

Bill No. CS for SB 2302

Amendment No. ____ Barcode 665444

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following **amendment to amendment**
(545372):

Senate Amendment (with title amendment)

On page 19, line 27 through page 24, line 26, delete
those lines

and insert:

(g)1.(e) The use of state government-owned property
for wireless communications facilities is encouraged. Any
other ~~provision of~~ law to the contrary notwithstanding, except
as provided in s. 253.0342, the Department of Management
Services shall negotiate, in the name of the state, leases for
wireless communications facilities that provide access to
state government-owned property not acquired for
transportation purposes, and the Department of Transportation
shall negotiate, in the name of the state, leases for wireless
communications facilities that provide access to property
acquired for state rights-of-way.

2. On property acquired for transportation purposes,
leases shall be granted in accordance with s. 337.251. On

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1 other state government-owned property, leases shall be granted
2 on a space available, ~~first come, first served~~ basis as
3 determined by the Department of Management Services in
4 accordance with s. 253.0342. Payments required by state
5 government under a lease must be reasonable and must reflect
6 the market rate for the use of the state government-owned
7 property. Lease payments shall be deposited in the General
8 Revenue Fund. The Department of Management Services and the
9 Department of Transportation are authorized to adopt rules for
10 the terms and conditions and granting of any such leases.

11 3. Review or consideration of any applicable zoning or
12 land use issues shall be with the local government. If a
13 wireless provider applies to enter into a lease to use state
14 government-owned property for a wireless communications
15 facility, the Department of Management Services or the
16 Department of Transportation, as applicable, shall not review
17 or consider any zoning or land use issues.

18 4. The Department of Management Services or the
19 Department of Transportation, as applicable, shall grant or
20 deny each properly completed application for a wireless
21 communications facility on state government-owned property
22 within 90 business days after the date the application is
23 determined to be properly completed. The Department of
24 Management Services or the Department of Transportation, as
25 applicable, shall notify the applicant within 40 business days
26 after the date the application is initially submitted as to
27 whether the application is properly completed and has been
28 properly submitted. If the application is not complete in
29 accordance within the applicable application review
30 procedures, the notification shall indicate with specificity
31 any deficiencies which, if cured, shall make the application

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1 properly completed. Upon resubmission of information to cure
2 the stated deficiencies, the Department of Management Services
3 or the Department of Transportation, as applicable, shall
4 notify the applicant within 20 business days after the
5 additional information was submitted whether the application
6 is properly completed or if there are any remaining
7 deficiencies which must be cured. To be effective, a waiver of
8 any timeframe set forth herein must be voluntarily agreed to
9 by the applicant and the Department of Management Services or
10 the Department of Transportation, as applicable. If the
11 Department of Management Services or the Department of
12 Transportation, as applicable, fails to grant or deny a
13 properly completed application within the timeframes set forth
14 in this subsection and the timeframe has not be voluntarily
15 waived, the application shall be deemed automatically approved
16 and the applicant may proceed with placement of such
17 facilities without interference or penalty.

18 (h) Any person adversely affected by any action or
19 failure to act by a local government which is inconsistent
20 with this subsection may bring an action in a court of
21 competent jurisdiction within 30 days after the action or the
22 failure to act. The court shall consider the matter on an
23 expedited basis.

24 ~~(f) Any wireless telephone service provider may report~~
25 ~~to the board no later than September 1, 2003, the specific~~
26 ~~locations or general areas within a county or municipality~~
27 ~~where the provider has experienced unreasonable delay to~~
28 ~~locate wireless telecommunications facilities necessary to~~
29 ~~provide the needed coverage for compliance with federal Phase~~
30 ~~II E911 requirements using its own network. The provider shall~~
31 ~~also provide this information to the specifically identified~~

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1 ~~county or municipality no later than September 1, 2003. Unless~~
2 ~~the board receives no report that unreasonable delays have~~
3 ~~occurred, the board shall, no later than September 30, 2003,~~
4 ~~establish a subcommittee responsible for developing a balanced~~
5 ~~approach between the ability of providers to locate wireless~~
6 ~~facilities necessary to comply with federal Phase II E911~~
7 ~~requirements using the carrier's own network and the desire of~~
8 ~~counties and municipalities to zone and regulate land uses to~~
9 ~~achieve public welfare goals. If a subcommittee is~~
10 ~~established, it shall include representatives from the Florida~~
11 ~~Telecommunications Industry Association, the Florida~~
12 ~~Association of Counties, and the Florida League of Cities. The~~
13 ~~subcommittee shall be charged with developing recommendations~~
14 ~~for the board and any specifically identified municipality or~~
15 ~~county to consider regarding actions to be taken for~~
16 ~~compliance for federal Phase II E911 requirements. In the~~
17 ~~annual report due to the Governor and the Legislature by~~
18 ~~February 28, 2004, the board shall include any recommendations~~
19 ~~developed by the subcommittee to address compliance with~~
20 ~~federal Phase II E911 requirements.~~

21 (13) PRIOR APPROVAL REQUIREMENT.--It is the intent of
22 this act to assure the safety of employees, passengers, and
23 freight at airports, as defined in s. 330.27(2) and not to
24 require the placement at any airport of any wireless
25 communication facility unless approved by the airport.
26 Therefore, this section does not require the governing
27 authority of any airport to make available any site, space, or
28 facility owned or controlled by such airport to a service
29 provider for the location or collocation of any tower or
30 wireless communication facility, except on such terms and with
31 such limitation as the governing authority of such airport may

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1 deem safe and appropriate. This section also does not affect
 2 an airport governing authority's power or authority to manage,
 3 control, or provide communications services, which include,
 4 but are not limited to, wired, cellular, wireless, and
 5 Internet services, information services, and data-related
 6 services for any facility owned or controlled by the airport.
 7 This section does not affect an airport governing authority's
 8 power or authority to recover costs or generate revenue from
 9 communications services provided on the airport.

10 Section 3. Section 253.0342, Florida Statutes, is
 11 created to read:

12 253.0342 Use of state or water management district
 13 lands for emergency 911 wireless communications facilities--

14 (1) Notwithstanding any other provision of law, the
 15 Department of Management Services is authorized to negotiate
 16 for and enter into lease agreements with wireless providers
 17 for the use of state-owned lands titled in the name of the
 18 Board of Trustees of the Internal Improvement Trust Fund and
 19 for lands titled in the name of other state agencies or a
 20 water management district for the placement of 911 wireless
 21 communications facilities.

22 (2) The Division of State Lands shall determine the
 23 availability of state and water management district lands for
 24 placement of these wireless facilities on a site-by-site basis
 25 at the request of the Department of Management Services.

26 (3) Upon a determination that a site is available for
 27 lease, the Department of Management Services shall contact the
 28 lead managing agency for lands titled in the name of the Board
 29 of Trustees of the Internal Improvement Trust Fund or the site
 30 owner for all other requested sites to obtain a determination
 31 of whether the site is suitable for placement of these

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1 wireless facilities.

2 (4) In determining the suitability of a site, the lead
3 managing agency or the site owner shall determine, in writing,
4 that the use of the property or facility for placement of
5 wireless communication facilities will not interfere with
6 existing uses (including conservation uses), leases, or the
7 public health and safety. Additional consideration shall be
8 given for the potential of collocating any proposed facility
9 with existing linear facilities, buildings or other
10 structures.

11 (5) Upon determination that a site is both available
12 and suitable for lease, the Department of Management Services
13 may negotiate a lease agreement with the wireless service
14 provider. A copy of any lease agreement shall be provided to
15 the lead managing agency or site owner.

16 (6) All leases entered into under this section shall
17 restrict use of sites by wireless service providers to those
18 uses directly related to provisions of wireless communications
19 service. Use of the site by the wireless communications
20 service provider shall be carried out and maintained in a
21 manner consistent with existing uses (including conservation
22 uses), leases, and the public health and safety.

23 (7)(a) Lease agreements proposed by the Department of
24 Management Services for lands titled to the Board of Trustees
25 of Internal Improvement Trust Fund shall be submitted to the
26 Division of State Lands. Such agreements shall be presumed to
27 be approved unless the Secretary of the Department or one or
28 more members of the Board request that they be placed on an
29 agenda for approval or denial by the Board. The secretary or
30 the Board member must notify the Department of Management
31 Services within 30 days of receipt of the proposed agreement

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1 of their intention to have the agreement submitted to the
2 Board. Any agreement subject to hearing before the Board must
3 be placed on the Board's agenda within 60 days of a request.

4 (b) Lease agreements proposed by the Department of
5 Management Services for land titled to a water management
6 district must be submitted to the governing board of the water
7 management for their approval or denial. The governing board
8 must agenda the proposed agreement within 60 days of receipt
9 from the Department of Management Services. Such action by the
10 governing board shall constitute an order of the agency.

11 (c) Lease agreements proposed by the Department of
12 Management Services for lands titled in the name of a state
13 agency shall be approved or denied by the secretary or
14 executive director of the agency within 60 days. Such action
15 by the secretary or executive director shall constitute an
16 order of the agency.

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18 (Redesignate subsequent sections.)

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21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 On page 28, line 16, after the semicolon,

24
25 insert:

26 creating s. 253.0342, F.S.; providing process
27 for lease of non-transportation state-owned
28 lands by a wireless provider;

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