A bill to be entitled
An act relating to communications services taxes;
amending s. 202.12, F.S.; reducing the communications
services tax rate levied on sales of communications
services; amending s. 337.401, F.S.; revising the
authority for municipalities and counties to impose
permit fees on providers of communications services
that use or occupy municipal or county roads or
rights-of-way; deleting the procedures, requirements,
and limitations with respect to such fees; conforming
provisions to changes made by the act; providing
applicability; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (1) of
section 202.12, Florida Statutes, are amended to read:

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

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

(a) Except as otherwise provided in this subsection, at the
rate of 3.92 4.92 percent applied to the sales price of the
communications service that:

1. Originates and terminates in this state, or
7-01349-19

2. Originates or terminates in this state and is charged to a service address in this state,

when sold at retail, computed on each taxable sale for the purpose of remitting the tax due. The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph. If no tax is imposed by this paragraph due to the exemption provided under s. 202.125(1), the tax imposed by chapter 203 shall nevertheless be collected and remitted in the manner and at the time prescribed for tax collections and remittances under this chapter.

(b) At the rate of 8.07% applied to the retail sales price of any direct-to-home satellite service received in this state. The proceeds of the tax imposed under this paragraph shall be accounted for and distributed in accordance with s. 202.18(2). The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

Section 2. Paragraphs (c), (d), (j), and (k) of subsection (3) and paragraphs (e) and (f) of subsection (6) of section 337.401, Florida Statutes, are amended to read:

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

(3)

(c) A municipality or county that elected to impose permit fees on or before January 1, 2019, on providers of communications services pursuant to former paragraphs (c) or (j) of this subsection, Florida Statutes 2018, may continue to
impose such fees. However, a municipality or county that did not impose permit fees as of January 1, 2019, may not impose such fees. It is the intention of the state to treat all providers of communications services that use or occupy municipal or charter county roads or rights-of-way for the provision of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees. Certain providers of communications services have been granted by general law the authority to offset permit fees against franchise or other fees while other providers of communications services have not been granted this authority. In order to treat all providers of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees, each municipality and charter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and must inform the Department of Revenue of the election by certified mail by July 16, 2001. Such election shall take effect October 1, 2001.

a.(I) The municipality or charter county may require and collect permit fees from any providers of communications services that use or occupy municipal or county roads or rights-of-way. All fees permitted under this paragraph sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this paragraph sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the
costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this paragraph sub-subparagraph, the prevailing party may recover court costs and attorney’s fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a municipality or charter county under this paragraph sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(a)2. or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

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

b. Alternatively, the municipality or charter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal or charter county roads or rights-of-way for the provision of communications services; however, each municipality or charter county that elects to operate under this sub-subparagraph
retains all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights of way as provided in this section. If a municipality or charter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20 for that municipality or charter county may be increased by ordinance or resolution by an amount not to exceed a rate of 0.12 percent. If a municipality or charter county elects to increase its rate effective October 1, 2001, the municipality or charter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.

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

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

a. The noncharter county may elect to require and collect permit fees from any providers of communications services that use or occupy noncharter county roads or rights of way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the
roads or rights-of-way. A fee permitted under this sub-
subparagraph may not: be offset against the tax imposed under
chapter 202; include the costs of roads or rights-of-way
acquisition or roads or rights-of-way rental; include any
general administrative, management, or maintenance costs of the
roads or rights-of-way; or be based on a percentage of the value
or costs associated with the work to be performed on the roads
or rights-of-way. In an action to recover amounts due for a fee
not permitted under this sub-subparagraph, the prevailing party
may recover court costs and attorney’s fees at trial and on
appeal. In addition to the limitations set forth in this
section, a fee levied by a noncharter county under this sub-
subparagraph may not exceed $100. However, permit fees may not
be imposed with respect to permits that may be required for
service drop lines not required to be noticed under s.
556.108(5)(a)2. or for any activity that does not require the
physical disturbance of the roads or rights-of-way or does not
impair access to or full use of the roads or rights-of-way.

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

c. A noncharter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

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

(d) After January 1, 2001, In addition to any other notice requirements, a municipality must provide to the Secretary of State, at least 10 days before prior to consideration on first reading, notice of a proposed ordinance governing a telecommunications company placing or maintaining telecommunications facilities in its roads or rights-of-way. After January 1, 2001, In addition to any other notice requirements, a county must provide to the Secretary of State, at least 15 days before prior to consideration at a public hearing, notice of a proposed ordinance governing a telecommunications company placing or maintaining telecommunications facilities in its roads or rights-of-way. The notice required by this paragraph must be published by the Secretary of State on a designated Internet website. The failure
of a municipality or county to provide such notice does not render the ordinance invalid.

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

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

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

2.a. If a noncharter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)2.b.

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

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

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

(k) Notwithstanding the provisions of s. 202.19, when a
local communications services tax rate is changed as a result of
an election made or changed under this subsection, such rate
shall not be rounded to tenths.

(6)

(e) This subsection does not alter any provision of this
section or s. 202.24 relating to taxes, fees, or other charges
or impositions by a municipality or county on a dealer of communications services or authorize that any charges be assessed on a dealer of communications services, except as specifically set forth herein. A municipality or county may not charge a pass-through provider any amounts other than the charges under this subsection as a condition to the placement or maintenance of a communications facility in the roads or rights-of-way of a municipality or county by a pass-through provider, except that a municipality or county may impose permit fees on a pass-through provider consistent with paragraph (3)(c) if the municipality or county elects to exercise its authority to collect permit fees under paragraph (3)(e).

(f) The charges under this subsection do not apply to communications facilities placed in a municipality’s or county’s rights-of-way before the effective date of this subsection with permission from the municipality or county, if any was required, except to the extent the facilities of a pass-through provider were subject to per linear foot or mile charges in effect as of October 1, 2001, in which case the municipality or county may only impose on a pass-through provider charges consistent with paragraph (b) or paragraph (c) for such facilities. Notwithstanding the foregoing, this subsection does not impair any written agreement between a pass-through provider and a municipality or county imposing per linear foot or mile charges for communications facilities placed in municipal or county roads or rights-of-way that is in effect prior to the effective date of this subsection. Upon the termination or expiration of any such written agreement, any charges imposed shall be consistent with this section paragraph (b) or paragraph...
(c). Notwithstanding the foregoing, until October 1, 2005, this subsection shall not affect a municipality or county continuing to impose charges in excess of the charges authorized in this subsection on facilities of a pass-through provider that is not a dealer of communications services in the state under chapter 202, but only to the extent such charges were imposed by municipal or county ordinance or resolution adopted prior to February 1, 2002. Effective October 1, 2005, any charges imposed shall be consistent with paragraph (b) or paragraph (c).

Section 3. The taxes imposed by s. 202.12, Florida Statutes, as amended by this act, on communications services shall be applied to communications services reflected on bills dated on or after October 1, 2020.

Section 4. This act shall take effect July 1, 2019.