

1 SB151
2 181865-1
3 By Senators Whatley and Dial
4 RFD: Transportation and Energy
5 First Read: 09-FEB-17

2
3
4
5
6
7
8 SYNOPSIS: This bill would remove restrictions on the
9 service area of a public provider of municipal
10 telecommunication services or other services that
11 is a municipality or a municipal instrumentality.

12 This bill would further allow the public
13 provider to provide cable systems,
14 telecommunications equipment and systems, furnish
15 cable service, interactive computer service,
16 Internet access, other Internet services, advanced
17 telecommunications service, and other services, or
18 any combination thereof without the restrictions as
19 to coverage area.

20 This bill would provide that a public
21 provider intending to serve an area outside of its
22 jurisdiction would give notice to the private
23 provider or providers that serve the area.

24 This bill would provide that a public
25 provider would only be allowed to serve the area or
26 areas in the county in which the public provider is

1 "a) In addition to all other power, rights, and
2 authority heretofore granted by law, public providers may
3 acquire, establish, purchase, construct, maintain, enlarge,
4 extend, lease, improve, and operate cable systems,
5 telecommunications equipment and telecommunications systems,
6 and furnish cable service, interactive computer service,
7 Internet access, other Internet services, and advanced
8 telecommunications service, or any combination thereof, ~~in the~~
9 ~~case of a public provider that is a municipality, to the~~
10 ~~inhabitants of the municipality and police jurisdiction, the~~
11 ~~area within the territorial jurisdiction of the municipal~~
12 ~~planning commission determined in accordance with the~~
13 ~~provisions of Section 11-52-30, as amended, and any area in~~
14 ~~which the municipality furnishes or sells any utility, such as~~
15 ~~electricity, gas, water, or sewer, and in the case of a public~~
16 ~~provider that is a municipal instrumentality, to the~~
17 ~~inhabitants of the municipality in which the municipal~~
18 ~~instrumentality was organized and the police jurisdiction of~~
19 ~~this municipality, the area within the territorial~~
20 ~~jurisdiction of the municipal planning commission of this~~
21 ~~municipality determined in accordance with the provisions of~~
22 ~~Section 11-52-30, as amended, and any area in which the~~
23 ~~municipal instrumentality furnishes or sells any utility, such~~
24 ~~as electricity, gas, water, or sewer. Nothing contained herein~~
25 ~~shall authorize any public provider to provide~~
26 ~~telecommunications service other than advanced~~
27 ~~telecommunications service. Notwithstanding any other~~

1 provision of this chapter, however, public providers may, in
2 the case of a public provider that is a municipality, to the
3 inhabitants of the municipality and police jurisdiction, the
4 area within the territorial jurisdiction of the municipal
5 planning commission determined in accordance with the
6 provisions of Section 11-52-30, as amended, and any area in
7 which the municipality furnishes or sells any utility, such as
8 electricity, gas, water, or sewer, and in the case of a public
9 provider that is a municipal instrumentality, to the
10 inhabitants of the municipality in which the municipal
11 instrumentality was organized and the police jurisdiction of
12 this municipality, the area within the territorial
13 jurisdiction of the municipal planning commission of this
14 municipality determined in accordance with the provisions of
15 Section 11-52-30, as amended, and any area in which the
16 municipal instrumentality furnishes or sells any utility, such
17 as electricity, gas, water, or sewer, furnish to the public
18 directly, Internet access, other Internet services, meter
19 reading services, appliance, equipment, or facilities
20 monitoring, alarm monitoring service and other security
21 monitoring, surveillance or monitoring services, and billing
22 and financial services. Any public provider which engages in
23 the installation of alarm systems and any individuals who are
24 employed by the public provider and who engage in the
25 installation of alarm systems for customers of the public
26 provider must comply with the rules and regulations of the
27 Alabama Electronic Security Board of Licensure created

1 pursuant to the provisions of Section 34-1A-2, as amended, to
2 the same extent as a private installer of alarm systems for so
3 long as the same may apply to private installers of alarm
4 systems. In addition, the governing body of any municipality,
5 by ordinance to be entered on its minutes, and any other
6 public provider, by appropriate action of its governing body
7 to be entered on its minutes, also may lease to others any of
8 its cable system and telecommunications equipment not needed
9 for public or municipal purposes and may couple the lease with
10 the provision of cable service, interactive computer service,
11 Internet access, other Internet services, and
12 telecommunications service, or any combination thereof. A
13 lease made, in the case of a municipality, by the mayor in
14 accordance with the ordinance, or in the case of a municipal
15 instrumentality, by the duly authorized officer, officers, or
16 agents of the municipal instrumentality, shall be binding for
17 the term specified in the lease, not to exceed a period of 25
18 years. Any public provider that acquires a cable system,
19 telecommunications equipment, or telecommunications system for
20 purposes of furnishing to others cable service, interactive
21 computer service, Internet access, other Internet services,
22 and telecommunications service, or any combination thereof,
23 shall provide, to any requesting telecommunications carrier or
24 any electric cooperative exercising any power enumerated in
25 Article 2 of Chapter 6, Title 37, as amended, or an affiliate
26 of an electric cooperative, for the provision of a
27 telecommunications service, nondiscriminatory access to any of

1 the public provider's telecommunications equipment not needed
2 for public or municipal purposes or used by the public
3 provider in the provision of telecommunications service to
4 others on an unbundled basis at any technically feasible point
5 on rates, terms, and conditions that are just, reasonable, and
6 nondiscriminatory. A public provider shall make available any
7 of its telecommunications equipment not needed for public or
8 municipal purposes or used by the public provider in the
9 provision of telecommunications service to others on an
10 unbundled basis to requesting telecommunications carriers and
11 electric cooperatives exercising any power enumerated in
12 Article 2 of Chapter 6, Title 37, as amended, or an affiliate
13 of an electric cooperative, upon terms and conditions that are
14 just, reasonable, and nondiscriminatory, provided the electric
15 cooperative or affiliate of an electric cooperative makes
16 available any of its telecommunications equipment not needed
17 for its purposes to the public provider upon terms and
18 conditions that are just, reasonable, and nondiscriminatory.
19 Notwithstanding any other provision of this chapter, every
20 public provider may acquire, establish, purchase, construct,
21 maintain, enlarge, extend, lease, improve, and operate cable
22 systems, telecommunications equipment, and telecommunications
23 systems, and may furnish cable service, interactive computer
24 service, Internet access, other Internet services, and
25 telecommunications service, or any combination thereof, for
26 the use of the public provider, and in the case of a public
27 provider that is a municipality, any department or agency of

1 the municipality, any public corporation, board, or authority
2 that is an agency, department, or instrumentality of the
3 municipality, and any public school located within the
4 corporate limits or police jurisdiction of the municipality;
5 and in the case of a public provider that is a municipal
6 instrumentality, any department or agency of the municipality
7 in which the municipal instrumentality was organized, and any
8 public school located within the corporate limits or police
9 jurisdiction of the municipality in which the municipal
10 instrumentality was organized. Nothing contained in this
11 chapter shall affect the authority of the state or local
12 governmental agencies to manage the public rights-of-way or to
13 require fair and reasonable compensation from
14 telecommunications providers, on a competitively neutral and
15 nondiscriminatory basis, for use of public rights-of-way.

16 "(b) If a public provider intends to serve an area
17 outside of its jurisdiction or municipal boundaries, the
18 public provider shall give a 12-month notice of the intent of
19 the public provider to serve an area so that any private
20 provider currently serving the area may determine if it will
21 serve the area with the same level or capacity of service to
22 be provided by the public provider.

23 "(c) (1) A public provider may serve an area or areas
24 in the county in which the public provider is headquartered
25 and in an area or areas within any contiguous county of the
26 county in which the public provider is headquartered.

1 "(2) A public provider authorized by this section to
2 provide service may only provide service for Internet, cable,
3 or phone, or any combination thereof, and may not provide
4 service for the purposes of this section for power, water, or
5 any other service the public provider offers.

6 "(d) (1) Nothing in this act shall be interpreted to
7 prohibit the use of public funds or alter the full faith and
8 credit of a municipality under Section 11-50B-9.

9 "(2) Nothing in this act shall be interpreted to
10 restrict a municipality from accessing federal or state
11 funding provided on a formula or competitive basis, including
12 funds derived from the Universal Service Fund, USDA Rural
13 Development, or the National Telecommunications and
14 Information Administration.

15 "(e) No public funds shall be used to finance the
16 expansion of a public provider, only revenue bonds, cash,
17 grants, loans, or matching dollars may be used as a source of
18 financing.

19 "(f) A municipality that provides service outside of
20 its municipal boundaries as of January 31, 2016, shall pay all
21 taxes and fees that would be due if it were any other entity."

22 Section 2. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.