

1 SB228
2 182454-1
3 By Senators Whatley and Dial
4 RFD: Transportation and Energy
5 First Read: 21-FEB-17

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8 SYNOPSIS: This bill would permit any Class 6
9 municipality that provides cable service,
10 interactive computer service, Internet access,
11 other Internet services, and advanced
12 telecommunications service, or any combination
13 thereof, to its inhabitants to provide those
14 services throughout the county in which the Class 6
15 municipality is located, including the inhabitants
16 within the corporate limits and police jurisdiction
17 of any other municipality located in whole or in
18 part in the county, subject to the prior consent of
19 the governing body of the county or the other
20 municipality, and subject to certain other
21 conditions and restrictions.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 Relating to Class 6 municipalities; to authorize any
2 Class 6 municipality that provides cable service, interactive
3 computer service, Internet access, other Internet services,
4 and advanced telecommunications service, or any combination
5 thereof, to its inhabitants to provide any or all of those
6 services or access throughout the county in which the Class 6
7 municipality is located, including providing services to the
8 inhabitants within the corporate limits and police
9 jurisdiction of any other municipality located in whole or in
10 part within the county under certain conditions; to provide
11 that the rights of state and local governments and
12 governmental agencies with respect to public rights-of-way are
13 not affected; to provide for the application and effect of
14 certain provisions of Chapter 50B of Title 11 of the Code of
15 Alabama 1975, with respect to the exercise by any Class 6
16 municipality of the powers granted by that chapter; and to
17 provide that the powers, rights, and authority granted Class 6
18 municipalities are cumulative.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

26 (3) CABLE SYSTEM. As defined by Section 11-50B-2 of
27 the Code of Alabama 1975.

1 (4) CLASS 6 MUNICIPALITY. Any municipality
2 classified as Class 6 according to Section 11-40-12 of the
3 Code of Alabama 1975.

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

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

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

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

13 (9) OTHER MUNICIPALITY. A municipality located in
14 whole or in part in the county where the Class 6 municipality
15 is located.

16 (10) TELECOMMUNICATIONS. As defined by Section
17 11-50B-2 of the Code of Alabama 1975.

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

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

22 (13) UNINCORPORATED AREA. Any territory within the
23 boundaries of the county that is located outside both the
24 corporate limits and the police jurisdiction of any
25 municipality located in whole or in part in the county.

26 Section 2. (a) Notwithstanding any other law to the
27 contrary, a Class 6 municipality may do any of the following:

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

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

17 (b) No Class 6 municipality may exercise any of the
18 powers granted by subsection (a) unless on the effective date
19 of this act, the Class 6 municipality is already furnishing,
20 providing, or making available cable service, interactive
21 computer service, Internet access, other Internet services,
22 and advanced telecommunications service, or any combination of
23 these services or access, to its inhabitants pursuant to the
24 governing law.

25 (c) (1) No Class 6 municipality may furnish, provide,
26 or make available cable, telecommunications, or other services
27 authorized by this act within the corporate limits or police

1 jurisdiction of any other municipality except upon the prior
2 written consent of the governing body of the other
3 municipality, expressed in a resolution duly adopted by the
4 governing body of the other municipality.

5 (2) The consent of the governing body of the county
6 where the other municipality is located is not required for
7 the Class 6 municipality to provide cable, telecommunications,
8 or other services authorized by this act to the other
9 municipality.

10 (3) The consent of the governing body of the county
11 is not valid in lieu of the consent of the governing body of
12 the other municipality for the Class 6 municipality to provide
13 cable, telecommunications, or other services authorized by
14 this act to the other municipality.

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

22 (e) No public hearing, petition, or election, and no
23 notice, regardless to whom addressed, to any person or
24 persons, either written or published, whether as described in
25 Section 11-50B-8 of the Code of Alabama 1975, or otherwise,
26 shall be required in addition to, in connection with, or as a
27 condition precedent or subsequent to, any public hearing,

1 petition, election, or notice that has been previously held or
2 given in connection with the initial acquisition,
3 establishment, purchase, or construction by a Class 6
4 municipality of facilities and equipment for the purposes of
5 furnishing or making available cable service, interactive
6 computer service, Internet access, other Internet services,
7 and advanced telecommunications service, or any combination of
8 these services or access, to its inhabitants pursuant to the
9 governing law for the Class 6 municipality to do either of the
10 following:

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

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

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

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

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

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

17 (b) The Legislature also finds that the powers,
18 rights, and authority conferred by this act upon a Class 6
19 municipality are deemed cumulative, the provisions of the
20 governing law, except and to the extent as modified or
21 otherwise provided by this act, are hereby ratified and
22 confirmed, and any Class 6 municipality is permitted and can
23 continue to exercise all other rights and powers described and
24 set forth in the governing law subject to the limitations and
25 conditions thereof, except and to the extent as modified or
26 otherwise provided by this act.

1 Section 6. All actions taken before the effective
2 date of this act by any Class 6 municipality in connection
3 with its exercise of any power, right, or authority granted by
4 the governing law are hereby expressly ratified and confirmed.

5 Section 7. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.