

CHAMBER ACTION

1 The Committee on Business Regulation recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the wireless emergency telephone
7 system; amending s. 365.172, F.S.; adding definitions
8 relating to wireless telephone communications; revising
9 duties of the Wireless 911 Board; providing for an
10 executive director, services of an attorney, and the
11 appointment of a subcommittee; requiring a report by the
12 subcommittee; providing legislative intent regarding the
13 emergency wireless telephone system; providing standards
14 for local governments to follow when regulating the
15 placement, construction, or modification of a wireless
16 communications facility; directing local governments to
17 grant or deny properly completed applications within
18 specified time periods; providing procedures for a
19 provider of wireless communications services to submit an
20 application for local approval; directing local
21 governments to notify a provider of the deficiencies in an
22 application; directing local governments to notify a
23 provider whether the resubmission of information properly

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24 | completes the application; providing for a limited review
25 | by a local government of an accessory wireless
26 | communications facility; prohibiting local governments
27 | from imposing certain restrictions on wireless
28 | communications facilities; providing that a local
29 | government may not require a wireless communications
30 | provider to remove a wireless communications facility
31 | unless the facility causes a specific adverse impact on
32 | the public health, safety, or welfare of the locality;
33 | requiring a local government to amend its ordinances in
34 | order to comply with this act by a specified date;
35 | revising provisions for lease of state-owned property by
36 | wireless provider; providing that a person who is
37 | adversely affected by a decision of local government
38 | relating to a wireless communications facility may bring
39 | an action within a specified period; providing for the
40 | computation of the time period; providing that a person
41 | who is adversely affected by a decision of a local
42 | government relating to a wireless communications facility
43 | may bring an action at any time if the person is seeking
44 | only equitable relief to compel a local government to
45 | comply with the procedures of the act; providing an
46 | effective date.

47 |
48 | Be It Enacted by the Legislature of the State of Florida:

49 |
50 | Section 1. Subsections (3), (6), and (11) of section
51 | 365.172, Florida Statutes, are amended to read:

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52 | 365.172 Wireless emergency telephone number "E911."--

53 | (3) DEFINITIONS.--As used in this section and ss. 365.173
54 | and 365.174, the term:

55 | (a) "Active prepaid wireless telephone" means a prepaid
56 | wireless telephone that has been used by the customer during the
57 | month to complete a telephone call for which the customer's card
58 | or balance was decremented.

59 | (b) "Administrative review" means the nondiscretionary
60 | review conducted by local governmental staff for compliance with
61 | local government ordinances, but does not include a public
62 | hearing or review of public input.

63 | (c)~~(b)~~ "Answering point" means the public safety agency
64 | that receives incoming 911 calls and dispatches appropriate
65 | public safety agencies to respond to the ~~such~~ calls.

66 | (d)~~(e)~~ "Automatic location identification" means the
67 | capability of the E911 service which enables the automatic
68 | display of information that defines the approximate geographic
69 | location of the wireless telephone used to place a 911 call.

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

73 | (f)~~(e)~~ "Board" means the board of directors of the
74 | Wireless 911 Board.

75 | (g) "Building-permit review" means a review for compliance
76 | with building construction standards adopted by the local
77 | government under chapter 553 and does not include a review for
78 | compliance with land development regulations.

79 (h) "Collocation" means the situation when a second or
 80 subsequent wireless provider uses an existing structure to
 81 locate a second or subsequent antenna. The term includes the
 82 ground, platform, or roof installation of equipment enclosures,
 83 cabinets, or buildings, and cables, brackets, and other
 84 equipment associated with the location and operation of the
 85 antennas.

86 (i)(g) "E911" is the designation for a wireless enhanced
 87 911 system or wireless enhanced 911 service that is an emergency
 88 telephone system or service that provides a subscriber with
 89 wireless 911 service and, in addition, directs 911 calls to
 90 appropriate public safety answering points by selective routing
 91 based on the geographical location from which the call
 92 originated, or as otherwise provided in the state plan under s.
 93 365.171, and that provides for automatic number identification
 94 and automatic location-identification features in accordance
 95 with the requirements of the order.

96 (j) "Existing structure" means a structure that exists at
 97 the time an application for permission to place antennas on a
 98 structure is filed with a local government. The term includes
 99 any structure that can support the attachment of antennas,
 100 including, but not limited to, towers, buildings, utility
 101 structures, light poles, water towers, clock towers, bell
 102 towers, and steeples.

103 (k)(h) "Fee" means the E911 fee imposed under subsection
 104 (8).

105 (l)(i) "Fund" means the Wireless Emergency Telephone
 106 System Fund established in s. 365.173 and maintained under this

107 section for the purpose of recovering the costs associated with
 108 providing 911 service or E911 service, including the costs of
 109 implementing the order.

110 (m) "Historic building, structure, or district" means any
 111 building, structure, or district that has been officially
 112 designated as a historic building, historic structure, or
 113 historic district through a federal, state, or local designation
 114 program.

115 (n) "Land-development regulation" means any ordinance
 116 enacted by a local governing body for the regulation of any
 117 aspect of development, including an ordinance governing zoning,
 118 subdivisions, landscaping, tree protection, or signs, or any
 119 other ordinance concerning any aspect of the development of
 120 land. The term does not include any building-construction
 121 standard adopted under and in compliance with chapter 553.

122 (o)~~(j)~~ "Local exchange carrier" means a "competitive local
 123 exchange telecommunications company" or a "local exchange
 124 telecommunications company" as defined in s. 364.02.

125 (p)~~(k)~~ "Local government" means any municipality, county,
 126 or political subdivision or agency of a municipality, county, or
 127 political subdivision.

128 (q)~~(l)~~ "Mobile telephone number" or "MTN" means the
 129 telephone number assigned to a wireless telephone at the time of
 130 initial activation.

131 (r)~~(f)~~ "Office" means the State Technology Office.

132 (s)~~(m)~~ "Order" means:

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

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135 a. Order adopted on June 12, 1996, with an effective date
136 of October 1, 1996, the amendments to s. 20.03 and the creation
137 of s. 20.18 of Title 47 of the Code of Federal Regulations
138 adopted by the Federal Communications Commission pursuant to the
139 ~~such~~ order.

140 b. Memorandum and Order No. FCC 97-402 adopted on December
141 23, 1997.

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

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

144 2. Orders and rules subsequently adopted by the Federal
145 Communications Commission relating to the provision of wireless
146 911 services.

147 (t)~~(e)~~ "Prepaid wireless telephone service" means wireless
148 telephone service that is activated in advance by payment for a
149 finite dollar amount of service or for a finite set of minutes
150 that terminate either upon use by a customer and delivery by the
151 wireless provider of an agreed-upon amount of service
152 corresponding to the total dollar amount paid in advance or
153 within a certain period of time following the initial purchase
154 or activation, unless additional payments are made.

155 (u)~~(n)~~ "Provider" or "wireless provider" means a person or
156 entity who provides service and either:

- 157 1. Is subject to the requirements of the order; or
- 158 2. Elects to provide wireless 911 service or E911 service
159 in this state.

160 (v)~~(p)~~ "Public agency" means the state and any
161 municipality, county, municipal corporation, or other
162 governmental entity, public district, or public authority

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163 | located in whole or in part within this state which provides, or
 164 | has authority to provide, firefighting, law enforcement,
 165 | ambulance, medical, or other emergency services.

166 | (w)~~(e)~~ "Public safety agency" means a functional division
 167 | of a public agency which provides firefighting, law enforcement,
 168 | medical, or other emergency services.

169 | (x)~~(r)~~ "Rural county" means any county that has a
 170 | population of fewer than 75,000.

171 | (y)~~(s)~~ "Service" means "commercial mobile radio service"
 172 | as provided under ss. 3(27) and 332(d) of the Federal
 173 | Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and
 174 | the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-
 175 | 66, August 10, 1993, 107 Stat. 312. The term "service" includes
 176 | the term "wireless" and service provided by any wireless real-
 177 | time two-way wire communication device, including radio-
 178 | telephone communications used in cellular telephone service;
 179 | personal communications service; or the functional or
 180 | competitive equivalent of a radio-telephone communications line
 181 | used in cellular telephone service, a personal communications
 182 | service, or a network radio access line. The term does not
 183 | include wireless providers that offer mainly dispatch service in
 184 | a more localized, noncellular configuration; providers offering
 185 | only data, one-way, or stored-voice services on an
 186 | interconnected basis; providers of air-to-ground services; or
 187 | public coast stations.

188 | (z)~~(t)~~ "Service number" means the unique 10-digit wireless
 189 | telephone number assigned to a service subscriber.

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190 (aa)~~(u)~~ "Sufficient positive balance" means a dollar
191 amount greater than or equal to the monthly wireless surcharge
192 amount.

193 (bb) "Tower" means any structure designed primarily to
194 support a wireless provider's antenna.

195 (cc) "Wireless communications facility" means any
196 equipment or facility used to provide service, and includes, but
197 is not limited to, antennas, towers, equipment enclosures,
198 cabling, antenna brackets, and other equipment.

199 (dd) "Wireless communications site" means the area on the
200 roof, structure, or ground which is designed, intended to be
201 used, or is used for the location of a wireless communications
202 facility, and any fencing and landscaping provided in
203 association with the wireless communications facility.

204 (ee)~~(v)~~ "Wireless 911 system" or "wireless 911 service"
205 means an emergency telephone system or service that provides a
206 subscriber with the ability to reach an answering point by
207 dialing the digits "911." A wireless 911 system is complementary
208 to a wired 911 system as provided for in s. 365.171.

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

210 (a) The board shall:

211 1. Administer the E911 fee.

212 2. Implement, maintain, and oversee the fund.

213 3. Review and oversee the disbursement of the revenues
214 deposited into the fund as provided in s. 365.173. The board may
215 establish a schedule for implementing wireless E911 service by
216 service area, and prioritize disbursements of revenues from the
217 fund to providers and rural counties as provided in s.

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218 365.173(2)(b) and (c) pursuant to the schedule, in order to
219 implement E911 services in the most efficient and cost-effective
220 manner.

221 4. Review documentation submitted by providers which
222 reflects current and projected funds derived from the E911 fee,
223 and the expenses incurred and expected to be incurred, in order
224 to comply with the E911 service requirements contained in the
225 order for the purposes of:

226 a. Ensuring that providers receive fair and equitable
227 distributions of funds from the fund.

228 b. Ensuring that providers are not provided disbursements
229 from the fund which exceed the costs of providing E911 service,
230 including the costs of complying with the order.

231 c. Ascertaining the projected costs of compliance with the
232 requirements of the order and projected collections of the E911
233 fee.

234 d. Implementing changes to the allocation percentages or
235 reducing the E911 fee under paragraph (8)(c).

236 5. Review and approve or reject, in whole or in part,
237 applications submitted by providers for recovery of moneys
238 deposited into the fund.

239 6. Hire and retain employees, including an independent
240 executive director who shall possess experience in the area of
241 telecommunications and emergency 911 issues, for the purposes of
242 performing the technical and administrative functions for the
243 board.

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

247 8. Take all necessary and reasonable steps by July 1,
248 2000, to secure appropriate information and reports from
249 providers and otherwise perform all of the functions that would
250 be performed by an independent accounting firm prior to
251 completing the request-for-proposals process under subsection
252 (7).

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

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

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

259 12. The board may adopt rules under ss. 120.536(1) and
260 120.54 to implement this section and ss. 365.173 and 365.174.

261 13. Provide coordination, support, and technical
262 assistance to counties to promote the deployment of advanced 911
263 and E911 systems in the state.

264 14. Provide coordination and support for educational
265 opportunities related to 911 issues for the 911 community in
266 this state.

267 15. Act as an advocate for issues related to 911 system
268 functions, features, and operations to improve the delivery of
269 911 services to the residents of and visitors to this state.

270 16. Coordinate input from this state at national forums
271 and associations, to ensure that policies related to 911 systems

272 and services are consistent with the policies of the 911
273 community in this state.

274 17. Work cooperatively with the system director
275 established in s. 365.171(5) to enhance the state of 911
276 services in this state and to provide unified leadership for all
277 911 issues through planning and coordination.

278 18. Do all acts and things necessary or convenient to
279 carry out the powers granted in this section, including but not
280 limited to, consideration of emerging technology and related
281 cost savings.

282 19. By July 1, 2004, secure the services of an
283 independent, private attorney via invitation to bid, request for
284 proposals, invitation to negotiate, or professional contracts
285 for legal services already established at the Division of
286 Purchasing of the Department of Management Services.

287 20. No later than August 1, 2004, establish a subcommittee
288 responsible for analyzing the cost and effectiveness of a
289 nonemergency 311 system, including the potential to improve the
290 overall efficiency of an existing 911 system or reduce 911 call
291 processing times. The subcommittee shall report its findings and
292 recommendations to the board by December 31, 2004.

293 (b) Board members shall serve without compensation;
294 however, members are entitled to per diem and travel expenses as
295 provided in s. 112.061.

296 (c) By February 28 of each year, the board shall prepare a
297 report for submission by the office to the Governor, the
298 President of the Senate, and the Speaker of the House of
299 Representatives which reflects, for the immediately preceding

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300 calendar year, the quarterly and annual receipts and
 301 disbursements of moneys in the fund, the purposes for which
 302 disbursements of moneys from the fund have been made, and the
 303 availability and status of implementation of E911 service in
 304 this state.

305 (d) By February 28, 2001, the board shall undertake and
 306 complete a study for submission by the office to the Governor,
 307 the President of the Senate, and the Speaker of the House of
 308 Representatives which addresses:

309 1. The total amount of E911 fee revenues collected by each
 310 provider, the total amount of expenses incurred by each provider
 311 to comply with the order, and the amount of moneys on deposit in
 312 the fund, all as of December 1, 2000.

313 2. Whether the amount of the E911 fee and the allocation
 314 percentages set forth in s. 365.173 should be adjusted to comply
 315 with the requirements of the order, and, if so, a recommended
 316 adjustment to the E911 fee.

317 3. Any other issues related to providing wireless E911
 318 services.

319 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--In order
 320 to balance the public need for reliable E911 services through
 321 reliable wireless systems with the public interest served by
 322 governmental zoning and land development regulations and
 323 notwithstanding any other law or local ordinance to the
 324 contrary, the following standards shall apply to a local
 325 government's regulation of the placement, construction, or
 326 modification of a wireless communications facility:

327 (a)1. To reduce the proliferation of new towers,
 328 collocation ~~Colocation among wireless telephone service~~
 329 ~~providers~~ is encouraged by the state. An application to place an
 330 antenna ~~To further facilitate agreements among providers for~~
 331 ~~collocation of their facilities, any antennae and related~~
 332 ~~equipment to service the antennae~~ that is being collocated
 333 ~~collocated~~ on an existing ~~above-ground~~ structure that does not
 334 increase the height of the existing structure or any existing
 335 antenna, whichever is higher, and to place the related equipment
 336 to serve the antenna is not subject to land development
 337 regulation and shall only require building-permit review
 338 ~~pursuant to s. 163.3202, provided the height of the existing~~
 339 ~~structure is not increased. However, construction of the~~
 340 ~~antennae and related equipment is subject to local building~~
 341 ~~regulations and any existing permits or agreements for such~~
 342 ~~property, buildings, or structures. This section does not~~
 343 ~~Nothing herein shall relieve the applicant permitholder for or~~
 344 the owner of the existing structure from ~~of~~ compliance with any
 345 applicable previously approved and existing condition or
 346 requirement of a permit or, ~~agreement, or land development~~
 347 ~~regulation,~~ including any previously approved aesthetic
 348 requirements imposed by administrative order, resolution, or
 349 ordinance for development of the specific wireless
 350 communications site which is not inconsistent with this
 351 subsection. Existing conditions or requirements of an existing
 352 permit or agreement for an antenna on a historic building or
 353 historic structure or in a historic district shall apply

354 regardless of whether such conditions or requirements are
 355 inconsistent with this subsection, ~~or law.~~

356 2. An existing tower, including a nonconforming tower, may
 357 be modified or replaced without increasing the height in order
 358 to permit collocation, provided that the replacement tower is a
 359 monopole tower or, if the tower to be replaced is a camouflaged
 360 tower, the replacement tower is a like-camouflaged tower. The
 361 modification or replacement shall be subject only to
 362 administrative review and to building-permit review.

363 (b)1. A local government may not review or consider a
 364 wireless provider's business need for a specific location for a
 365 wireless communications site or the need for wireless service to
 366 be provided from a particular site unless the wireless provider
 367 voluntarily offers such information to the local government. A
 368 local government may not evaluate the wireless provider's
 369 service quality or the network design of the wireless service.
 370 Local government is limited when evaluating a wireless
 371 provider's application for placement of a wireless
 372 communications facility to issues concerning land development
 373 and zoning and may only request information or require submittal
 374 materials on network design or service quality if such
 375 information or materials are directly related to land
 376 development and zoning issues.

377 2. The setback or distance separation required of a tower
 378 may not exceed the minimum distance necessary to satisfy the
 379 public health, safety, or welfare concern that is protected by
 380 the setback or distance separation.

381 3. A local government must provide a reasonable
 382 opportunity for placing some form or type of wireless
 383 communications facility in all areas of a local government's
 384 jurisdiction, unless the jurisdiction can demonstrate that a
 385 prohibition of all forms or types of wireless communications
 386 facilities in a specific location or area is the only manner in
 387 which to protect the public health, safety, and welfare of that
 388 area.

389 4. A local government may impose a fee, surety, or
 390 insurance requirement on a wireless provider when applying to
 391 place, construct, or modify a wireless communications facility
 392 only if a similar fee, surety, or insurance requirement is also
 393 imposed on applicants seeking similar types of zoning, land use,
 394 or building-permit review. Fees for review of applications for
 395 wireless communications facilities by consultants or experts who
 396 are routinely engaged to review general zoning and land use
 397 matters on behalf of the local government may be recovered, but
 398 only if the recovery is routinely sought from all applicants
 399 seeking a similar level of review for zoning or land-development
 400 approvals, and any fees must be reasonable.

401 (c)(b) Local governments may ~~shall~~ not require wireless
 402 providers to provide evidence of a wireless communications
 403 facility's compliance with federal regulations. However, local
 404 governments may request ~~shall receive~~ evidence of proper Federal
 405 Communications Commission licensure or other evidence of Federal
 406 Communications Commission authorized spectrum use from a
 407 wireless provider and may request the Federal Communications
 408 Commission to provide information as to a wireless provider's

409 compliance with federal regulations, as authorized by federal
410 law.

411 (d)(e)1. A local government shall grant or deny each a
412 properly completed application for a wireless communications
413 facility reviewed through administrative review or building-
414 permit review ~~a permit, including permits under paragraph(a),~~
415 ~~for the colocation of a wireless communications facility on~~
416 ~~property, buildings, or structures within the local government's~~
417 ~~jurisdiction~~ within 45 business days after the date the ~~properly~~
418 ~~completed~~ application is determined to be properly completed
419 ~~initially submitted~~ in accordance with this paragraph ~~the~~
420 ~~applicable local government application procedures, provided~~
421 ~~that such permit complies with applicable federal regulations~~
422 ~~and applicable local zoning or land development regulations,~~
423 ~~including any aesthetic requirements. Local building regulations~~
424 ~~shall apply. If administrative reviews are required from~~
425 multiple departments of the local government, such reviews shall
426 be concurrent and all within the 45-business-day timeframe.

427 2. A local government shall grant or deny each a properly
428 completed application for a wireless communications facility
429 reviewed through other than administrative review or building-
430 permit review ~~a permit for the siting of a new wireless tower or~~
431 ~~antenna on property, buildings, or structures within the local~~
432 ~~government's jurisdiction~~ within 90 business days after the date
433 the ~~properly completed~~ application is determined to be properly
434 completed ~~initially submitted~~ in accordance with this paragraph
435 ~~the applicable local government application procedures, provided~~
436 ~~that such permit complies with applicable federal regulations~~

437 ~~and applicable local zoning or land development regulations,~~
 438 ~~including any aesthetic requirements. Local building regulations~~
 439 ~~shall apply. If the local government review of the wireless~~
 440 ~~communications facility also includes applications for~~
 441 ~~administrative review, each shall be within the applicable~~
 442 ~~timeframe indicated in this section.~~

443 3.a. An application is deemed submitted or resubmitted on
 444 the date the application is received by the local government.
 445 The local government shall notify the ~~permit~~ applicant within 20
 446 business days after the date the application is initially
 447 submitted as to whether the application is, for administrative
 448 purposes only, properly completed and has been properly
 449 submitted. However, the ~~such~~ determination shall not be deemed
 450 as an approval of the application. If the application is not
 451 completed in compliance with the local government's regulations,
 452 the ~~Such~~ notification must ~~shall~~ indicate with specificity any
 453 deficiencies that ~~which~~, if cured, ~~shall~~ make the application
 454 properly completed. Upon resubmission of information to cure the
 455 stated deficiencies, the local government shall notify the
 456 applicant within 20 business days after the additional
 457 information is submitted whether the application is properly
 458 completed or if there are any remaining deficiencies that must
 459 be cured. Any deficiencies not specified by the local government
 460 in the initial notice are waived.

461 b. If the local government fails to grant or deny a
 462 properly completed application for a wireless communications
 463 facility ~~permit which has been properly submitted~~ within the
 464 timeframes set forth in this paragraph, the application

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465 ~~paragraph, the permit~~ shall be deemed automatically approved and
466 the applicant ~~provider~~ may proceed with placement of such
467 facilities without interference or penalty. The timeframes
468 specified in subparagraph ~~subparagraphs 1. and 2.~~ shall be
469 extended only to the extent that the application ~~permit~~ has not
470 been granted or denied because the local government's procedures
471 generally applicable to all applications ~~permits~~, require action
472 by the governing body and such action has not taken place within
473 the timeframes specified in subparagraph ~~subparagraphs 1. and 2.~~
474 Under such circumstances, the local government must act to
475 either grant or deny the application ~~permit~~ at its next
476 regularly scheduled meeting or, otherwise, the application
477 ~~permit~~ shall be deemed to be automatically approved.

478 c. To be effective, a waiver of the timeframes set forth
479 in this paragraph ~~herein~~ must be voluntarily agreed to by the
480 applicant and the local government. A local government may
481 request, but not require, a waiver of the timeframes by the
482 applicant ~~an entity seeking a permit~~, except that, with respect
483 to a specific permit, a one-time waiver may be required in the
484 case of a declared local, state, or federal emergency that
485 directly affects the administration of all permitting activities
486 of the local government.

487 ~~(d) Any additional wireless communications facilities,~~
488 ~~such as communication cables, adjacent accessory structures, or~~
489 ~~adjacent accessory equipment used in the provision of cellular,~~
490 ~~enhanced specialized mobile radio, or personal communications~~
491 ~~services, required within the existing secured equipment~~
492 ~~compound within the existing site shall be deemed a permitted~~

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493 ~~use or activity. Local building and land development~~
 494 ~~regulations, including any aesthetic requirements, shall apply.~~

495 (e) A local government may not impose square footage or
 496 height limitations on equipment enclosures, cabinets, or
 497 buildings inconsistent with those required for other structures
 498 in the same zoning district. This paragraph supersedes any
 499 existing limitation imposed on equipment enclosures, cabinets,
 500 or buildings by agreement, ordinance, resolution, or land
 501 development regulation.

502 (f) The replacement of or modification to a wireless
 503 communications facility, except a tower, that results in a
 504 wireless communications facility of similar size, type, and
 505 appearance and the replacement or modification of equipment that
 506 is not visible from outside the wireless communications site are
 507 subject only to building-permit review.

508 (g) If a local government regulation or procedure does not
 509 conform to the requirements of this section, the regulation or
 510 procedure must be amended to do so by January 1, 2005.

511 (h)1.(e) The use of state government-owned property for
 512 wireless communications facilities is encouraged. Any other
 513 ~~provision of law to the contrary notwithstanding, the Department~~
 514 of Management Services or its designated representative shall
 515 negotiate, in the name of the state, leases for wireless
 516 communications facilities that provide access to state
 517 government-owned property not acquired for transportation
 518 purposes, and the Department of Transportation shall negotiate,
 519 in the name of the state, leases for wireless communications

520 facilities that provide access to property acquired for state
521 rights-of-way.

522 2. On property acquired for transportation purposes,
523 leases shall be granted in accordance with s. 337.251. On other
524 state government-owned property, the Board of Trustees of the
525 Internal Improvement Trust Fund or the Division of State Lands
526 of the Department of Environmental Protection, acting as the
527 board's designated representative, shall assess state-owned
528 properties for availability for placement of E911 wireless
529 communications facilities and provide an inventory of available
530 and nonavailable state-owned properties to the Department of
531 Management Services by September 1, 2004. The Board of Trustees
532 of the Internal Improvement Trust Fund or the Division of State
533 Lands as the board's designated representative shall be the
534 entity that makes the final determination of availability of any
535 specific property for leasing to wireless providers. Such state
536 government-owned property shall be presumed available for
537 leasing to wireless providers, which presumption may be rebutted
538 by the applicable state agency that holds title to the property,
539 government agency responsible for managing the property, or
540 government agency leasing the property by an affirmative showing
541 that leasing the property for use by a wireless communications
542 facility will materially interfere with the use by the
543 applicable agency or will materially interfere with the lease
544 terms of the government agency leasing the property, or by
545 showing that access to the property is not available for
546 security purposes or is otherwise not allowed for public health,
547 safety, and welfare reasons. If determined available, leases for

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548 nontransportation state government-owned property shall be
 549 procured through negotiation by the Department of Management
 550 Services or its designated representative or through other
 551 competitive procurement method and leases shall be granted on a
 552 space available, ~~first-come, first-served~~ basis as determined by
 553 the Department of Management Services. Payments required by
 554 state government under a lease must be reasonable and must
 555 reflect the market rate for the use of the state government-
 556 owned property. Lease payments shall be deposited in the
 557 Wireless Emergency Telephone System Fund and shall be
 558 distributed to counties for payment of E911 and 911 service
 559 costs in the percentage indicated in s. 365.173(2)(a). A
 560 percentage of payments collected shall be deposited and
 561 accounted for in the Supervision Trust Fund and shall be
 562 distributed to the Department of Management Services for costs
 563 in implementing the lease program. The leasing process shall be
 564 as established by rule adopted by the Department of Management
 565 Services. The Department of Management Services and the
 566 Department of Transportation are authorized to adopt rules for
 567 the terms and conditions and granting of any such leases.

568 3. Review or consideration of any applicable zoning or
 569 land use issues shall be with the local government. If a
 570 wireless provider applies to enter into a lease to use state
 571 government-owned property for a wireless communications
 572 facility, the Department of Management Services or the
 573 Department of Transportation, as applicable, shall not review or
 574 consider any zoning or land use issues.

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575 4. The Department of Management Services or the Department
576 of Transportation, as applicable, shall grant or deny each
577 properly completed application for a wireless communications
578 facility on state government-owned property within 45 business
579 days after the date the application is determined to be properly
580 completed. The Department of Management Services or the
581 Department of Transportation, as applicable, shall notify the
582 applicant within 20 business days after the date the application
583 is initially submitted as to whether the application is properly
584 completed and has been properly submitted. If the application is
585 not complete in accordance within the applicable application
586 review procedures, the notification shall indicate with
587 specificity any deficiencies which, if cured, shall make the
588 application properly completed. Upon resubmission of information
589 to cure the stated deficiencies, the Department of Management
590 Services or the Department of Transportation, as applicable,
591 shall notify the applicant within 10 business days after the
592 additional information was submitted whether the application is
593 properly completed or if there are any remaining deficiencies
594 which must be cured. To be effective, a waiver of any timeframe
595 set forth herein must be voluntarily agreed to by the applicant
596 and the Department of Management Services or the Department of
597 Transportation, as applicable. If the Department of Management
598 Services or the Department of Transportation, as applicable,
599 fails to grant or deny a properly completed application within
600 the timeframes set forth in this subsection and the timeframe
601 has not be voluntarily waived, the application shall be deemed

602 automatically approved and the applicant may proceed with
 603 placement of such facilities without interference or penalty.

604 (i) Any person adversely affected by any action or failure
 605 to act by a local government which is inconsistent with this
 606 subsection may bring an action in a court of competent
 607 jurisdiction within 30 days after the action or the failure to
 608 act. The court shall consider the matter on an expedited basis.

609 ~~(f) Any wireless telephone service provider may report to~~
 610 ~~the board no later than September 1, 2003, the specific~~
 611 ~~locations or general areas within a county or municipality where~~
 612 ~~the provider has experienced unreasonable delay to locate~~
 613 ~~wireless telecommunications facilities necessary to provide the~~
 614 ~~needed coverage for compliance with federal Phase II E911~~
 615 ~~requirements using its own network. The provider shall also~~
 616 ~~provide this information to the specifically identified county~~
 617 ~~or municipality no later than September 1, 2003. Unless the~~
 618 ~~board receives no report that unreasonable delays have occurred,~~
 619 ~~the board shall, no later than September 30, 2003, establish a~~
 620 ~~subcommittee responsible for developing a balanced approach~~
 621 ~~between the ability of providers to locate wireless facilities~~
 622 ~~necessary to comply with federal Phase II E911 requirements~~
 623 ~~using the carrier's own network and the desire of counties and~~
 624 ~~municipalities to zone and regulate land uses to achieve public~~
 625 ~~welfare goals. If a subcommittee is established, it shall~~
 626 ~~include representatives from the Florida Telecommunications~~
 627 ~~Industry Association, the Florida Association of Counties, and~~
 628 ~~the Florida League of Cities. The subcommittee shall be charged~~
 629 ~~with developing recommendations for the board and any~~

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630 | ~~specifically identified municipality or county to consider~~
631 | ~~regarding actions to be taken for compliance for federal Phase~~
632 | ~~II E911 requirements. In the annual report due to the Governor~~
633 | ~~and the Legislature by February 28, 2004, the board shall~~
634 | ~~include any recommendations developed by the subcommittee to~~
635 | ~~address compliance with federal Phase II E911 requirements.~~

636 | Section 2. This act shall take effect July 1, 2004.