

1 HB375  
2 182454-3  
3 By Representative Lovvorn  
4 RFD: Commerce and Small Business  
5 First Read: 07-MAR-17

2  
3  
4  
5  
6  
7  
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) MUNICIPAL INSTRUMENTALITY. As defined by Section  
14 11-50B-2 of the Code of Alabama 1975.

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

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

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

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

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

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

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

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

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

1           (c) (1) No Class 6 municipality may furnish, provide,  
2 or make available cable, telecommunications, or other services  
3 authorized by this act within the corporate limits or police  
4 jurisdiction of any other municipality except upon the prior  
5 written consent of the governing body of the other  
6 municipality, expressed in a resolution duly adopted by the  
7 governing body of the other municipality.

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

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

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

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

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

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

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

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

26 Section 4. Notwithstanding any other law to the  
27 contrary, any Class 6 municipality that proposes to provide

1 services or access pursuant to this act may become indebted  
2 for that purpose as provided for in Section 11-50B-9 of the  
3 Code of Alabama 1975, through the issuance of interest-bearing  
4 warrants under Sections 11-47-2 and 11-81-4 of the Code of  
5 Alabama 1975.

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

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

24 Section 7. All actions taken before the effective  
25 date of this act by any Class 6 municipality in connection  
26 with its exercise of any power, right, or authority granted by  
27 the governing law are hereby expressly ratified and confirmed.



1                   Section 8. (a) This act does not apply to any  
2                   municipal instrumentality, whether or not organized with the  
3                   consent, approval, or participation of any Class 6  
4                   municipality, and whether or not operating or otherwise  
5                   providing any utility service within the corporate limits or  
6                   police jurisdiction of any Class 6 municipality.

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

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

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