

By the Committees on Comprehensive Planning; Communication and Public Utilities; and Senator Bennett

316-2221-03

1 A bill to be entitled
2 An act relating to emergency communications;
3 amending s. 365.172, F.S.; defining the terms
4 "active prepaid wireless telephone," "mobile
5 telephone number," "prepaid wireless telephone
6 service," and "sufficient positive balance" for
7 purposes of wireless emergency communications;
8 prescribing additional duties of the board of
9 directors of the Wireless 911 Board with
10 respect to 911 and E911 systems; prescribing a
11 method of collecting the wireless E911 fee in
12 instances in which the wireless telephone
13 service to which the surcharge applies is
14 prepaid; providing for colocation of wireless
15 telecommunications facilities; providing for
16 location of such facilities on government
17 buildings; providing schedules for government
18 response to permit applications; amending s.
19 365.173, F.S.; authorizing disbursements from
20 the Wireless Emergency Telephone System Fund
21 for activities of the board of directors of the
22 Wireless 911 Board; creating s. 365.175, F.S.;
23 requiring new private branch exchange telephone
24 systems to have automatic location
25 identification capabilities; providing an
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsection (3), paragraph (a) of subsection
31 (6), and subsections (7) and (9) of section 365.172, Florida

1 Statutes, are amended, present subsections (11) and (12) of
2 that section are renumbered as subsections (12) and (13),
3 respectively, and a new subsection (11) is added to that
4 section to read:

5 365.172 Wireless emergency telephone number "E911."--

6 (3) DEFINITIONS.--As used in this section and ss.
7 365.173 and 365.174, the term:

8 (a) "Active prepaid wireless telephone" means a
9 prepaid wireless telephone that has been used by the customer
10 during the month to complete a telephone call for which the
11 customer's card or balance was decremented.

12 (b)~~(a)~~ "Answering point" means the public safety
13 agency that receives incoming 911 calls and dispatches
14 appropriate public safety agencies to respond to such calls.

15 (c)~~(b)~~ "Automatic location identification" means the
16 capability of the E911 service which enables the automatic
17 display of information that defines the approximate geographic
18 location of the wireless telephone used to place a 911 call.

19 (d)~~(c)~~ "Automatic number identification" means the
20 capability of the E911 service which enables the automatic
21 display of the 10-digit service number used to place a 911
22 call.

23 (e)~~(d)~~ "Board" means the board of directors of the
24 Wireless 911 Board.

25 (f)~~(e)~~ "Office" means the State Technology Office.

26 (g)~~(f)~~ "E911" is the designation for a wireless
27 enhanced 911 system or wireless enhanced 911 service that is
28 an emergency telephone system or service that provides a
29 subscriber with wireless 911 service and, in addition, directs
30 911 calls to appropriate public safety answering points by
31 selective routing based on the geographical location from

1 which the call originated, or as otherwise provided in the
2 state plan under s. 365.171, and that provides for automatic
3 number identification and automatic location-identification
4 features in accordance with the requirements of the order.

5 (h)~~(g)~~ "Fee" means the E911 fee imposed under
6 subsection (8).

7 (i)~~(h)~~ "Fund" means the Wireless Emergency Telephone
8 System Fund established in s. 365.173 and maintained under
9 this section for the purpose of recovering the costs
10 associated with providing 911 service or E911 service,
11 including the costs of implementing the order.

12 (j)~~(i)~~ "Local exchange carrier" means an "alternative
13 local exchange telecommunications company" or a "local
14 exchange telecommunications company" as defined in s. 364.02.

15 (k)~~(j)~~ "Local government" means any municipality,
16 county, or political subdivision or agency of a municipality,
17 county, or political subdivision.

18 (l) "Mobile telephone number" or "MTN" means the
19 telephone number assigned to a wireless telephone at the time
20 of initial activation.

21 (m)~~(k)~~ "Order" means:

22 1. The following orders and rules of the Federal
23 Communications Commission issued in FCC Docket No. 94-102:

24 a. Order adopted on June 12, 1996, with an effective
25 date of October 1, 1996, the amendments to s. 20.03 and the
26 creation of s. 20.18 of Title 47 of the Code of Federal
27 Regulations adopted by the Federal Communications Commission
28 pursuant to such order.

29 b. Memorandum and Order No. FCC 97-402 adopted on
30 December 23, 1997.

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1 c. Order No. FCC DA 98-2323 adopted on November 13,
2 1998.

3 d. Order No. FCC 98-345 adopted December 31, 1998.

4 2. Orders and rules subsequently adopted by the
5 Federal Communications Commission relating to the provision of
6 wireless 911 services.

7 (n)~~(i)~~ "Provider" means a person or entity who
8 provides service and either:

9 1. Is subject to the requirements of the order; or

10 2. Elects to provide wireless 911 service or E911
11 service in this state.

12 (o) "Prepaid wireless telephone service" means
13 wireless telephone service that is activated in advance by
14 payment for a finite dollar amount of service or for a finite
15 set of minutes that terminate either upon use by a customer
16 and delivery by the wireless provider of an agreed-upon amount
17 of service corresponding to the total dollar amount paid in
18 advance or within a certain period of time following the
19 initial purchase or activation, unless additional payments are
20 made.

21 (p)~~(m)~~ "Public agency" means the state and any
22 municipality, county, municipal corporation, or other
23 governmental entity, public district, or public authority
24 located in whole or in part within this state which provides,
25 or has authority to provide, firefighting, law enforcement,
26 ambulance, medical, or other emergency services.

27 (q)~~(n)~~ "Public safety agency" means a functional
28 division of a public agency which provides firefighting, law
29 enforcement, medical, or other emergency services.

30 (r)~~(o)~~ "Rural county" means any county that has a
31 population of fewer than 75,000.

1 ~~(s)(p)~~ "Service" means "commercial mobile radio
2 service" as provided under ss. 3(27) and 332(d) of the Federal
3 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,
4 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.
5 103-66, August 10, 1993, 107 Stat. 312. The term "service"
6 includes the term "wireless" and service provided by any
7 wireless real-time two-way wire communication device,
8 including radio-telephone communications used in cellular
9 telephone service; personal communications service; or the
10 functional or competitive equivalent of a radio-telephone
11 communications line used in cellular telephone service, a
12 personal communications service, or a network radio access
13 line. The term does not include wireless providers that offer
14 mainly dispatch service in a more localized, noncellular
15 configuration; providers offering only data, one-way, or
16 stored-voice services on an interconnected basis; providers of
17 air-to-ground services; or public coast stations.

18 ~~(t)(q)~~ "Service number" means the unique 10-digit
19 wireless telephone number assigned to a service subscriber.

20 (u) "Sufficient positive balance" means a dollar
21 amount greater than or equal to the monthly wireless surcharge
22 amount.

23 ~~(v)(r)~~ "Wireless 911 system" or "wireless 911 service"
24 means an emergency telephone system or service that provides a
25 subscriber with the ability to reach an answering point by
26 dialing the digits "911." A wireless 911 system is
27 complementary to a wired 911 system as provided for in s.
28 365.171.

29 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.--

30 (a) The board shall:

31 1. Administer the E911 fee.

- 1 2. Implement, maintain, and oversee the fund.
- 2 3. Review and oversee the disbursement of the revenues
3 deposited into the fund as provided in s. 365.173. The board
4 may establish a schedule for implementing wireless E911
5 service by service area, and prioritize disbursements of
6 revenues from the fund to providers and rural counties as
7 provided in s. 365.173(2)(b) and (c) pursuant to the schedule,
8 in order to implement E911 services in the most efficient and
9 cost-effective manner.
- 10 4. Review documentation submitted by providers which
11 reflects current and projected funds derived from the E911
12 fee, and the expenses incurred and expected to be incurred, in
13 order to comply with the E911 service requirements contained
14 in the order for the purposes of:
- 15 a. Ensuring that providers receive fair and equitable
16 distributions of funds from the fund.
- 17 b. Ensuring that providers are not provided
18 disbursements from the fund which exceed the costs of
19 providing E911 service, including the costs of complying with
20 the order.
- 21 c. Ascertaining the projected costs of compliance with
22 the requirements of the order and projected collections of the
23 E911 fee.
- 24 d. Implementing changes to the allocation percentages
25 or reducing the E911 fee under paragraph (8)(c).
- 26 5. Review and approve or reject, in whole or in part,
27 applications submitted by providers for recovery of moneys
28 deposited into the fund.
- 29 6. Hire and retain employees for the purposes of
30 performing technical and administrative functions for the
31 board.

1 7. Make and enter into contracts, pursuant to chapter
2 287, and execute other instruments necessary or convenient for
3 the exercise of the powers and functions of the board.

4 8. Take all necessary and reasonable steps by July 1,
5 2000, to secure appropriate information and reports from
6 providers and otherwise perform all of the functions that
7 would be performed by an independent accounting firm prior to
8 completing the request-for-proposals process under subsection
9 (7).

10 9. Sue and be sued, and appear and defend in all
11 actions and proceedings, in its corporate name to the same
12 extent as a natural person.

13 10. Adopt, use, and alter a common corporate seal.

14 11. Elect or appoint the officers and agents that are
15 required by the affairs of the board.

16 12. The board may adopt rules under ss. 120.536(1) and
17 120.54 to implement this section and ss. 365.173 and 365.174.

18 13. Provide coordination, support, and technical
19 assistance to counties to promote the deployment of advanced
20 911 and E911 systems in the state.

21 14. Provide coordination and support for educational
22 opportunities related to 911 issues for the 911 community in
23 this state.

24 15. Act as an advocate for issues related to 911
25 system functions, features, and operations to improve the
26 delivery of 911 services to the residents of and visitors to
27 this state.

28 16. Coordinate input from this state at national
29 forums and associations, to ensure that policies related to
30 911 systems and services are consistent with the policies of
31 the 911 community in this state.

1 17. Work cooperatively with the system director
2 established in s. 365.171(5) to enhance the state of 911
3 services in this state and to provide unified leadership for
4 all 911 issues through planning and coordination.

5 ~~18.13.~~ Do all acts and things necessary or convenient
6 to carry out the powers granted in this section, including but
7 not limited to, consideration of emerging technology and
8 related cost savings.

9 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING
10 FIRM.--

11 (a) The board shall issue a request for proposals as
12 provided in chapter 287 for the purpose of retaining an
13 independent accounting firm. The independent accounting firm
14 shall perform all material administrative and accounting tasks
15 and functions required for administering the E911 fee. The
16 request for proposals must include, but need not be limited
17 to:

18 1. A description of the scope and general requirements
19 of the services requested.

20 2. A description of the specific accounting and
21 reporting services required for administering the fund,
22 including processing checks and distributing funds as directed
23 by the board under s. 365.173.

24 3. A description of information to be provided by the
25 proposer, including the proposer's background and
26 qualifications and the proposed cost of the services to be
27 provided.

28 (b) The board shall establish a committee to review
29 requests for proposals which must include the statewide 911
30 system director, or his or her designee, and two members of
31 the board, one of whom is a county 911 coordinator and one of

1 whom represents the wireless telecommunications industry. The
2 review committee shall review the proposals received by the
3 board and recommend an independent accounting firm to the
4 board for final selection. By agreeing to serve on the review
5 committee, each member of the review committee shall verify
6 that he or she does not have any interest or employment,
7 directly or indirectly, with potential proposers which
8 conflicts in any manner or degree with his or her performance
9 on the committee.

10 (c) After July 1, 2004, the board may hire an
11 independent accounting firm by invitation to bid, request for
12 proposals, invitation to negotiate, or professional contracts
13 previously established at the Division of Purchasing,
14 Department of Management Services, for certified public
15 accounting firms, or the board may hire and retain
16 professional accounting staff to accomplish these functions.

17 (9) MANAGEMENT OF FUNDS.--

18 (a) Each provider, as a part of its monthly billing
19 process, shall collect the fee imposed under subsection (8).
20 The provider may list the fee as a separate entry on each
21 bill, in which case the fee must be identified as a fee for
22 E911 services. A provider shall remit the fee only if the fee
23 is paid by the subscriber. If a provider receives a partial
24 payment for a monthly bill from a subscriber, the amount
25 received shall first be applied to the payment due the
26 provider for the provision of telecommunications service.

27 (b) In the case of prepaid wireless telephone service,
28 the monthly wireless 911 surcharge imposed by subsection (8)
29 shall be remitted based upon each prepaid wireless telephone
30 associated with this state, for each wireless service customer
31 that has a sufficient positive balance as of the last day of

1 each month. The surcharge shall be remitted in any manner
2 consistent with the wireless provider's existing operating or
3 technological abilities, such as customer address, location
4 associated with the MTN, or reasonable allocation method based
5 upon other comparable relevant data. The surcharge amount or
6 an equivalent number of minutes may be reduced from the
7 prepaid subscriber's account since a direct billing may not be
8 possible. However, collection of the wireless 911 surcharge in
9 the manner of a reduction of value or minutes from the prepaid
10 subscriber's account does not constitute a reduction in the
11 sales price for purposes of taxes that are collected at the
12 point of sale.

13 (c)~~(b)~~ A provider is not obligated to take any legal
14 action to enforce collection of the fees for which any
15 subscriber is billed. The provider shall provide to the board
16 each quarter a list of the names, addresses, and service
17 numbers of all subscribers who have indicated to the provider
18 their refusal to pay the fee.

19 (d)~~(c)~~ Each provider may retain 1 percent of the
20 amount of the fees collected as reimbursement for the
21 administrative costs incurred by the provider to bill,
22 collect, and remit the fee. The remainder shall be delivered
23 to the board and deposited in the fund. The board shall
24 distribute the remainder pursuant to s. 365.173.

25 (e)~~(d)~~ Each provider shall deliver revenues from the
26 fee to the board within 60 days after the end of the month in
27 which the fee was billed, together with a monthly report of
28 the number of wireless customers whose place of primary use is
29 in each county. A provider may apply to the board for a refund
30 of, or may take a credit for, any fees remitted to the board
31 which are not collected by the provider within 6 months

1 following the month in which the fees are charged off for
2 federal income tax purposes as bad debt. The board may waive
3 the requirement that the fees and number of customers whose
4 place of primary use is in each county be submitted to the
5 board each month and authorize a provider to submit the fees
6 and number of customers quarterly if the provider demonstrates
7 that such waiver is necessary and justified.

8 ~~(f)(e)~~ For purposes of this section, the definitions
9 contained in s. 202.11 and the provisions of s. 202.155 apply
10 in the same manner and to the same extent as such definitions
11 and provisions apply to the taxes levied pursuant to chapter
12 202 on mobile communications services.

13 ~~(g)(f)~~ As used in this subsection, the term "provider"
14 includes any person or entity that resells wireless service
15 and was not assessed the fee by its resale supplier.

16 (11) FACILITATING E911 SERVICE
17 IMPLEMENTATION.--Notwithstanding any other law or local
18 ordinance to the contrary:

19 (a) Colocation among wireless telephone service
20 providers is encouraged by the state. To further facilitate
21 agreements among providers for colocation of their facilities,
22 any antennae and related equipment to service the antennae
23 which is being colocated on an existing above-ground structure
24 is not subject to land development regulation pursuant to s.
25 163.3202, provided the height of the existing structure is not
26 increased. However, construction of the antennae and related
27 equipment is subject to local building regulations and any
28 existing permits for such property, buildings, or structures.
29 Nothing in this subsection relieves the permitholder for or
30 owner of the existing structure from compliance with any

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1 applicable condition or requirement of a permit, land
2 development regulation, or law.

3 (b) Local governments shall not require providers to
4 provide evidence of a wireless communications facility's
5 compliance with federal regulations; however, local
6 governments shall receive evidence of proper federal licensure
7 from any provider, upon request.

8 (c)1. A local government shall grant or deny a
9 properly completed application for a permit, including permits
10 under paragraph (a), for the colocation of a wireless
11 communications facility on property, buildings, or structures
12 within the local government's jurisdiction within 30 business
13 days after the date the properly completed application is
14 submitted in accordance with the applicable local government
15 application procedures, provided that such permit complies
16 with applicable federal regulations and applicable local land
17 development or zoning regulations. Local building regulations
18 shall apply.

19 2. A local government shall grant or deny a properly
20 completed application for a permit for the siting of a new
21 wireless tower or antenna on property, buildings, or
22 structures within the local government's jurisdiction within
23 75 business days after the date the properly completed
24 application is submitted in accordance with the applicable
25 local government application procedures, provided that such
26 permit complies with applicable federal regulations and
27 applicable local land development or zoning regulations. Local
28 building regulations shall apply:

29 3. The local government shall notify the permit
30 applicant within 15 business days after the date the
31 application is submitted as to whether the application is, for

1 administrative purposes only, properly completed and has been
2 properly submitted; however, such determination shall not be
3 deemed as an approval of the application. Such notification
4 shall indicate with specificity any deficiencies that, if
5 cured, shall make the application properly completed. If the
6 local government fails to grant or deny a properly completed
7 application for a permit which has been properly submitted
8 within the timeframes set forth in this paragraph, the permit
9 shall be deemed automatically approved and a provider may
10 proceed with placement of such facilities without interference
11 or penalty. To be effective, a waiver of the timeframes set
12 forth in this paragraph must be voluntarily agreed to by all
13 affected parties. A local government may request, but not
14 require, a waiver of the timeframes by an entity seeking a
15 permit, except that, with respect to a specific permit, a
16 one-time waiver of no more than 45 business days may be
17 required in the case of a declared local, state, or federal
18 emergency that directly affects permitting activities.

19 (d) Any additional wireless communications facilities,
20 such as cables, adjacent accessory structures, or adjacent
21 accessory equipment used in the provision of cellular,
22 enhanced specialized mobile radio, or personal communications
23 services, required within the existing secured equipment
24 compound at an existing site needed to comply with the federal
25 Phase II E911 shall be deemed a permitted use or activity.
26 Local building and land development regulations shall apply.

27 (e) Any other provision of law to the contrary
28 notwithstanding, the Department of Management Services shall
29 negotiate, in the name of the state, leases for wireless
30 communications facilities that provide access to state
31 government-owned property not acquired for transportation

1 purposes, and the Department of Transportation shall
2 negotiate, in the name of the state, leases or permits for
3 wireless communications facilities that provide access to
4 property acquired for state rights-of-way. On property
5 acquired for transportation purposes, leases, or permits shall
6 be granted in accordance with s. 337.251. On other state
7 government-owned property, leases or permits shall be granted
8 on a space available, first-come first-served basis. Payments
9 required by state government under a lease or permit must be
10 reasonable and must reflect the market rate for the use of the
11 state government-owned property. The Department of Management
12 Services and the Department of Transportation are authorized
13 to adopt rules for the terms and conditions and granting of
14 any such leases or permits.

15 (f) By September 1, 2003, each county shall provide a
16 map to the E911 wireless board showing any area where a
17 communications tower is not a permitted use pursuant to the
18 county's regulations. Any wireless telephone service provider
19 may report to the board no later than November 30, 2003,
20 whether any of the areas reported to the board contain
21 potential wireless communications facilities location sites
22 necessary to provide the needed coverage for compliance with
23 federal Phase II E911 requirements using its own network. In
24 the annual report due to the Governor and the Legislature by
25 February 28, 2004, the board shall include a section
26 identifying areas where wireless communications facilities
27 needed for compliance with federal Phase II E911 requirements
28 using a provider's own network are prohibited by county
29 regulation.

30 Section 2. Paragraph (b) of subsection (2) of section
31 365.173, Florida Statutes, is amended to read:

1 365.173 Wireless Emergency Telephone System Fund.--
2 (2) Subject to any modifications approved by the board
3 pursuant to s. 365.172(8)(c), the moneys in the fund shall be
4 distributed and used only as follows:
5 (b) Fifty-four percent of the moneys shall be
6 distributed in response to sworn invoices submitted to the
7 board by providers to reimburse such providers for the actual
8 costs incurred to provide 911 or E911 service, including the
9 costs of complying with the order. Such costs include costs
10 and expenses incurred by providers to design, purchase, lease,
11 program, install, test, upgrade, operate, and maintain all
12 necessary data, hardware, and software required to provide
13 E911 service. Up to 2 percent of the funds allocated to
14 providers shall be retained by the board to be applied to
15 costs and expenses incurred for the purposes of managing,
16 administering, and overseeing the receipts and disbursements
17 from the fund and other activities as defined in s.
18 365.172(6). Any funds retained for such purposes in a calendar
19 year which are not applied to such costs and expenses by March
20 31 of the following year shall be distributed to providers
21 pursuant to this paragraph. Beginning in state fiscal year
22 2000-2001, each provider shall submit to the board, by August
23 1 of each year, a detailed estimate of the capital and
24 operating expenses for which it anticipates that it will seek
25 reimbursement under this paragraph during the ensuing state
26 fiscal year. By September 15 of each year, the board shall
27 submit to the Legislature its legislative budget request for
28 funds to be allocated to providers under this paragraph during
29 the ensuing state fiscal year. The budget request shall be
30 based on the information submitted by the providers and
31 estimated surcharge revenues. Distributions of moneys in the

1 fund by the board to providers must be fair and
2 nondiscriminatory. If the total amount of moneys requested by
3 providers pursuant to invoices submitted to the board and
4 approved for payment exceeds the amount in the fund in any
5 month, providers that have invoices approved for payment shall
6 receive a pro rata share of moneys in the fund and the balance
7 of the payments shall be carried over to the following month
8 or months until all of the approved payments are made. The
9 board may adopt rules necessary to address the manner in which
10 pro rata distributions are made when the total amount of funds
11 requested by providers pursuant to invoices submitted to the
12 board exceeds the total amount of moneys on deposit in the
13 fund.

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15 The Legislature recognizes that the wireless E911 fee
16 authorized under s. 365.172 will not necessarily provide the
17 total funding required for establishing or providing the 911
18 service. It is the intent of the Legislature that all revenue
19 from the fee be used as specified in s. 365.171(13)(a)6.

20 Section 3. Section 365.175, Florida Statutes, is
21 created to read:

22 365.175 Emergency Telephone Number 911 Private Branch
23 Exchange/Private Switch Automatic Location Identification.--

24 (1) DEFINITIONS.--As used in this section, the term:

25 (a) "Automatic Location Identification" or "ALI" means
26 the automatic display at the Public Safety Answering Point
27 (PSAP) of the caller's telephone number, the address or
28 location of the telephone, and supplementary emergency
29 services information.

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1 (b) "Automatic Location Identification (ALI)
2 Retrieval" means the process of querying the 9-1-1 database
3 for ALI records.

4 (c) "Automatic Number Identification (ANI)" means the
5 telephone number associated with the access line from which a
6 call originates.

7 (d) "Private Branch Exchange" or "PBX" means a private
8 telephone system that is connected to the Public Switched
9 Telephone Network (PSTN).

10 (e) "Private Switch ALI (PSA)" means a service option
11 which provides enhanced 9-1-1 features for telephone stations
12 behind private switches. E. g. PBXs.

13 (2) REQUIRED ALI CAPABILITY.--Each PBX system
14 installed after January 1, 2004, must be capable of providing
15 automatic location identification to the station level.

16 Section 4. This act shall take effect July 1, 2003.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 1450

4 This CS differs from bill as filed in the following ways:

- 5 * It limits the applicability of the new proposed siting
6 provisions to wireless antennas and related equipment,
7 rather than any telecommunications facility;
- 8 * Under certain conditions, it exempts antennas from land
9 development regulation, rather than local zoning
10 regulation;
- 11 * Increases from 15 to 45 days the limit of a one-time
12 waiver from the deadline for approving or denying a
13 permit;
- 14 * Specifies that leases or permits acquired for
15 transportation purposes must be granted according to s.
16 337.251, F.S., which governs how DOT leases property to
17 public or private entities;
- 18 * Authorizes, rather than requires, DOT & DMS to adopt
19 rules;
- 20 * Deletes the provision that exempts, under certain
21 conditions, the siting of a facility on state owned
22 property from local zoning requirements;
- 23 * Requires counties to provide a map to the E911 wireless
24 board showing areas where a communications tower is not a
25 permitted use, allows service providers to respond that
26 constructing facilities in such areas may be necessary to
27 comply with federal Phase II E911 requirements, and
28 requires the E911 wireless board to report this
29 information to the Governor and Legislature by February
30 28, 2004, in their annual report; and
- 31 * Contains a number of stylist changes.