

HB 1495

2004

1 A bill to be entitled

2 An act relating to wireless emergency telephone service;
3 amending s. 365.172, F.S.; defining "administrative
4 review," "building permit review," "collocation,"
5 "existing structure," "land development regulation,"
6 "tower," "wireless communications facility," and "wireless
7 communications site"; revising provisions for facilitating
8 service implementation; providing minimum standards
9 applicable to local government regulation of the
10 placement, construction, or modification of wireless
11 communications facilities; providing for administrative
12 review and building permit review by local government
13 authorities; providing for land use and zoning regulatory
14 powers by local governments; limiting imposition of fee,
15 fine, surety, or insurance requirements by local
16 government upon a wireless communications provider;
17 revising procedures for submission, review, and approval
18 or denial by local government authorities of applications
19 related to placement, construction, or modification of
20 wireless communications facilities; restricting
21 moratoriums and actions or inactions which delay
22 placement, construction, or modification of wireless
23 communications facilities or review of applications
24 related thereto; providing for square footage and height
25 limitations which shall supersede current limitations;
26 providing for local regulation of modifications; providing
27 procedures for requiring removal of any wireless
28 facilities or any related equipment; requiring county and
29 municipal regulations and procedures to conform to

HB 1495

2004

30 specified state law; providing procedures for certain
 31 actions against a local government; requiring
 32 nonconforming regulations and procedures be changed or
 33 amended to conform within certain time period; providing
 34 an effective date.

35
 36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. Subsections (3) and (11) of section 365.172,
 39 Florida Statutes, are amended to read:

40 365.172 Wireless emergency telephone number "E911."--

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

43 (a) "Active prepaid wireless telephone" means a prepaid
 44 wireless telephone that has been used by the customer during the
 45 month to complete a telephone call for which the customer's card
 46 or balance was decremented.

47 (b) "Administrative review" means nondiscretionary review
 48 for compliance with applicable local government regulations
 49 through a staff level review only and shall not include any
 50 public hearing or public input review.

51 (c)~~(b)~~ "Answering point" means the public safety agency
 52 that receives incoming 911 calls and dispatches appropriate
 53 public safety agencies to respond to such calls.

54 (d)~~(e)~~ "Automatic location identification" means the
 55 capability of the E911 service which enables the automatic
 56 display of information that defines the approximate geographic
 57 location of the wireless telephone used to place a 911 call.

58 ~~(e)~~(d) "Automatic number identification" means the
 59 capability of the E911 service which enables the automatic
 60 display of the 10-digit service number used to place a 911 call.

61 ~~(f)~~(e) "Board" means the board of directors of the
 62 Wireless 911 Board.

63 (g) "Building permit review" means only review for
 64 compliance with applicable local government building
 65 construction standards adopted pursuant to the provisions of
 66 chapter 553 and does not include review for compliance with land
 67 development regulations.

68 (h) "Collocation" means use of an existing structure to
 69 place antennas by more than one provider of wireless
 70 communications. The term "collocation" includes the ground,
 71 platform, or roof installation of related equipment enclosures,
 72 cabinets or buildings, cables, brackets, and other such
 73 equipment associated with the placement and operation of the
 74 antennas.

75 ~~(i)~~(g) "E911" is the designation for a wireless enhanced
 76 911 system or wireless enhanced 911 service that is an emergency
 77 telephone system or service that provides a subscriber with
 78 wireless 911 service and, in addition, directs 911 calls to
 79 appropriate public safety answering points by selective routing
 80 based on the geographical location from which the call
 81 originated, or as otherwise provided in the state plan under s.
 82 365.171, and that provides for automatic number identification
 83 and automatic location-identification features in accordance
 84 with the requirements of the order.

85 (j) "Existing structure" means any structure on which
 86 antennas can be placed that exists at the time of a request to a

HB 1495

2004

87 local government to place antennas. The term "existing
 88 structure" includes, but is not limited to, towers, buildings,
 89 utility structures, light poles, water towers, clock towers,
 90 bell towers, steeples, and the like, which allow for the
 91 attachment of antennas.

92 (k)(h) "Fee" means the E911 fee imposed under subsection
 93 (8).

94 (l)(i) "Fund" means the Wireless Emergency Telephone
 95 System Fund established in s. 365.173 and maintained under this
 96 section for the purpose of recovering the costs associated with
 97 providing 911 service or E911 service, including the costs of
 98 implementing the order.

99 (m) "Land development regulation" means any ordinance
 100 enacted by a local governing body for the regulation of any
 101 aspect of development, including any zoning, subdivision,
 102 building construction, landscaping, tree protection, or sign
 103 regulation or any other regulation concerning any aspect of the
 104 development of land. The term "land development regulation"
 105 shall not include any building construction standard adopted
 106 pursuant to and in compliance with the provisions of chapter
 107 553.

108 (n)(j) "Local exchange carrier" means a "competitive local
 109 exchange telecommunications company" or a "local exchange
 110 telecommunications company" as defined in s. 364.02.

111 (o)(k) "Local government" means any municipality, county,
 112 or political subdivision or agency of a municipality, county, or
 113 political subdivision.

HB 1495

2004

114 (p)~~(l)~~ "Mobile telephone number" or "MTN" means the
 115 telephone number assigned to a wireless telephone at the time of
 116 initial activation.

117 (q)~~(f)~~ "Office" means the State Technology Office.

118 (r)~~(m)~~ "Order" means:

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

121 a. Order adopted on June 12, 1996, with an effective date
 122 of October 1, 1996, the amendments to s. 20.03 and the creation
 123 of s. 20.18 of Title 47 of the Code of Federal Regulations
 124 adopted by the Federal Communications Commission pursuant to
 125 such order.

126 b. Memorandum and Order No. FCC 97-402 adopted on December
 127 23, 1997.

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

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

130 2. Orders and rules subsequently adopted by the Federal
 131 Communications Commission relating to the provision of wireless
 132 911 services.

133 (s)~~(n)~~ "Provider" means a person or entity who provides
 134 service and either:

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

136 2. Elects to provide wireless 911 service or E911 service
 137 in this state.

138 (t)~~(o)~~ "Prepaid wireless telephone service" means wireless
 139 telephone service that is activated in advance by payment for a
 140 finite dollar amount of service or for a finite set of minutes
 141 that terminate either upon use by a customer and delivery by the
 142 wireless provider of an agreed-upon amount of service

HB 1495

2004

143 corresponding to the total dollar amount paid in advance or
 144 within a certain period of time following the initial purchase
 145 or activation, unless additional payments are made.

146 (u)~~(p)~~ "Public agency" means the state and any
 147 municipality, county, municipal corporation, or other
 148 governmental entity, public district, or public authority
 149 located in whole or in part within this state which provides, or
 150 has authority to provide, firefighting, law enforcement,
 151 ambulance, medical, or other emergency services.

152 (v)~~(q)~~ "Public safety agency" means a functional division
 153 of a public agency which provides firefighting, law enforcement,
 154 medical, or other emergency services.

155 (w)~~(r)~~ "Rural county" means any county that has a
 156 population of fewer than 75,000.

157 (x)~~(s)~~ "Service" means "commercial mobile radio service"
 158 as provided under ss. 3(27) and 332(d) of the Federal
 159 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and
 160 the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-
 161 66, August 10, 1993, 107 Stat. 312. The term "service" includes
 162 the term "wireless" and service provided by any wireless real-
 163 time two-way wire communication device, including radio-
 164 telephone communications used in cellular telephone service;
 165 personal communications service; or the functional or
 166 competitive equivalent of a radio-telephone communications line
 167 used in cellular telephone service, a personal communications
 168 service, or a network radio access line. The term does not
 169 include wireless providers that offer mainly dispatch service in
 170 a more localized, noncellular configuration; providers offering
 171 only data, one-way, or stored-voice services on an

HB 1495

2004

172 interconnected basis; providers of air-to-ground services; or
 173 public coast stations.

174 (y)~~(t)~~ "Service number" means the unique 10-digit wireless
 175 telephone number assigned to a service subscriber.

176 (z)~~(u)~~ "Sufficient positive balance" means a dollar amount
 177 greater than or equal to the monthly wireless surcharge amount.

178 (aa) "Tower" means any structure designed primarily to
 179 support wireless antennas.

180 (bb) "Wireless communications facility" or "facilities"
 181 means any equipment or facility used to provide service and
 182 includes, but is not limited to, antennas, towers, equipment
 183 enclosures, cabling, antenna brackets, and other such equipment.

184 (cc) "Wireless communications site" means the area of the
 185 rooftop, structure, or ground that is designed, intended to be
 186 used, or used for the placement of wireless communications
 187 facilities, all related facilities and areas, and any fencing or
 188 landscaping provided in association with the wireless
 189 communications facility or facilities.

190 (dd)~~(v)~~ "Wireless 911 system" or "wireless 911 service"
 191 means an emergency telephone system or service that provides a
 192 subscriber with the ability to reach an answering point by
 193 dialing the digits "911." A wireless 911 system is complementary
 194 to a wired 911 system as provided for in s. 365.171.

195 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--It is in
 196 the best interest of the public to have efficient and reliable
 197 E911 systems, of which wireless communications systems are an
 198 essential part. Because the Federal Government and the State of
 199 Florida have chosen to establish the wireless E911 systems
 200 through commercial wireless communications systems rather than

HB 1495

2004

201 through a public wireless system, the provision of an efficient
 202 and reliable wireless E911 service is dependent upon an
 203 efficient and reliable wireless non-E911 system. Consequently,
 204 it is in the best interest of the public for the state to have
 205 efficient and reliable commercial wireless services. It is also,
 206 however, in the best interest of the public to coordinate the
 207 implementation of local government zoning and land use rights
 208 and the development of a viable commercial wireless system to
 209 protect the public health, safety, and general welfare.
 210 Therefore, to balance the public need for reliable wireless
 211 systems and local government zoning and land use rights,
 212 notwithstanding any other law or local ordinance to the
 213 contrary, the following minimum standards shall apply to local
 214 government regulation of the placement, construction, or
 215 modification of wireless communications facilities:

216 (a)1. To reduce the proliferation of new towers,
 217 collocation, as defined in subsection (3), ~~Colocation among~~
 218 ~~wireless telephone service providers~~ is encouraged by the state.
 219 ~~To further facilitate agreements among providers for collocation~~
 220 ~~of their facilities,~~ Any antenna ~~antennae~~ and related equipment
 221 ~~to service the antennae~~ that is being collocated ~~collocated~~ on an
 222 existing ~~above-ground~~ structure in a manner that does not
 223 increase the height of the existing structure or any existing
 224 antenna, whichever is higher, and any placement, construction,
 225 operation, and maintenance of the related equipment to serve
 226 such antenna are ~~is~~ not subject to land development regulation
 227 and shall only require building permit review as defined in
 228 subsection (3) ~~pursuant to s. 163.3202, provided the height of~~
 229 ~~the existing structure is not increased. However, construction~~

HB 1495

2004

230 ~~of the antennae and related equipment is subject to local~~
 231 ~~building regulations and any existing permits or agreements for~~
 232 ~~such property, buildings, or structures.~~ Nothing herein shall
 233 relieve the permitholder for or owner of the existing structure
 234 from ~~of~~ compliance with any applicable previously approved and
 235 existing condition or requirement of a permit or, ~~or~~ agreement, ~~or~~
 236 ~~land development regulation~~, including any previously approved
 237 aesthetic requirements, imposed by administrative order,
 238 resolution, or ordinance for development of the specific
 239 wireless communications site that is not inconsistent with this
 240 subsection law.

241 2. To reduce the proliferation of new towers, the
 242 placement of antennae on existing structures is encouraged. To
 243 encourage such placement, antenna placements not addressed by
 244 subparagraph 1. on any existing structures except single-family
 245 dwelling, and their related support equipment, shall be
 246 reviewed through no more than an administrative review and
 247 building permit review as defined in subsection (3).

248 3. To encourage collocations and to discourage the
 249 proliferation of new towers, an existing tower, including a
 250 nonconforming tower, may be increased in height a reasonable
 251 amount to allow for the collocation, either through an extension
 252 or replacement of the tower. The height extension of a tower or
 253 the replacement of an existing tower shall be subject only to
 254 administrative review and building permit review as defined in
 255 subsection (3).

256 (b) Local governments shall use their land use and zoning
 257 regulatory powers over the placement, construction, and
 258 modification of wireless communications facilities only to the

HB 1495

2004

259 extent necessary to mitigate against an identified adverse
260 effect that the proposed wireless communications facility would
261 have upon the public health, safety, and general welfare, as
262 balanced against the public benefit of a reliable E911 system.

263 1. A local government's regulatory authority over the
264 placement, construction, and modification of wireless facilities
265 is based solely on a local government's land use and zoning
266 authority. In exercising this authority, a local government and
267 its agents shall not review or consider a provider's business
268 need for a particular wireless communications site or the
269 necessity for the wireless communications service to be provided
270 at a particular site. A local government shall not evaluate the
271 provider's wireless service quality or the network design of the
272 wireless service. The application of a local government's land
273 use or zoning authority in regulating the placement,
274 construction, or modification of the wireless communications
275 facilities shall be limited to evaluating relevant land use and
276 zoning issues only.

277 2. Setback or distance separation requirements shall apply
278 only to towers and shall be only the minimum necessary to
279 address an identified health, safety, or general welfare issue
280 that is directly protected by virtue of the setback or distance
281 separation requirement. A setback or distance separation imposed
282 upon towers shall be the equivalent requirement that is imposed
283 upon similar structures such as electrical distribution and
284 transmission structures, utility poles, or light poles.

285 3. So that the wireless communications systems and the
286 E911 services supported by these systems can be provided
287 efficiently as well as reliably, height limitations on wireless

HB 1495

2004

288 communications facilities shall have a rational nexus between
 289 the number of sites necessary to serve the jurisdiction's
 290 reasonably projected population and consumer usage. No local
 291 government shall restrict the height of such structures to a
 292 height that will unreasonably increase the number of antenna
 293 sites required to provide the wireless communications over the
 294 number reasonably necessary to serve that projected population
 295 and usage. Local governments are discouraged from encouraging
 296 the design of single-provider towers.

297 4. If aesthetic protections or protections against visual
 298 impacts are used as the justification for the regulation of the
 299 placement, construction, or modification of wireless
 300 communications facilities, the regulations adopted and applied
 301 shall be directly related to that aesthetic or visual impact
 302 protection and shall be the minimum necessary to provide such
 303 protection.

304 5. A local government's regulations, as written and
 305 applied, shall provide a reasonable opportunity for the
 306 placement, construction, and modification of wireless
 307 communications facilities in some reasonable manner, consistent
 308 with all provisions of this subsection, in all parts of a local
 309 government's jurisdiction unless it can be specifically
 310 demonstrated that a prohibition of all types of wireless
 311 communications facilities in a specific location or area is the
 312 only manner in which to protect the public health, safety, and
 313 general welfare.

314 6. In the placement, construction, and modification of
 315 wireless communications facilities, a local government may not
 316 impose a fee, fine, surety, or insurance requirement upon a

HB 1495

2004

317 wireless communications provider that is not routinely imposed
 318 upon applicants seeking or subject to other similar types of
 319 zoning, land use, or building permit reviews. The recovery of
 320 costs from wireless providers incurred by a jurisdiction in its
 321 preparation or adoption of zoning, land use regulations,
 322 ordinances, or law regulating wireless communications facilities
 323 is prohibited. Fees for review of zoning or land use
 324 applications by consultants or experts who are routinely engaged
 325 to review general zoning and land use matters on behalf of the
 326 jurisdiction may be recovered, but only if such recovery is
 327 routinely sought from all applicants seeking zoning or land use
 328 approvals and any fees charge shall be reasonable. Review of
 329 applications for wireless communications facilities by the
 330 jurisdiction or the jurisdiction's consultants or experts shall
 331 be only what is necessary for the land use review of the
 332 application.

333 ~~(c)(b)~~ Local governments shall not require providers to
 334 provide evidence of a wireless communications facility's
 335 compliance with federal regulations. However, local governments
 336 may request ~~shall receive~~ evidence of proper Federal
 337 Communications Commission licensure or other evidence of Federal
 338 Communications Commission authorized spectrum use from a
 339 provider and may request the Federal Communications Commission
 340 to provide information as to a provider's compliance with
 341 federal regulations, as authorized by federal law.

342 ~~(d)(e)~~1. A local government shall grant or deny each a
 343 properly completed application for any applicable local
 344 government approval required a permit, including permits under
 345 paragraph (a), for the placement relocation of antennas and any

HB 1495

2004

346 related equipment ~~a wireless communications facility~~ on
 347 property, an approved tower, or an existing structure ~~buildings,~~
 348 ~~or structures~~ within the local government's jurisdiction within
 349 45 business days after the date the ~~properly completed~~
 350 application is determined to be properly completed ~~initially~~
 351 ~~submitted~~ in accordance with this section ~~the applicable local~~
 352 ~~government application procedures,~~ ~~provided that such permit~~
 353 ~~complies with applicable federal regulations and applicable~~
 354 ~~local zoning or land development regulations, including any~~
 355 ~~aesthetic requirements. Local building regulations shall apply.~~

356 2. A local government shall grant or deny each properly
 357 completed application for any applicable local government
 358 approval required for the modification of an existing structure
 359 to allow the placement of antennas, and any related equipment,
 360 that only requires administrative review or building permit
 361 review, as defined in subsection (3), within 45 business days
 362 after the date the application is determined to be properly
 363 completed in accordance with this section.

364 3.2. A local government shall grant or deny each a
 365 properly completed application for any applicable ~~a permit for~~
 366 the siting of a new wireless tower or modification of an
 367 existing structure that requires more than administrative review
 368 or building permit review, as defined in subsection (3), antenna
 369 ~~on property, buildings, or structures within the local~~
 370 ~~government's jurisdiction~~ within 90 business days after the date
 371 the ~~properly completed~~ application is determined to be properly
 372 completed ~~initially submitted~~ in accordance with this section
 373 ~~the applicable local government application procedures, provided~~
 374 ~~that such permit complies with applicable federal regulations~~

HB 1495

2004

375 ~~and applicable local zoning or land development regulations,~~
376 ~~including any aesthetic requirements. Local building regulations~~
377 ~~shall apply.~~

378 4.a.3.a. An application shall be deemed submitted or
379 resubmitted on the date the application is filed with the local
380 government. The local government shall notify the permit
381 applicant within 10 ~~20~~ business days after the date the
382 application is initially submitted as to whether the application
383 is, for administrative purposes only, properly completed and has
384 been properly submitted. However, such determination shall not
385 be deemed as an approval of the application. If the application
386 is not complete in accordance with applicable local government
387 application procedures, the ~~Such~~ notification shall indicate
388 with specificity any deficiencies which, if cured, shall make
389 the application properly completed. Upon resubmission of
390 information to cure the stated deficiencies, the local
391 government shall notify the applicant within 10 days after the
392 additional information is submitted whether the application is
393 properly completed or if there are any remaining deficiencies
394 which must be cured. Any deficiencies not specified by the local
395 government in the initial notice are waived.

396 b. If the local government fails to grant or deny a
397 properly completed application for a permit ~~which has been~~
398 ~~properly submitted~~ within the timeframes set forth in this
399 subsection, the applicable local government application
400 ~~paragraph, the permit~~ shall be deemed automatically approved and
401 the applicant ~~provider~~ may proceed with placement of such
402 facilities without interference or penalty. The timeframes
403 specified in subparagraph 3. ~~subparagraphs 1. and 2.~~ shall be

HB 1495

2004

404 extended only to the extent that the permit has not been granted
 405 or denied because the local government's procedures generally
 406 applicable to all permits, require action by the governing body
 407 and such action has not taken place within the timeframes
 408 specified in subparagraph 3. ~~subparagraphs 1. and 2.~~ Under such
 409 circumstances, the local government must act to either grant or
 410 deny the permit at its next regularly scheduled meeting or,
 411 otherwise, the permit shall be deemed to be automatically
 412 approved.

413 c. To be effective, a waiver of the timeframes set forth
 414 herein must be voluntarily agreed to by the applicant and the
 415 local government. A local government may request, but not
 416 require, a waiver of the timeframes by an entity seeking a
 417 permit, except that, with respect to a specific permit, a one-
 418 time waiver may be required in the case of a declared local,
 419 state, or federal emergency that directly affects the
 420 administration of all permitting activities of the local
 421 government.

422 (e) Any moratorium or any action or inaction by a local
 423 government that has the effect of a moratorium on the placement,
 424 construction, or modification of wireless communications
 425 facilities or the review of applications relating to wireless
 426 communications facilities, whether or not exclusive to wireless
 427 facilities, must be shown to be necessary because of an
 428 identified emergency or a sudden significant change in
 429 circumstances. Any such moratorium, action, or inaction must be
 430 adopted in the same manner as a zoning ordinance and shall not
 431 be for a time longer than 6 months.

HB 1495

2004

432 ~~(f)(d)~~ Any accessory ~~additional~~ wireless communications
433 facilities, such as communication cables, ~~adjacent~~ accessory
434 structures, and ~~or adjacent~~ accessory equipment, and the
435 wireless communications site in which the accessory wireless
436 communications facilities are to be located, that are not
437 addressed by paragraph (a), used in the provision of cellular,
438 enhanced specialized mobile radio, or personal communications
439 services, required within the existing secured equipment
440 compound within the existing site shall be deemed an a permitted
441 use or activity requiring no more than administrative review and
442 building permit review as defined in subsection (3). Applicable
443 local building and nonprocedural land development regulations,
444 including any aesthetic requirements, shall apply. However, no
445 land development regulation, existing permit condition, or
446 existing agreement may subject accessory wireless communications
447 facilities to greater restrictions or requirements or greater
448 procedural or review processes than other accessory structures
449 in the same zoning district.

450 (g) To encourage collocation, local governments shall not
451 impose square footage limitations or height limitations that are
452 more restrictive than those required for principal buildings in
453 the same zoning district on equipment enclosures, equipment
454 cabinets, building pads, or accessory equipment structures for
455 installation of related equipment associated with the operation
456 of the antennas, provided that the facility complies with the
457 lot coverage, drainage, and principal building height
458 requirements of the applicable zoning district. This paragraph
459 shall supersede any existing limitations on a wireless
460 communications facility by agreement, ordinance, resolution, or

HB 1495

2004

461 land development code.

462 (h) The regulation of modifications of existing wireless
463 communications facilities shall be only to the extent necessary
464 to mitigate against an identified adverse effect and such
465 regulation shall only be on materially significant changes that
466 noticeably alter the design or appearance of the wireless
467 communications facility. The replacement of visible equipment or
468 facilities with equipment or facilities of the same size, type,
469 and appearance and any replacement of equipment or facilities
470 that are not visible from outside the wireless communications
471 site shall not be considered a modification and shall only be
472 subject to applicable building permit review as defined in
473 subsection (3).

474 (i) Local governments shall not require the removal of any
475 wireless communications facility or any related equipment,
476 conforming or nonconforming, within a stated period of time
477 absent showing a specific adverse impact from the specific
478 facility or equipment to the public health, safety, or general
479 welfare. If a local government identifies such an adverse
480 impact, prior to requiring the removal of the wireless
481 communications facility, the permitholder or owner of the
482 facility shall have the opportunity and right, within a
483 reasonable period of time, to mitigate the condition that is
484 causing the adverse impact.

485 (j) Any regulation or procedure of any county or
486 municipality that does not conform to the requirements of this
487 section must be changed or amended to conform to the
488 requirements of this section.

HB 1495

2004

489 ~~(k)(e)~~ Any other provision of law to the contrary
 490 notwithstanding, the Department of Management Services shall
 491 negotiate, in the name of the state, leases for wireless
 492 communications facilities that provide access to state
 493 government-owned property not acquired for transportation
 494 purposes, and the Department of Transportation shall negotiate,
 495 in the name of the state, leases for wireless communications
 496 facilities that provide access to property acquired for state
 497 rights-of-way. On property acquired for transportation purposes,
 498 leases shall be granted in accordance with s. 337.251. On other
 499 state government-owned property, leases shall be granted on a
 500 space available, first-come, first-served basis. Payments
 501 required by state government under a lease must be reasonable
 502 and must reflect the market rate for the use of the state
 503 government-owned property. The Department of Management Services
 504 and the Department of Transportation are authorized to adopt
 505 rules for the terms and conditions and granting of any such
 506 leases.

507 (1) Any person aggrieved by an action or inaction of the
 508 local government pursuant to this subsection may file an action
 509 in circuit court or other court of competent jurisdiction
 510 seeking mandatory expedited review in accordance with 47 U.S.C.
 511 s. 332(c)(7)(B)(v) of the Telecommunications Act of 1996 and the
 512 declared intent of the Legislature that it is in the best
 513 interest of the public of this state to deploy efficient and
 514 reliable E911 systems, of which wireless communications systems
 515 are a part, on an expedited basis. Any decision of the local
 516 government on an application for a wireless communications
 517 facility governed by the provisions of this subsection shall be

HB 1495

2004

518 deemed final and constitute an exhaustion of all administrative
 519 remedies. The action must be filed in a court of competent
 520 jurisdiction within 30 days of rendition of the administrative
 521 decision. For purposes of computing the 30-day period for
 522 filing, the date of the decision is the date the administrative
 523 agency, person, official, or agent acting on behalf of the local
 524 government issues a written decision in response to an
 525 application for any applicable local government approval for a
 526 wireless communications facility pursuant to this subsection. In
 527 addition, any aggrieved party may bring an action in equity in a
 528 court of competent jurisdiction at any time to compel local
 529 government compliance with any procedural provisions set forth
 530 in this subsection. Remedies sought by any party in any action
 531 hereunder shall be limited solely to equitable remedies;
 532 however, nothing in this paragraph shall be construed to waive
 533 any aggrieved person's right to file a petition for writ of
 534 certiorari to review a quasi-judicial action of an agency,
 535 board, or commission of a local government as such cause of
 536 action may arise from an application for local government public
 537 hearing approval of a wireless communications facility.

538 ~~(f) Any wireless telephone service provider may report to~~
 539 ~~the board no later than September 1, 2003, the specific~~
 540 ~~locations or general areas within a county or municipality where~~
 541 ~~the provider has experienced unreasonable delay to locate~~
 542 ~~wireless telecommunications facilities necessary to provide the~~
 543 ~~needed coverage for compliance with federal Phase II E911~~
 544 ~~requirements using its own network. The provider shall also~~
 545 ~~provide this information to the specifically identified county~~
 546 ~~or municipality no later than September 1, 2003. Unless the~~

HB 1495

2004

547 ~~board receives no report that unreasonable delays have occurred,~~
548 ~~the board shall, no later than September 30, 2003, establish a~~
549 ~~subcommittee responsible for developing a balanced approach~~
550 ~~between the ability of providers to locate wireless facilities~~
551 ~~necessary to comply with federal Phase II E911 requirements~~
552 ~~using the carrier's own network and the desire of counties and~~
553 ~~municipalities to zone and regulate land uses to achieve public~~
554 ~~welfare goals. If a subcommittee is established, it shall~~
555 ~~include representatives from the Florida Telecommunications~~
556 ~~Industry Association, the Florida Association of Counties, and~~
557 ~~the Florida League of Cities. The subcommittee shall be charged~~
558 ~~with developing recommendations for the board and any~~
559 ~~specifically identified municipality or county to consider~~
560 ~~regarding actions to be taken for compliance for federal Phase~~
561 ~~II E911 requirements. In the annual report due to the Governor~~
562 ~~and the Legislature by February 28, 2004, the board shall~~
563 ~~include any recommendations developed by the subcommittee to~~
564 ~~address compliance with federal Phase II E911 requirements.~~

565 Section 2. Any regulation or procedure of any county or
566 municipality that does not conform to the requirements of
567 section 365.172, Florida Statutes, on the effective date of this
568 act must be changed or amended to conform to the requirements of
569 that section within 6 months after the effective date of this
570 act.

571 Section 3. This act shall take effect upon becoming a law.