car companies.~~

445 Section 7. This act shall take effect July 1, 2021.