

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 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 and 199.183,
17 F.S.; removing provisions prohibiting property and use
18 of two-way telecommunications services under specified
19 circumstances from receiving certain tax exemptions;
20 amending s. 212.08, F.S.; removing provisions
21 prohibiting sales, rental, use, consumption, or
22 storage for use of two-way telecommunications services
23 under specified circumstances from receiving a certain
24 tax exemption; removing a waiver on immunity on
25 taxation of property for political subdivisions or
26 entities of local government under such circumstances;
27 amending s. 350.81, F.S.; removing provisions that
28 identify procedures which must be followed by
29 governmental entities before providing communications

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30 services; removing a requirement for the Department of
31 Revenue to send a specified notice; removing
32 provisions relating to the use of certain revenues to
33 issue bonds to finance communications services;
34 removing provisions which provide certain procedures
35 if revenues do not exceed operating costs after a
36 specified time period; removing provisions exempting
37 certain governmental entities from certain
38 requirements relating to telecommunications services;
39 removing a provision specifying that certain airport
40 authorities or other governmental entities are not
41 exempt from certain procedural requirements relating
42 to telecommunications services; providing an effective
43 date.

44

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

46

47 Section 1. Section 125.421, Florida Statutes, is amended to
48 read:

49 125.421 Telecommunications services.—A telecommunications
50 company that is a county or other entity of local government may
51 obtain or hold a certificate required by chapter 364, and the
52 obtaining or holding of said certificate serves a public purpose
53 ~~only~~ if the county or other entity of local government:

54 (1) Separately accounts for the revenues, expenses,
55 property, and source of investment dollars associated with the
56 provision of such service; and

57 (2) Is subject, without exemption, to all local
58 requirements applicable to telecommunications companies; ~~and~~

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59 ~~(3) Notwithstanding any other provision of law, pays, on~~
60 ~~its telecommunications facilities used to provide two-way~~
61 ~~telecommunication services to the public for hire and for which~~
62 ~~a certificate is required under chapter 364, ad valorem taxes,~~
63 ~~or fees in amounts equal thereto, to any taxing jurisdiction in~~
64 ~~which the county or other entity of local government operates.~~
65 ~~Any entity of local government may pay and impose such ad~~
66 ~~valorem taxes or fees. Any immunity of any county or other~~
67 ~~entity of local government from taxation of the property taxed~~
68 ~~by this section is hereby waived.~~

69
70 This section does not apply to the provision of
71 telecommunications services for internal operational needs of a
72 county or other entity of local government. This section does
73 not apply to the provision of internal information services,
74 including, but not limited to, tax records, engineering records,
75 and property records, by a county or other entity of local
76 government to the public for a fee.

77 Section 2. Section 166.047, Florida Statutes, is amended to
78 read:

79 166.047 Telecommunications services.—A telecommunications
80 company that is a municipality or other entity of local
81 government may obtain or hold a certificate required by chapter
82 364, and the obtaining or holding of said certificate serves a
83 municipal or public purpose under the provision of s. 2(b), Art.
84 VIII of the State Constitution, only if the municipality or
85 other entity of local government:

86 (1) Separately accounts for the revenues, expenses,
87 property, and source of investment dollars associated with the

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88 provision of such services; and

89 (2) Is subject, without exemption, to all local
90 requirements applicable to telecommunications companies; ~~and~~

91 ~~(3) Notwithstanding any other provision of law, pays, on~~
92 ~~its telecommunications facilities used to provide two-way~~
93 ~~telecommunications services to the public for hire and for which~~
94 ~~a certificate is required pursuant to chapter 364, ad valorem~~
95 ~~taxes, or fees in amounts equal thereto, to any taxing~~
96 ~~jurisdiction in which the municipality or other entity of local~~
97 ~~government operates. Any entity of local government may pay and~~
98 ~~impose such ad valorem taxes or fees.~~

99

100 This section does not apply to the provision of
101 telecommunications services for internal operational needs of a
102 municipality or other entity of local government. This section
103 does not apply to the provision of internal information
104 services, including, but not limited to, tax records,
105 engineering records, and property records, by a municipality or
106 other entity of local government to the public for a fee.

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

109 196.012 Definitions.—For the purpose of this chapter, the
110 following terms are defined as follows, except where the context
111 clearly indicates otherwise:

112 (6) Governmental, municipal, or public purpose or function
113 shall be deemed to be served or performed when the lessee under
114 any leasehold interest created in property of the United States,
115 the state or any of its political subdivisions, or any
116 municipality, agency, special district, authority, or other

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117 public body corporate of the state is demonstrated to perform a
118 function or serve a governmental purpose which could properly be
119 performed or served by an appropriate governmental unit or which
120 is demonstrated to perform a function or serve a purpose which
121 would otherwise be a valid subject for the allocation of public
122 funds. For purposes of the preceding sentence, an activity
123 undertaken by a lessee which is permitted under the terms of its
124 lease of real property designated as an aviation area on an
125 airport layout plan which has been approved by the Federal
126 Aviation Administration and which real property is used for the
127 administration, operation, business offices and activities
128 related specifically thereto in connection with the conduct of
129 an aircraft full service fixed base operation which provides
130 goods and services to the general aviation public in the
131 promotion of air commerce shall be deemed an activity which
132 serves a governmental, municipal, or public purpose or function.
133 Any activity undertaken by a lessee which is permitted under the
134 terms of its lease of real property designated as a public
135 airport as defined in s. 332.004(14) by municipalities,
136 agencies, special districts, authorities, or other public bodies
137 corporate and public bodies politic of the state, a spaceport as
138 defined in s. 331.303, or which is located in a deepwater port
139 identified in s. 403.021(9)(b) and owned by one of the foregoing
140 governmental units, subject to a leasehold or other possessory
141 interest of a nongovernmental lessee that is deemed to perform
142 an aviation, airport, aerospace, maritime, or port purpose or
143 operation shall be deemed an activity that serves a
144 governmental, municipal, or public purpose. The use by a lessee,
145 licensee, or management company of real property or a portion

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146 thereof as a convention center, visitor center, sports facility
147 with permanent seating, concert hall, arena, stadium, park, or
148 beach is deemed a use that serves a governmental, municipal, or
149 public purpose or function when access to the property is open
150 to the general public with or without a charge for admission. If
151 property deeded to a municipality by the United States is
152 subject to a requirement that the Federal Government, through a
153 schedule established by the Secretary of the Interior, determine
154 that the property is being maintained for public historic
155 preservation, park, or recreational purposes and if those
156 conditions are not met the property will revert back to the
157 Federal Government, then such property shall be deemed to serve
158 a municipal or public purpose. The term "governmental purpose"
159 also includes a direct use of property on federal lands in
160 connection with the Federal Government's Space Exploration
161 Program or spaceport activities as defined in s. 212.02(22).
162 Real property and tangible personal property owned by the
163 Federal Government or Space Florida and used for defense and
164 space exploration purposes or which is put to a use in support
165 thereof shall be deemed to perform an essential national
166 governmental purpose and shall be exempt. "Owned by the lessee"
167 as used in this chapter does not include personal property,
168 buildings, or other real property improvements used for the
169 administration, operation, business offices and activities
170 related specifically thereto in connection with the conduct of
171 an aircraft full service fixed based operation which provides
172 goods and services to the general aviation public in the
173 promotion of air commerce provided that the real property is
174 designated as an aviation area on an airport layout plan

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175 approved by the Federal Aviation Administration. For purposes of
176 determination of "ownership," buildings and other real property
177 improvements which will revert to the airport authority or other
178 governmental unit upon expiration of the term of the lease shall
179 be deemed "owned" by the governmental unit and not the lessee.
180 ~~Providing two-way telecommunications services to the public for~~
181 ~~hire by the use of a telecommunications facility, as defined in~~
182 ~~s. 364.02(14), and for which a certificate is required under~~
183 ~~chapter 364 does not constitute an exempt use for purposes of s.~~
184 ~~196.199, unless the telecommunications services are provided by~~
185 ~~the operator of a public use airport, as defined in s. 332.004,~~
186 ~~for the operator's provision of telecommunications services for~~
187 ~~the airport or its tenants, concessionaires, or licensees, or~~
188 ~~unless the telecommunications services are provided by a public~~
189 ~~hospital.~~

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

192 199.183 Taxpayers exempt from nonrecurring taxes.—

193 (1) Intangible personal property owned by this state or any
194 of its political subdivisions or municipalities shall be exempt
195 from taxation under this chapter. Intangible personal property
196 related to the provision of telecommunications services provided
197 by the operator of a public-use airport, as defined in s.
198 332.004, for the operator's provision of telecommunications
199 services for the airport or its tenants, concessionaires, or
200 licensees, and intangible personal property related to the
201 provision of telecommunications services provided by a public
202 hospital, are exempt from taxation under this chapter. This
203 exemption does not apply to:

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204 ~~(a) any leasehold or other interest that is described in s.~~
205 ~~199.023(1)(d), Florida Statutes 2005; or~~

206 ~~(b) Property related to the provision of two-way~~
207 ~~telecommunications services to the public for hire by the use of~~
208 ~~a telecommunications facility, as defined in s. 364.02(14), and~~
209 ~~for which a certificate is required under chapter 364, when the~~
210 ~~service is provided by any county, municipality, or other~~
211 ~~political subdivision of the state. Any immunity of any~~
212 ~~political subdivision of the state or other entity of local~~
213 ~~government from taxation of the property used to provide~~
214 ~~telecommunication services that is taxed as a result of this~~
215 ~~paragraph is hereby waived. However, intangible personal~~
216 ~~property related to the provision of telecommunications services~~
217 ~~provided by the operator of a public-use airport, as defined in~~
218 ~~s. 332.004, for the operator's provision of telecommunications~~
219 ~~services for the airport or its tenants, concessionaires, or~~
220 ~~licensees, and intangible personal property related to the~~
221 ~~provision of telecommunications services provided by a public~~
222 ~~hospital, are exempt from taxation under this chapter.~~

223 Section 5. Paragraph (a) of subsection (6) of section
224 212.08, Florida Statutes, is amended to read:

225 212.08 Sales, rental, use, consumption, distribution, and
226 storage tax; specified exemptions.—The sale at retail, the
227 rental, the use, the consumption, the distribution, and the
228 storage to be used or consumed in this state of the following
229 are hereby specifically exempt from the tax imposed by this
230 chapter.

231 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—

232 (a) There are also exempt from the tax imposed by this

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233 chapter sales made to the United States Government, a state, or
234 any county, municipality, or political subdivision of a state
235 when payment is made directly to the dealer by the governmental
236 entity. This exemption shall not inure to any transaction
237 otherwise taxable under this chapter when payment is made by a
238 government employee by any means, including, but not limited to,
239 cash, check, or credit card when that employee is subsequently
240 reimbursed by the governmental entity. This exemption does not
241 include sales, rental, use, consumption, or storage for use in
242 any political subdivision or municipality in this state of
243 machines and equipment and parts and accessories therefor used
244 in the generation, transmission, or distribution of electrical
245 energy by systems owned and operated by a political subdivision
246 in this state for transmission or distribution expansion.
247 Likewise exempt are charges for services rendered by radio and
248 television stations, including line charges, talent fees, or
249 license fees and charges for films, videotapes, and
250 transcriptions used in producing radio or television broadcasts.
251 ~~The exemption provided in this subsection does not include~~
252 ~~sales, rental, use, consumption, or storage for use in any~~
253 ~~political subdivision or municipality in this state of machines~~
254 ~~and equipment and parts and accessories therefor used in~~
255 ~~providing two-way telecommunications services to the public for~~
256 ~~hire by the use of a telecommunications facility, as defined in~~
257 ~~s. 364.02(14), and for which a certificate is required under~~
258 ~~chapter 364, which facility is owned and operated by any county,~~
259 ~~municipality, or other political subdivision of the state. Any~~
260 ~~immunity of any political subdivision of the state or other~~
261 ~~entity of local government from taxation of the property used to~~

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262 ~~provide telecommunication services that is taxed as a result of~~
263 ~~this section is hereby waived.~~ However, the exemption provided
264 in this subsection includes transactions taxable under this
265 chapter which are for use by the operator of a public-use
266 airport, as defined in s. 332.004, in providing such
267 telecommunications services for the airport or its tenants,
268 concessionaires, or licensees, or which are for use by a public
269 hospital for the provision of such telecommunications services.

270 Section 6. Paragraphs (a) through (e), (k), and (l) of
271 subsection (2), and subsections (4) and (6) of section 350.81,
272 Florida Statutes, are amended to read:

273 350.81 Communications services offered by governmental
274 entities.—

275 (2) (a) A governmental entity that proposes to provide a
276 communications service shall hold no less than two public
277 hearings, ~~which shall be held not less than 30 days apart. At~~
278 ~~least 30 days before the first of the two public hearings,~~ The
279 governmental entity must give notice of the hearing in the
280 predominant newspaper of general circulation in the area
281 considered for service. At least 40 days before the first public
282 hearing, the governmental entity must electronically provide
283 notice to the Department of Revenue and the Public Service
284 Commission, which shall post the notice on the department's and
285 the commission's website to be available to the public. ~~The~~
286 ~~Department of Revenue shall also send the notice by United~~
287 ~~States Postal Service to the known addresses for all dealers of~~
288 ~~communications services registered with the department under~~
289 ~~chapter 202 or provide an electronic notification, if the means~~
290 ~~are available, within 10 days after receiving the notice. The~~

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291 notice must include the time and place of the hearings and must
292 state that the purpose of the hearings is to consider whether
293 the governmental entity will provide communications services.
294 The notice must include, at a minimum, the geographic areas
295 proposed to be served by the governmental entity ~~and the~~
296 ~~services, if any, which the governmental entity believes are not~~
297 ~~currently being adequately provided. The notice must also state~~
298 ~~that any dealer who wishes to do so may appear and be heard at~~
299 ~~the public hearings.~~

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

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

305 ~~2. Whether a similar service is currently being offered in~~
306 ~~the community and, if so, whether the service is generally~~
307 ~~available throughout the community.~~

308 ~~3. If the same or similar service is not currently offered,~~
309 ~~whether any other service provider proposes to offer the same or~~
310 ~~a similar service and, if so, what assurances that service~~
311 ~~provider is willing or able to offer regarding the same or~~
312 ~~similar service.~~

313 ~~3.4.~~ The capital investment required by the government
314 entity to provide the communications service, the estimated
315 realistic cost of operation and maintenance and, using a full
316 cost-accounting method, the estimated realistic revenues and
317 expenses of providing the service and the proposed method of
318 financing.

319 ~~4.5.~~ The private and public costs and benefits of providing

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320 the service by a private entity or a governmental entity,
321 including the affect on existing and future jobs, actual
322 economic development prospects, tax-base growth, education, and
323 public health.

324 (c) At one or more of the public hearings under this
325 subsection, the governmental entity must make available to the
326 public a written business plan for the proposed communications
327 service venture containing, at a minimum:

328 1. The projected number of subscribers to be served by the
329 venture.

330 2. The geographic area to be served by the venture.

331 3. The types of communications services to be provided.

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

334 5. Estimated capital and operational costs and revenues for
335 the first 4 years.

336 6. Projected network modernization and technological
337 upgrade plans, including estimated costs.

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

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

345 1. A governmental entity may only pledge revenues in
346 support of the issuance of any bond to finance providing a
347 communications service:

348 a. Within the county in which the governmental entity is

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349 ~~located;~~

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

354 ~~e. If the governmental entity is a municipality or special~~
355 ~~district, within its corporate limits or in an area in which the~~
356 ~~municipality or special district provides water, wastewater,~~
357 ~~electric, or natural gas service, or within an urban service~~
358 ~~area designated in a comprehensive plan, whichever is larger,~~
359 ~~unless the municipality or special district obtains the consent~~
360 ~~by formal action of the governmental entity within the~~
361 ~~boundaries of which the municipality or special district~~
362 ~~proposes to provide service. For consent to be effective, any~~
363 ~~governmental entity from which consent is sought shall be~~
364 ~~located within the county in which the governmental entity is~~
365 ~~located or that county.~~

366 2. Revenue bonds issued in order to finance providing a
367 communications service are not subject to the approval of the
368 electors if the revenue bonds mature within 15 years. Revenue
369 bonds issued to finance providing a communications service that
370 does not mature within 15 years must be approved by the
371 electors. The election must be conducted as specified in chapter
372 100.

373 (k) The governmental entity shall conduct an annual review
374 at a formal public meeting to consider the progress the
375 governmental entity is making toward reaching its ~~business~~ plan
376 goals and objectives for providing communication services. At
377 the public meeting the governmental entity shall review the

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378 related revenues, operating expenses, and payment of interest on
379 debt.

380 ~~(1) If, after 4 years following the initiation of the~~
381 ~~provision of communications services by a governmental entity or~~
382 ~~4 years after the effective date of this act, whichever is~~
383 ~~later, revenues do not exceed operating expenses and payment of~~
384 ~~principal and interest on the debt for a governmental entity's~~
385 ~~provision of communications services, no later than 60 days~~
386 ~~following the end of the 4 year period a governmental entity~~
387 ~~shall hold a public hearing at which the governmental entity~~
388 ~~shall do at least one of the following:~~

389 ~~1. Approve a plan to cease providing communications~~
390 ~~services;~~

391 ~~2. Approve a plan to dispose of the system the governmental~~
392 ~~entity is using to provide communications services and,~~
393 ~~accordingly, to cease providing communications services;~~

394 ~~3. Approve a plan to create a partnership with a private~~
395 ~~entity in order to achieve operations in which revenues exceed~~
396 ~~operating expenses and payment of principal and interest on~~
397 ~~debt; or~~

398 ~~4. Approve the continuing provision of communications~~
399 ~~services by a majority vote of the governing body of the~~
400 ~~governing authority.~~

401 (4) (a) If a governmental entity was providing, as of April
402 1, 2005, advanced services, cable services, or
403 telecommunications services, then it is not required to comply
404 with paragraph (2) (a), paragraph (2) (b), paragraph (2) (c),
405 paragraph (2) (d), sub-subparagraph (2) (e) 1.e., paragraph (2) (f),
406 or paragraph (2) (k) in order to continue to provide advanced

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407 ~~services, cable services, or telecommunications services,~~
408 ~~respectively, but~~ it must comply with and be subject to all
409 ~~other~~ provisions of this section.

410 (b) If a governmental entity, as of April 1, 2005, had
411 issued debt pledging revenues from an advanced service, cable
412 service, or telecommunications service, then ~~it is not required~~
413 ~~to comply with paragraph (2) (a), paragraph (2) (b), paragraph~~
414 ~~(2) (c), paragraph (2) (d), sub-subparagraph (2) (e) 1.c., paragraph~~
415 ~~(2) (f), or paragraph (2) (k) in order to provide advanced~~
416 ~~services, cable services, or telecommunications services,~~
417 ~~respectively, but~~ it must comply with and be subject to all
418 other provisions of this section.

419 (c) If a governmental entity, as of April 1, 2005, has
420 purchased equipment specifically for the provisioning of
421 advanced service, cable service, or telecommunication service,
422 and, as of May 6, 2005, has a population of less than 7,500, and
423 has authorized by formal action the providing of an advanced
424 service, cable service, or telecommunication service, then ~~it is~~
425 ~~not required to comply with paragraph (2) (a), paragraph (2) (b),~~
426 ~~paragraph (2) (c), paragraph (2) (d), sub-subparagraph (2) (e) 1.c.,~~
427 ~~paragraph (2) (f), or paragraph (2) (k) in order to provide~~
428 ~~advanced service, cable service, or telecommunication service,~~
429 ~~respectively, but~~ it must comply with and be subject to all
430 other provisions of this section.

431
432 This subsection does not relieve a governmental entity from
433 complying with subsection (5).

434 (6) To ensure the safe and secure transportation of
435 passengers and freight through an airport facility, as defined

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436 in s. 159.27(17), an airport authority or other governmental
437 entity that provides or is proposing to provide communications
438 services only within the boundaries of its airport layout plan,
439 as defined in s. 333.01(6), to subscribers ~~which are integral~~
440 ~~and essential~~ to the ~~safe and~~ secure transportation of
441 passengers and freight through the airport facility, is exempt
442 from this section. An airport authority or other governmental
443 entity that provides or is proposing to provide shared-tenant
444 service under s. 364.339, but not dial tone enabling subscribers
445 to complete calls outside the airport layout plan, to one or
446 more subscribers within its airport layout plan which are not
447 integral and essential to the safe and secure transportation of
448 passengers and freight through the airport facility is exempt
449 from this section. ~~An airport authority or other governmental~~
450 ~~entity that provides or is proposing to provide communications~~
451 ~~services to one or more subscribers within its airport layout~~
452 ~~plan which are not integral and essential to the safe and secure~~
453 ~~transportation of passengers and freight through the airport~~
454 ~~facility, or to one or more subscribers outside its airport~~
455 ~~layout plan, is not exempt from this section. By way of example~~
456 ~~and not limitation, the integral, essential subscribers may~~
457 ~~include airlines and emergency service entities, and the~~
458 ~~nonintegral, nonessential subscribers may include retail shops,~~
459 ~~restaurants, hotels, or rental car companies.~~

460 Section 7. This act shall take effect July 1, 2022.