

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 which require counties and entities of
5 local 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 entities of local
9 government under such circumstances; amending s.
10 166.047, F.S.; removing provisions which require
11 municipalities and entities of local government to pay
12 ad valorem taxes or fees under specified conditions on
13 certain telecommunications facilities; removing a
14 waiver on immunity on taxation of property for
15 municipalities or entities of local government under
16 such circumstances; amending ss. 196.012, 199.183, and
17 212.08, F.S.; removing provisions prohibiting property
18 and use of two-way telecommunications services under
19 specified circumstances from receiving certain tax
20 exemptions; amending s. 350.81, F.S.; removing
21 provisions that identify procedures which must be
22 followed by governmental entities before providing
23 communications services; removing provisions relating
24 to the use of certain revenues to issue bonds to
25 finance communications services; removing provisions

26 | which provide certain procedures if revenues do not
 27 | exceed operating costs after a specified time period;
 28 | removing provisions exempting certain governmental
 29 | entities from certain requirements relating to
 30 | telecommunications services; removing a provision
 31 | specifying that certain airport authorities or other
 32 | governmental entities are not exempt from certain
 33 | procedural requirements relating to telecommunications
 34 | services; providing an effective date.

35 |

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

37 |

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

40 | 125.421 Telecommunications services.—A telecommunications
 41 | company that is a county or other entity of local government may
 42 | obtain or hold a certificate required by chapter 364, and the
 43 | obtaining or holding of said certificate serves a public purpose
 44 | ~~only~~ if the county or other entity of local government:

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

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

50 | ~~(3) Notwithstanding any other provision of law, pays, on~~

51 ~~its telecommunications facilities used to provide two-way~~
 52 ~~telecommunication services to the public for hire and for which~~
 53 ~~a certificate is required under chapter 364, ad valorem taxes,~~
 54 ~~or fees in amounts equal thereto, to any taxing jurisdiction in~~
 55 ~~which the county or other entity of local government operates.~~
 56 ~~Any entity of local government may pay and impose such ad~~
 57 ~~valorem taxes or fees. Any immunity of any county or other~~
 58 ~~entity of local government from taxation of the property taxed~~
 59 ~~by this section is hereby waived.~~

60
 61 This section does not apply to the provision of
 62 telecommunications services for internal operational needs of a
 63 county or other entity of local government. This section does
 64 not apply to the provision of internal information services,
 65 including, but not limited to, tax records, engineering records,
 66 and property records, by a county or other entity of local
 67 government to the public for a fee.

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

70 166.047 Telecommunications services.—A telecommunications
 71 company that is a municipality or other entity of local
 72 government may obtain or hold a certificate required by chapter
 73 364, and the obtaining or holding of said certificate serves a
 74 municipal or public purpose under the provision of s. 2(b), Art.
 75 VIII of the State Constitution, only if the municipality or

76 other entity of local government:

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

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

82 ~~(3) Notwithstanding any other provision of law, pays, on~~
83 ~~its telecommunications facilities used to provide two-way~~
84 ~~telecommunications services to the public for hire and for which~~
85 ~~a certificate is required pursuant to chapter 364, ad valorem~~
86 ~~taxes, or fees in amounts equal thereto, to any taxing~~
87 ~~jurisdiction in which the municipality or other entity of local~~
88 ~~government operates. Any entity of local government may pay and~~
89 ~~impose such ad valorem taxes or fees.~~

90
91 This section does not apply to the provision of
92 telecommunications services for internal operational needs of a
93 municipality or other entity of local government. This section
94 does not apply to the provision of internal information
95 services, including, but not limited to, tax records,
96 engineering records, and property records, by a municipality or
97 other entity of local government to the public for a fee.

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

100 196.012 Definitions.—For the purpose of this chapter, the

101 following terms are defined as follows, except where the context
 102 clearly indicates otherwise:

103 (6) Governmental, municipal, or public purpose or function
 104 shall be deemed to be served or performed when the lessee under
 105 any leasehold interest created in property of the United States,
 106 the state or any of its political subdivisions, or any
 107 municipality, agency, special district, authority, or other
 108 public body corporate of the state is demonstrated to perform a
 109 function or serve a governmental purpose which could properly be
 110 performed or served by an appropriate governmental unit or which
 111 is demonstrated to perform a function or serve a purpose which
 112 would otherwise be a valid subject for the allocation of public
 113 funds. For purposes of the preceding sentence, an activity
 114 undertaken by a lessee which is permitted under the terms of its
 115 lease of real property designated as an aviation area on an
 116 airport layout plan which has been approved by the Federal
 117 Aviation Administration and which real property is used for the
 118 administration, operation, business offices and activities
 119 related specifically thereto in connection with the conduct of
 120 an aircraft full service fixed base operation which provides
 121 goods and services to the general aviation public in the
 122 promotion of air commerce shall be deemed an activity which
 123 serves a governmental, municipal, or public purpose or function.
 124 Any activity undertaken by a lessee which is permitted under the
 125 terms of its lease of real property designated as a public

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126 | airport as defined in s. 332.004(14) by municipalities,
127 | agencies, special districts, authorities, or other public bodies
128 | corporate and public bodies politic of the state, a spaceport as
129 | defined in s. 331.303, or which is located in a deepwater port
130 | identified in s. 403.021(9) (b) and owned by one of the foregoing
131 | governmental units, subject to a leasehold or other possessory
132 | interest of a nongovernmental lessee that is deemed to perform
133 | an aviation, airport, aerospace, maritime, or port purpose or
134 | operation shall be deemed an activity that serves a
135 | governmental, municipal, or public purpose. The use by a lessee,
136 | licensee, or management company of real property or a portion
137 | thereof as a convention center, visitor center, sports facility
138 | with permanent seating, concert hall, arena, stadium, park, or
139 | beach is deemed a use that serves a governmental, municipal, or
140 | public purpose or function when access to the property is open
141 | to the general public with or without a charge for admission. If
142 | property deeded to a municipality by the United States is
143 | subject to a requirement that the Federal Government, through a
144 | schedule established by the Secretary of the Interior, determine
145 | that the property is being maintained for public historic
146 | preservation, park, or recreational purposes and if those
147 | conditions are not met the property will revert back to the
148 | Federal Government, then such property shall be deemed to serve
149 | a municipal or public purpose. The term "governmental purpose"
150 | also includes a direct use of property on federal lands in

151 connection with the Federal Government's Space Exploration
152 Program or spaceport activities as defined in s. 212.02(22).
153 Real property and tangible personal property owned by the
154 Federal Government or Space Florida and used for defense and
155 space exploration purposes or which is put to a use in support
156 thereof shall be deemed to perform an essential national
157 governmental purpose and shall be exempt. "Owned by the lessee"
158 as used in this chapter does not include personal property,
159 buildings, or other real property improvements used for the
160 administration, operation, business offices and activities
161 related specifically thereto in connection with the conduct of
162 an aircraft full service fixed based operation which provides
163 goods and services to the general aviation public in the
164 promotion of air commerce provided that the real property is
165 designated as an aviation area on an airport layout plan
166 approved by the Federal Aviation Administration. For purposes of
167 determination of "ownership," buildings and other real property
168 improvements which will revert to the airport authority or other
169 governmental unit upon expiration of the term of the lease shall
170 be deemed "owned" by the governmental unit and not the lessee.
171 ~~Providing two-way telecommunications services to the public for~~
172 ~~hire by the use of a telecommunications facility, as defined in~~
173 ~~s. 364.02(14), and for which a certificate is required under~~
174 ~~chapter 364 does not constitute an exempt use for purposes of s.~~
175 ~~196.199, unless the telecommunications services are provided by~~

176 ~~the operator of a public-use airport, as defined in s. 332.004,~~
 177 ~~for the operator's provision of telecommunications services for~~
 178 ~~the airport or its tenants, concessionaires, or licensees, or~~
 179 ~~unless the telecommunications services are provided by a public~~
 180 ~~hospital.~~

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

183 199.183 Taxpayers exempt from nonrecurring taxes.—

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

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

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

201 provided by the operator of a public-use airport, as defined in
 202 s. 332.004, for the operator's provision of telecommunications
 203 services for the airport or its tenants, concessionaires, or
 204 licensees, and intangible personal property related to the
 205 provision of telecommunications services provided by a public
 206 hospital, are exempt from taxation under this chapter.

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

209 212.08 Sales, rental, use, consumption, distribution, and
 210 storage tax; specified exemptions.—The sale at retail, the
 211 rental, the use, the consumption, the distribution, and the
 212 storage to be used or consumed in this state of the following
 213 are hereby specifically exempt from the tax imposed by this
 214 chapter.

215 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—

216 (a) There are also exempt from the tax imposed by this
 217 chapter sales made to the United States Government, a state, or
 218 any county, municipality, or political subdivision of a state
 219 when payment is made directly to the dealer by the governmental
 220 entity. This exemption shall not inure to any transaction
 221 otherwise taxable under this chapter when payment is made by a
 222 government employee by any means, including, but not limited to,
 223 cash, check, or credit card when that employee is subsequently
 224 reimbursed by the governmental entity. This exemption does not
 225 include sales, rental, use, consumption, or storage for use in

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

251 telecommunications services for the airport or its tenants,
 252 concessionaires, or licensees, or which are for use by a public
 253 hospital for the provision of such telecommunications services.

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

257 350.81 Communications services offered by governmental
 258 entities.—

259 (2)(a) A governmental entity that proposes to provide a
 260 communications service shall hold no less than two public
 261 hearings, ~~which shall be held not less than 30 days apart. At~~
 262 ~~least 30 days before the first of the two public hearings,~~ The
 263 governmental entity must give notice of the hearing in the
 264 predominant newspaper of general circulation in the area
 265 considered for service. At least 40 days before the first public
 266 hearing, the governmental entity must electronically provide
 267 notice to the Department of Revenue and the Public Service
 268 Commission, which shall post the notice on the department's and
 269 the commission's website to be available to the public. ~~The~~
 270 ~~Department of Revenue shall also send the notice by United~~
 271 ~~States Postal Service to the known addresses for all dealers of~~
 272 ~~communications services registered with the department under~~
 273 ~~chapter 202 or provide an electronic notification, if the means~~
 274 ~~are available, within 10 days after receiving the notice. The~~
 275 notice must include the time and place of the hearings and must

276 state that the purpose of the hearings is to consider whether
277 the governmental entity will provide communications services.
278 The notice must include, at a minimum, the geographic areas
279 proposed to be served by the governmental entity ~~and the~~
280 ~~services, if any, which the governmental entity believes are not~~
281 ~~currently being adequately provided. The notice must also state~~
282 ~~that any dealer who wishes to do so may appear and be heard at~~
283 ~~the public hearings.~~

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

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

289 ~~2. Whether a similar service is currently being offered in~~
290 ~~the community and, if so, whether the service is generally~~
291 ~~available throughout the community.~~

292 ~~2.3.~~ If the same ~~or similar~~ service is not currently
293 offered, whether any other service provider proposes to offer
294 the same ~~or a similar~~ service ~~and, if so, what assurances that~~
295 ~~service provider is willing or able to offer regarding the same~~
296 ~~or similar service.~~

297 ~~3.4.~~ The capital investment required by the government
298 entity to provide the communications service, the estimated
299 realistic cost of operation and maintenance and, using a full
300 cost-accounting method, the estimated realistic revenues and

301 expenses of providing the service and the proposed method of
 302 financing.

303 ~~4.5.~~ The private and public costs and benefits of
 304 providing the service by a private entity or a governmental
 305 entity, including the affect on existing and future jobs, actual
 306 economic development prospects, tax-base growth, education, and
 307 public health.

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

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

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

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

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

319 ~~5. Estimated capital and operational costs and revenues~~
 320 ~~for 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~~
 324 ~~in paragraphs (b) and (c),~~ The governmental entity may authorize
 325 providing a communications service by a majority recorded vote

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326 and by resolution, ordinance, or other formal means of adoption.

327 (e)1. The governing body of a governmental entity may
328 issue one or more bonds to finance the capital costs for
329 facilities to 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~~
336 ~~provides electric service outside its home county under an~~
337 ~~electric service territorial agreement approved by the Public~~
338 ~~Service Commission before the effective date of this act; or~~

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

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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~~
 377 ~~governmental entity is using to provide communications services~~
 378 ~~and, 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~~

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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,
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

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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~~
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, 2022.