HB375

182454-3

By Representative Lovvorn

RFD: Commerce and Small Business

First Read: 07-MAR-17
SYNOPSIS: This bill would permit any Class 6 municipality that provides cable service, interactive computer service, Internet access, other Internet services, and advanced telecommunications service, or any combination thereof, to its inhabitants to provide those services throughout the county in which the Class 6 municipality is located, including the inhabitants within the corporate limits and police jurisdiction of any other municipality located in whole or in part in the county, subject to the prior consent of the governing body of the county or the other municipality, and subject to certain other conditions and restrictions.

A BILL
TO BE ENTITLED
AN ACT
Relating to Class 6 municipalities; to authorize any Class 6 municipality that provides cable service, interactive computer service, Internet access, other Internet services, and advanced telecommunications service, or any combination thereof, to its inhabitants to provide any or all of those services or access throughout the county in which the Class 6 municipality is located, including providing services to the inhabitants within the corporate limits and police jurisdiction of any other municipality located in whole or in part within the county under certain conditions; to provide that the rights of state and local governments and governmental agencies with respect to public rights-of-way are not affected; to provide for the application and effect of certain provisions of Chapter 50B of Title 11 of the Code of Alabama 1975, with respect to the exercise by any Class 6 municipality of the powers granted by that chapter; and to provide that the powers, rights, and authority granted Class 6 municipalities are cumulative.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this act, the following terms shall have the following meanings:

(1) ADVANCED TELECOMMUNICATIONS SERVICE. As defined by Section 11-50B-2 of the Code of Alabama 1975.

(2) CABLE SERVICE. As defined by Section 11-50B-2 of the Code of Alabama 1975.

(3) CABLE SYSTEM. As defined by Section 11-50B-2 of the Code of Alabama 1975.
(4) CLASS 6 MUNICIPALITY. Any municipality classified as Class 6 according to Section 11-40-12 of the Code of Alabama 1975.

(5) COUNTY. The county where the Class 6 municipality is located.

(6) GOVERNING LAW. Chapter 50B of Title 11 of the Code of Alabama 1975, as it exists on the effective date of this act.

(7) INTERACTIVE COMPUTER SERVICE. As defined by Section 11-50B-2 of the Code of Alabama 1975.

(8) INTERNET. As defined by Section 11-50B-2 of the Code of Alabama 1975.

(9) MUNICIPAL INSTRUMENTALITY. As defined by Section 11-50B-2 of the Code of Alabama 1975.

(10) OTHER MUNICIPALITY. A municipality located in whole or in part in the county where the Class 6 municipality is located.

(11) TELECOMMUNICATIONS. As defined by Section 11-50B-2 of the Code of Alabama 1975.

(12) TELECOMMUNICATIONS EQUIPMENT. As defined by Section 11-50B-2 of the Code of Alabama 1975.

(13) TELECOMMUNICATIONS SERVICE. As defined by Section 11-50B-2 of the Code of Alabama 1975.

(14) UNINCORPORATED AREA. Any territory within the boundaries of the county that is located outside both the corporate limits and the police jurisdiction of any municipality located in whole or in part in the county.
Section 2. (a) Notwithstanding any other law to the contrary, a Class 6 municipality may do any of the following:

(1) Furnish and make available cable service, interactive computer service, Internet access, other Internet services, advanced telecommunications service, meter reading services, appliance, equipment, or facilities monitoring, alarm monitoring service and other security monitoring, surveillance or monitoring services, and billing and related financial services, or any combination of these services, access, and monitoring, throughout the county, including, but not limited to, within the corporate limits and police jurisdiction of any other municipality in the county.

(2) Acquire, establish, purchase, construct, maintain, enlarge, extend, lease, improve, and operate cable systems, telecommunications equipment, and telecommunications systems, or any combination of these systems and equipment, anywhere within the boundaries of the county or the corporate limits or police jurisdiction of the other municipality.

(b) No Class 6 municipality may exercise any of the powers granted by subsection (a) unless at that time the Class 6 municipality is already furnishing, providing, or making available cable service, interactive computer service, Internet access, other Internet services, and advanced telecommunications service, or any combination of these services or access, to its inhabitants pursuant to the governing law.
(c)(1) No Class 6 municipality may furnish, provide, or make available cable, telecommunications, or other services authorized by this act within the corporate limits or police jurisdiction of any other municipality except upon the prior written consent of the governing body of the other municipality, expressed in a resolution duly adopted by the governing body of the other municipality.

(2) The consent of the governing body of the county where the other municipality is located is not required and shall not be effective in lieu of the written consent of the governing body of the other municipality for the Class 6 municipality to provide cable, telecommunications, or other services authorized by this act to the other municipality.

(d) No Class 6 municipality may provide or make available any cable, telecommunications, or other services authorized by this act within any unincorporated area of the county in which the Class 6 municipality is located except upon the prior written consent of the governing body of the county, expressed in a resolution duly adopted by the governing body of the county.

(e) No public hearing, petition, or election, and no notice, regardless to whom addressed, to any person or persons, either written or published, whether as described in Section 11-50B-8 of the Code of Alabama 1975, or otherwise, shall be required in addition to, in connection with, or as a condition precedent or subsequent to, any public hearing, petition, election, or notice that has been previously held or
given in connection with the initial acquisition, establishment, purchase, or construction by a Class 6 municipality of facilities and equipment for the purposes of furnishing or making available cable service, interactive computer service, Internet access, other Internet services, and advanced telecommunications service, or any combination of these services or access, to its inhabitants pursuant to the governing law for the Class 6 municipality to do either of the following:

(1) Exercise any of the powers granted by this act.

(2) Receive the consent of the governing body of any other municipality or county, pursuant to this act, to exercise any power granted by this act to a Class 6 municipality.

Section 3. (a) Nothing in this act shall be construed to affect the power of any state or local government or governmental agency to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and non-discriminatory basis, for the use of public streets or rights-of-way.

(b) Any Class 6 municipality that intends to provide services or access pursuant to this act is subject to all municipal franchise and similar requirements, including payment of nondiscriminatory taxes and fees.

Section 4. Notwithstanding any other law to the contrary, any Class 6 municipality that proposes to provide
services or access pursuant to this act may become indebted
for that purpose as provided for in Section 11-50B-9 of the
Code of Alabama 1975, through the issuance of interest-bearing
warrants under Sections 11-47-2 and 11-81-4 of the Code of
Alabama 1975.

Section 5. The Legislature hereby finds and
determines that the provision of modern telecommunications
services in the state is a highly desirable goal and that
enabling any Class 6 municipality to provide those services as
authorized by this act outside of its respective corporate
limits and police jurisdiction is appropriate to the
accomplishment of that goal, subject to the rights of other
municipalities in respect of public use of streets and
rights-of-way.

Section 6. The powers, rights, and authority
conferred by this act upon any Class 6 municipality are deemed
cumulative, the provisions of the governing law, except and to
the extent as modified or otherwise provided by this act, are
hereby ratified and confirmed, and any Class 6 municipality is
permitted and can continue to exercise all other rights and
powers described and set forth in the governing law subject to
the limitations and conditions thereof, except and to the
extent as modified or otherwise provided by this act.

Section 7. All actions taken before the effective
date of this act by any Class 6 municipality in connection
with its exercise of any power, right, or authority granted by
the governing law are hereby expressly ratified and confirmed.
Section 8. (a) This act does not apply to any municipal instrumentality, whether or not organized with the consent, approval, or participation of any Class 6 municipality, and whether or not operating or otherwise providing any utility service within the corporate limits or police jurisdiction of any Class 6 municipality.

(b) Nothing in this act shall be construed either to confer any power, right, or authority on any municipal instrumentality, or in any way to affect adversely any power, right, or authority otherwise conferred by law on, or granted to, any municipal instrumentality, whether by the governing law or any other statute.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.