

Bill No. CS for SB 2322

Amendment No. ____ Barcode 743628

CHAMBER ACTION

Senate

House

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Senator Bennett moved the following amendment:

Senate Amendment (with title amendment)

On page 9, between lines 9 & 10,

insert:

Section 7. Subsection (2) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; authorities; reports; rules.--

(2) DUTIES.--The Auditor General shall:

(a) Conduct audits of records and perform related duties as prescribed by law, concurrent resolution of the Legislature, or as directed by the Legislative Auditing Committee.

(b) Annually conduct a financial audit of state government.

(c) Annually conduct financial audits of all universities and district boards of trustees of community colleges.

(d) Annually conduct financial audits of the accounts

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1 and records of all district school boards in counties with
 2 populations of fewer than 150,000, according to the most
 3 recent federal decennial statewide census.

4 ~~(e) Annually conduct an audit of the Wireless~~
 5 ~~Emergency Telephone System Fund as described in s. 365.173.~~

6 ~~(e)(f)~~ At least every 2 years, conduct operational
 7 audits of the accounts and records of state agencies and
 8 universities. In connection with these audits, the Auditor
 9 General shall give appropriate consideration to reports issued
 10 by state agencies' inspectors general or universities'
 11 inspectors general and the resolution of findings therein.

12 ~~(f)(g)~~ At least every 2 years, conduct a performance
 13 audit of the local government financial reporting system,
 14 which, for the purpose of this chapter, means any statutory
 15 provisions related to local government financial reporting.
 16 The purpose of such an audit is to determine the accuracy,
 17 efficiency, and effectiveness of the reporting system in
 18 achieving its goals and to make recommendations to the local
 19 governments, the Governor, and the Legislature as to how the
 20 reporting system can be improved and how program costs can be
 21 reduced. The local government financial reporting system
 22 should provide for the timely, accurate, uniform, and
 23 cost-effective accumulation of financial and other information
 24 that can be used by the members of the Legislature and other
 25 appropriate officials to accomplish the following goals:

- 26 1. Enhance citizen participation in local government;
- 27 2. Improve the financial condition of local
- 28 governments;
- 29 3. Provide essential government services in an
- 30 efficient and effective manner; and
- 31 4. Improve decisionmaking on the part of the

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1 Legislature, state agencies, and local government officials on
2 matters relating to local government.

3 ~~(g)(h)~~ Once every 3 years, conduct performance audits
4 of the Department of Revenue's administration of the ad
5 valorem tax laws as described in s. 195.096.

6 ~~(h)(i)~~ Once every 3 years, conduct financial audits of
7 the accounts and records of all district school boards in
8 counties with populations of 125,000 or more, according to the
9 most recent federal decennial statewide census.

10 ~~(i)(j)~~ Once every 3 years, review a sample of each
11 state agency's internal audit reports to determine compliance
12 with current Standards for the Professional Practice of
13 Internal Auditing or, if appropriate, government auditing
14 standards.

15 ~~(j)(k)~~ Conduct audits of local governmental entities
16 when determined to be necessary by the Auditor General, when
17 directed by the Legislative Auditing Committee, or when
18 otherwise required by law. No later than 18 months after the
19 release of the audit report, the Auditor General shall perform
20 such appropriate followup procedures as he or she deems
21 necessary to determine the audited entity's progress in
22 addressing the findings and recommendations contained within
23 the Auditor General's previous report. The Auditor General
24 shall provide a copy of his or her determination to each
25 member of the audited entity's governing body and to the
26 Legislative Auditing Committee.

27

28 The Auditor General shall perform his or her duties
29 independently but under the general policies established by
30 the Legislative Auditing Committee. This subsection does not
31 limit the Auditor General's discretionary authority to conduct

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1 other audits or engagements of governmental entities as
2 authorized in subsection (3).

3 Section 8. Subsections (3), (6), and (11) and
4 paragraph (a) of subsection (8) of section 365.172, Florida
5 Statutes, are amended, present subsection (13) of that section
6 is redesignated as subsection (14), and a new subsection (13)
7 is added to that section, to read:

8 365.172 Wireless emergency telephone number "E911."--

9 (3) DEFINITIONS.--As used in this section and ss.
10 365.173 and 365.174, the term:

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

15 (b) "Administrative review" means the nondiscretionary
16 review conducted by local governmental staff for compliance
17 with local government ordinances, but does not include a
18 public hearing or review of public input.

19 (c)(b) "Answering point" means the public safety
20 agency that receives incoming 911 calls and dispatches
21 appropriate public safety agencies to respond to the such
22 calls.

23 (d)(c) "Automatic location identification" means the
24 capability of the E911 service which enables the automatic
25 display of information that defines the approximate geographic
26 location of the wireless telephone used to place a 911 call.

27 (e)(d) "Automatic number identification" means the
28 capability of the E911 service which enables the automatic
29 display of the 10-digit service number used to place a 911
30 call.

31 (f)(e) "Board" means the board of directors of the

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1 Wireless 911 Board.

2 ~~(g)(f)~~ "Office" means the State Technology Office.

3 ~~(h)~~ "Building-permit review" means a review for
4 compliance with building construction standards adopted by the
5 local government under chapter 553 and does not include a
6 review for compliance with land development regulations.

7 ~~(i)~~ "Collocation" means the situation when a second or
8 subsequent wireless provider uses an existing structure to
9 locate a second or subsequent antenna. The term includes the
10 ground, platform, or roof installation of equipment
11 enclosures, cabinets, or buildings, and cables, brackets, and
12 other equipment associated with the location and operation of
13 the antennas.

14 ~~(j)(g)~~ "E911" is the designation for a wireless
15 enhanced 911 system or wireless enhanced 911 service that is
16 an emergency telephone system or service that provides a
17 subscriber with wireless 911 service and, in addition, directs
18 911 calls to appropriate public safety answering points by
19 selective routing based on the geographical location from
20 which the call originated, or as otherwise provided in the
21 state plan under s. 365.171, and that provides for automatic
22 number identification and automatic location-identification
23 features in accordance with the requirements of the order.

24 ~~(k)~~ "Existing structure" means a structure that exists
25 at the time an application for permission to place antennas on
26 a structure is filed with a local government. The term
27 includes any structure that can support the attachment of
28 antennas, including, but not limited to, towers, buildings,
29 utility structures, light poles, water towers, clock towers,
30 bell towers, and steeples.

31 ~~(l)(h)~~ "Fee" means the E911 fee imposed under

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1 subsection (8).

2 ~~(m)(i)~~ "Fund" means the Wireless Emergency Telephone
 3 System Fund established in s. 365.173 and maintained under
 4 this section for the purpose of recovering the costs
 5 associated with providing 911 service or E911 service,
 6 including the costs of implementing the order.

7 ~~(n)~~ "Historic building, structure, or district" means
 8 any building, structure, or district that has been officially
 9 designated as a historic building, historic structure, or
 10 historic district through a federal, state, or local
 11 designation program.

12 ~~(o)~~ "Land-development regulation" means any ordinance
 13 enacted by a local governing body for the regulation of any
 14 aspect of development, including an ordinance governing
 15 zoning, subdivisions, landscaping, tree protection, or signs,
 16 or any other ordinance concerning any aspect of the
 17 development of land. The term does not include any
 18 building-construction standard adopted under and in compliance
 19 with chapter 553.

20 ~~(p)(j)~~ "Local exchange carrier" means a "competitive
 21 local exchange telecommunications company" or a "local
 22 exchange telecommunications company" as defined in s. 364.02.

23 ~~(q)(k)~~ "Local government" means any municipality,
 24 county, or political subdivision or agency of a municipality,
 25 county, or political subdivision.

26 ~~(r)(l)~~ "Mobile telephone number" or "MTN" means the
 27 telephone number assigned to a wireless telephone at the time
 28 of initial activation.

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

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

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

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

8 c. Order No. FCC DA 98-2323 adopted on November 13,
9 1998.

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

11 2. Orders and rules subsequently adopted by the
12 Federal Communications Commission relating to the provision of
13 wireless 911 services.

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

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

- 25 1. Is subject to the requirements of the order; or
26 2. Elects to provide wireless 911 service or E911
27 service in this state.

28 ~~(v)(p)~~ "Public agency" means the state and any
29 municipality, county, municipal corporation, or other
30 governmental entity, public district, or public authority
31 located in whole or in part within this state which provides,

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1 or has authority to provide, firefighting, law enforcement,
2 ambulance, medical, or other emergency services.

3 ~~(w)(q)~~ "Public safety agency" means a functional
4 division of a public agency which provides firefighting, law
5 enforcement, medical, or other emergency services.

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

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

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

27 ~~(aa)(u)~~ "Sufficient positive balance" means a dollar
28 amount greater than or equal to the monthly wireless surcharge
29 amount.

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

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1 (cc) "Wireless communications facility" means any
 2 equipment or facility used to provide service, and includes,
 3 but is not limited to, antennas, towers, equipment enclosures,
 4 cabling, antenna brackets, and other equipment.

5 (dd) "Wireless communications site" means the area on
 6 the roof, structure, or ground which is designed, intended to
 7 be used, or is used for the location of a wireless
 8 communications facility, and any fencing and landscaping
 9 provided in association with the wireless communications
 10 facility.

11 (ee)(v) "Wireless 911 system" or "wireless 911
 12 service" means an emergency telephone system or service that
 13 provides a subscriber with the ability to reach an answering
 14 point by dialing the digits "911." A wireless 911 system is
 15 complementary to a wired 911 system as provided for in s.
 16 365.171.

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

18 (a) The board shall:

- 19 1. Administer the E911 fee.
- 20 2. Implement, maintain, and oversee the fund.
- 21 3. Review and oversee the disbursement of the revenues
- 22 deposited into the fund as provided in s. 365.173. The board
- 23 may establish a schedule for implementing wireless E911
- 24 service by service area, and prioritize disbursements of
- 25 revenues from the fund to providers and rural counties as
- 26 provided in s. 365.173(2)(b) and (c) pursuant to the schedule,
- 27 in order to implement E911 services in the most efficient and
- 28 cost-effective manner.

- 29 4. Review documentation submitted by providers which
- 30 reflects current and projected funds derived from the E911
- 31 fee, and the expenses incurred and expected to be incurred, in

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1 order to comply with the E911 service requirements contained
2 in the order for the purposes of:

3 a. Ensuring that providers receive fair and equitable
4 distributions of funds from the fund.

5 b. Ensuring that providers are not provided
6 disbursements from the fund which exceed the costs of
7 providing E911 service, including the costs of complying with
8 the order.

9 c. Ascertaining the projected costs of compliance with
10 the requirements of the order and projected collections of the
11 E911 fee.

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

14 5. Review and approve or reject, in whole or in part,
15 applications submitted by providers for recovery of moneys
16 deposited into the fund.

17 6. Hire and retain employees, including an independent
18 executive director who shall possess experience in the area of
19 telecommunications and emergency 911 issues, for the purposes
20 of performing the technical and administrative functions for
21 the board.

22 7. Make and enter into contracts, pursuant to chapter
23 287, and execute other instruments necessary or convenient for
24 the exercise of the powers and functions of the board.

25 8. Take all necessary and reasonable steps by July 1,
26 2000, to secure appropriate information and reports from
27 providers and otherwise perform all of the functions that
28 would be performed by an independent accounting firm prior to
29 completing the request-for-proposals process under subsection
30 (7).

31 9. Sue and be sued, and appear and defend in all

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1 actions and proceedings, in its corporate name to the same
2 extent as a natural person.

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

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

6 12. The board may adopt rules under ss. 120.536(1) and
7 120.54 to implement this section and ss. 365.173 and 365.174.

8 13. Provide coordination, support, and technical
9 assistance to counties to promote the deployment of advanced
10 911 and E911 systems in the state.

11 14. Provide coordination and support for educational
12 opportunities related to 911 issues for the 911 community in
13 this state.

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

18 16. Coordinate input from this state at national
19 forums and associations, to ensure that policies related to
20 911 systems and services are consistent with the policies of
21 the 911 community in this state.

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

26 18. Do all acts and things necessary or convenient to
27 carry out the powers granted in this section, including but
28 not limited to, consideration of emerging technology and
29 related cost savings.

30 19. By July 1, 2005, secure the services of an
31 independent, private attorney via invitation to bid, request

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1 for proposals, invitation to negotiate, or professional
2 contracts for legal services already established at the
3 Division of Purchasing of the Department of Management
4 Services.

5 20. No later than August 1, 2004, establish a
6 subcommittee responsible for analyzing the cost and
7 effectiveness of a nonemergency 311 system, including the
8 potential to improve the overall efficiency of an existing 911
9 system or reduce 911 call processing times. The subcommittee
10 shall report its findings and recommendations to the board by
11 December 31, 2004.

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

15 (c) By February 28 of each year, the board shall
16 prepare a report for submission by the office to the Governor,
17 the President of the Senate, and the Speaker of the House of
18 Representatives which reflects, for the immediately preceding
19 calendar year, the quarterly and annual receipts and
20 disbursements of moneys in the fund, the purposes for which
21 disbursements of moneys from the fund have been made, and the
22 availability and status of implementation of E911 service in
23 this state.

24 (d) By February 28, 2001, the board shall undertake
25 and complete a study for submission by the office to the
26 Governor, the President of the Senate, and the Speaker of the
27 House of Representatives which addresses:

28 1. The total amount of E911 fee revenues collected by
29 each provider, the total amount of expenses incurred by each
30 provider to comply with the order, and the amount of moneys on
31 deposit in the fund, all as of December 1, 2000.

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

5 3. Any other issues related to providing wireless E911
6 services.

7 (8) WIRELESS E911 FEE.--

8 (a) Each home service provider shall collect a monthly
9 fee imposed on each customer whose place of primary use is
10 within this state. For purposes of this section, the state and
11 local governments are not customers. The rate of the fee shall
12 be 50 cents per month per each service number, beginning
13 August 1, 1999. The fee shall apply uniformly and be imposed
14 throughout the state.

15 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--In
16 order to balance the public need for reliable E911 services
17 through reliable wireless systems with the public interest
18 served by governmental zoning and land development regulations
19 and notwithstanding any other law or local ordinance to the
20 contrary, the following standards shall apply to a local
21 government's regulation of the placement, construction, or
22 modification of a wireless communications facility:

23 (a)1. Collocation ~~Colocation~~ among wireless ~~telephone~~
24 ~~service~~ providers is encouraged by the state. To further
25 facilitate agreements among providers for collocation
26 ~~colocation~~ of their facilities, any antennae ~~and related~~
27 ~~equipment to service the antennae~~ that is being collocated
28 ~~colocated~~ on an existing above-ground structure and the
29 related equipment to service the antenna is not subject to
30 land development regulation ~~pursuant to s. 163.3202~~, provided
31 the height of the existing structure is not increased.

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1 However, construction of the antennae and related equipment is
2 subject to local building regulations and any existing permits
3 or agreements for such property, buildings, or structures.
4 Nothing herein shall relieve the permitholder for or owner of
5 the existing structure ~~from~~ ~~of~~ compliance with any applicable
6 condition or requirement contained in ~~of~~ a permit, agreement,
7 ~~or~~ land development regulation, including any aesthetic
8 requirements, or law that was in effect when the existing
9 structure or initial antenna location was permitted and which
10 is not inconsistent with this subsection. The conditions or
11 requirements of an existing permit or agreement for an antenna
12 on a historic building or historic structure or in a historic
13 district apply regardless of the consistency of those
14 conditions or requirements with this subsection.

15 2. An existing tower, including a nonconforming tower,
16 may be modified or replaced without increasing the height in
17 order to permit collocation, provided that the replacement
18 tower is a monopole tower or, if the tower to be replaced is a
19 camouflaged tower, the replacement tower is a like-camouflaged
20 tower. The modification or replacement shall be subject only
21 to administrative review and to building-permit review.

22 (b)1. A local government is limited when evaluating a
23 wireless provider's application for placement of a wireless
24 communications facility to issues concerning land development
25 and zoning. A local government may not request information on
26 or review, consider, or evaluate a wireless provider's
27 business need for a specific location for a wireless
28 communications site or the need for wireless service to be
29 provided from a particular site unless the wireless provider
30 voluntarily offers this information to the local government. A
31 local government may not request information on or review,

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1 consider, or evaluate the wireless provider's service quality
2 or the network design of the wireless service unless the
3 information or materials are directly related to an identified
4 land development or zoning issue or the wireless provider
5 voluntarily offers the information to the local government.

6 2. The setback or distance separation required of a
7 tower may not exceed the minimum distance necessary to satisfy
8 the structural safety or aesthetic concerns that are protected
9 by the setback or distance separation.

10 3. A local government must provide a reasonable
11 opportunity for placing some form or type of antenna in all
12 areas of a local government's jurisdiction, unless the
13 jurisdiction can demonstrate that a prohibition of all forms
14 or types of wireless communications facilities in a specific
15 location or area is the only way to protect the public health,
16 safety, and welfare of that area. This subparagraph shall be
17 construed to minimize the placement of noncamouflaged towers
18 in residential areas and to maximize antenna placements and
19 collocations.

20 4. A local government may impose a fee, surety, or
21 insurance requirement on a wireless provider when applying to
22 place, construct, or modify a wireless communications facility
23 only if a similar fee, surety, or insurance requirement is
24 also imposed on applicants seeking similar types of zoning,
25 land use, or building-permit review. Fees for review of
26 applications for wireless communications facilities by
27 consultants or experts who are engaged to review general
28 zoning and land use matters on behalf of the local government
29 may be recovered, but only if the recovery is routinely sought
30 from all applicants seeking a similar level of review for
31 zoning or land-development approvals, and any fees must be

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1 reasonable.

2 ~~(c)(b)~~ Local governments may ~~shall~~ not require
3 wireless providers to provide evidence of a wireless
4 communications facility's compliance with federal regulations,
5 except evidence of compliance with applicable Federal Aviation
6 Administration requirements under 14 C.F.R. s. 77, as amended.
7 However, local governments may request ~~shall receive~~ evidence
8 of proper Federal Communications Commission licensure or other
9 evidence of Federal Communications Commission authorized
10 spectrum use from a wireless provider and may request the
11 Federal Communications Commission to provide information as to
12 a wireless provider's compliance with federal regulations, as
13 authorized by federal law.

14 ~~(d)(c)~~1. A local government shall grant or deny each a
15 properly completed application for a wireless communications
16 facility reviewed through administrative review or an
17 application reviewed through building-permit review a permit,
18 ~~including permits under paragraph(a), for the collocation of a~~
19 ~~wireless communications facility on property, buildings, or~~
20 ~~structures within the local government's jurisdiction within~~
21 45 business days after the date the ~~properly completed~~
22 application is determined to be properly completed initially
23 submitted in accordance with this paragraph ~~the applicable~~
24 ~~local government application procedures, provided that such~~
25 ~~permit complies with applicable federal regulations and~~
26 ~~applicable local zoning or land development regulations,~~
27 ~~including any aesthetic requirements. Local building~~
28 ~~regulations shall apply. If administrative reviews are~~
29 required from multiple departments of the local government,
30 such reviews shall be concurrent and all within the
31 45-business-day timeframe.

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1 2. A local government shall grant or deny each a
2 properly completed application for a wireless communications
3 facility reviewed through other than administrative review or
4 building-permit review a permit for the siting of a new
5 wireless tower or antenna on property, buildings, or
6 structures within the local government's jurisdiction within
7 90 business days after the date the properly completed
8 application is determined to be properly completed initially
9 submitted in accordance with this paragraph the applicable
10 local government application procedures, provided that such
11 permit complies with applicable federal regulations and
12 applicable local zoning or land development regulations,
13 including any aesthetic requirements. Local building
14 regulations shall apply. If the local government review of the
15 wireless communications facility also includes applications
16 for administrative review, each shall be within the applicable
17 timeframe indicated in this section.

18 3.a. An application is deemed submitted or resubmitted
19 on the date the application is received by the local
20 government. The local government shall notify the permit
21 applicant within 20 business days after the date the
22 application is initially submitted as to whether the
23 application is, for administrative purposes only, properly
24 completed and has been properly submitted. However, the such
25 determination shall not be deemed as an approval of the
26 application. If the application is not completed in compliance
27 with the local government's regulations, the such notification
28 must shall indicate with specificity any deficiencies in the
29 required documents or deficiencies in the content of the
30 required documents which, if cured, shall make the application
31 properly completed. Upon resubmission of information to cure

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1 the stated deficiencies, the local government shall notify the
2 applicant within 20 business days after the additional
3 information is submitted whether the application is properly
4 completed or if there are any remaining deficiencies that must
5 be cured. Any deficiencies in document type or content not
6 specified by the local government in the initial notice are
7 waived. Notwithstanding this sub-subparagraph, if a specified
8 deficiency is not properly cured when the applicant resubmits
9 its application to comply with the notice of deficiencies, the
10 local government may continue to request the information until
11 such time as the specified deficiency is cured.

12 b. If the local government fails to grant or deny a
13 properly completed application for a wireless communications
14 facility permit which has been properly submitted within the
15 timeframes set forth in this paragraph, the application
16 paragraph, the permit shall be deemed automatically approved
17 and the applicant provider may proceed with placement of such
18 facilities without interference or penalty. The timeframes
19 specified in subparagraph ~~subparagraphs 1. and 2.~~ shall be
20 extended only to the extent that the application permit has
21 not been granted or denied because the local government's
22 procedures generally applicable to all applications permits,
23 require action by the governing body and such action has not
24 taken place within the timeframes specified in subparagraph
25 ~~subparagraphs 1. and 2.~~ Under such circumstances, the local
26 government must act to either grant or deny the application
27 permit at its next regularly scheduled meeting or, otherwise,
28 the application permit shall be deemed to be automatically
29 approved.

30 c. To be effective, a waiver of the timeframes set
31 forth in this paragraph herein must be voluntarily agreed to

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1 by the applicant and the local government. A local government
2 may request, but not require, a waiver of the timeframes by
3 the applicant ~~an entity seeking a permit~~, except that, with
4 respect to a specific permit, a one-time waiver may be
5 required in the case of a declared local, state, or federal
6 emergency that directly affects the administration of all
7 permitting activities of the local government.

8 ~~(d) Any additional wireless communications facilities,~~
9 ~~such as communication cables, adjacent accessory structures,~~
10 ~~or adjacent accessory equipment used in the provision of~~
11 ~~cellular, enhanced specialized mobile radio, or personal~~
12 ~~communications services, required within the existing secured~~
13 ~~equipment compound within the existing site shall be deemed a~~
14 ~~permitted use or activity. Local building and land development~~
15 ~~regulations, including any aesthetic requirements, shall~~
16 ~~apply.~~

17 (e) A local government may not impose square footage
18 or height limitations on equipment enclosures, cabinets, or
19 buildings inconsistent with those required for other
20 structures in the same zoning district.

21 (f) The replacement of or modification to a wireless
22 communications facility, except a tower, that results in a
23 wireless communications facility of similar size, type, and
24 appearance and the replacement or modification of equipment
25 that is not visible from outside the wireless communications
26 site are subject only to building-permit review.

27 (g)1.(e) The use of state government-owned property
28 for wireless communications facilities is encouraged. Any
29 other provision of law to the contrary notwithstanding, the
30 Department of Management Services or its designated
31 representative shall negotiate, in the name of the state,

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1 leases for wireless communications facilities that provide
2 access to state government-owned property not acquired for
3 transportation purposes, and the Department of Transportation
4 shall negotiate, in the name of the state, leases for wireless
5 communications facilities that provide access to property
6 acquired for state rights-of-way.

7 2. On property acquired for transportation purposes,
8 leases shall be granted in accordance with s. 337.251. On
9 other state government-owned property, the Board of Trustees
10 of the Internal Improvement Trust Fund or the Division of
11 State Lands of the Department of Environmental Protection,
12 acting as the board's designated representative, shall assess
13 state-owned properties for availability for placement of E911
14 wireless communications facilities and provide an inventory of
15 available and nonavailable state-owned properties to the
16 Department of Management Services by January 1, 2005. The
17 Board of Trustees of the Internal Improvement Trust Fund or
18 the Division of State Lands as the board's designated
19 representative shall be the entity that makes the final
20 determination of availability of any specific property for
21 leasing to wireless providers. Such state government-owned
22 property shall be presumed available for leasing to wireless
23 providers, which presumption may be rebutted by the applicable
24 state agency that holds title to the property, government
25 agency responsible for managing the property, or government
26 agency leasing the property by an affirmative showing that
27 leasing the property for use by a wireless communications
28 facility will materially interfere with the use by the
29 applicable agency or will materially interfere with the lease
30 terms of the government agency leasing the property, or by
31 showing that access to the property is not available for

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1 security purposes or is otherwise not allowed for public
2 health, safety, and welfare reasons. If determined available,
3 leases for nontransportation state government-owned property
4 shall be procured through negotiation by the Department of
5 Management Services or its designated representative or
6 through other competitive procurement method and leases shall
7 be granted on a space available, first-come, first-served
8 basis as determined by the Department of Management Services.
9 Payments required by state government under a lease must be
10 reasonable and must reflect the market rate for the use of the
11 state government-owned property. Lease payments shall be
12 deposited in the Wireless Emergency Telephone System Fund.
13 Fifty percent of these funds shall be transferred to the
14 Department of Management Services Supervision Trust Fund for
15 payment of costs to administer the lease program and the
16 remainder shall be distributed to the owning agency. The other
17 50 percent shall be distributed to counties for payment of
18 E911 and 911 service costs. Distribution to the county where
19 the lease is established shall be as indicated in s.
20 365.173(2) with the remaining funds distributed to the
21 counties to promote the statewide deployment of wireless
22 enhanced 911 service with priority given to rural counties.
23 The leasing process shall be as established by rule adopted by
24 the Department of Management Services. The Department of
25 Management Services and the Department of Transportation are
26 authorized to adopt rules for the terms and conditions and
27 granting of any such leases.

28 3. Review or consideration of any applicable zoning or
29 land use issues shall be with the local government. If a
30 wireless provider applies to enter into a lease to use state
31 government-owned property for a wireless communications

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1 facility, the Department of Management Services or the
2 Department of Transportation, as applicable, shall not review
3 or consider any zoning or land use issues.

4 4. The Department of Management Services or the
5 Department of Transportation, as applicable, shall grant or
6 deny each properly completed application for a wireless
7 communications facility on state government-owned property
8 within 45 business days after the date the application is
9 determined to be properly completed. The Department of
10 Management Services or the Department of Transportation, as
11 applicable, shall notify the applicant within 20 business days
12 after the date the application is initially submitted as to
13 whether the application is properly completed and has been
14 properly submitted. If the application is not complete in
15 accordance within the applicable application review
16 procedures, the notification shall indicate with specificity
17 any deficiencies which, if cured, shall make the application
18 properly completed. Upon resubmission of information to cure
19 the stated deficiencies, the Department of Management Services
20 or the Department of Transportation, as applicable, shall
21 notify the applicant within 10 business days after the
22 additional information was submitted whether the application
23 is properly completed or if there are any remaining
24 deficiencies which must be cured. To be effective, a waiver of
25 any timeframe set forth herein must be voluntarily agreed to
26 by the applicant and the Department of Management Services or
27 the Department of Transportation, as applicable. If the
28 Department of Management Services or the Department of
29 Transportation, as applicable, fails to grant or deny a
30 properly completed application within the timeframes set forth
31 in this subsection and the timeframe has not be voluntarily

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1 waived, the application shall be deemed automatically approved
2 and the applicant may proceed with placement of such
3 facilities without interference or penalty.

4 (h) Any person adversely affected by any action or
5 failure to act by a local government which is inconsistent
6 with this subsection may bring an action in a court of
7 competent jurisdiction within 30 days after the action or the
8 failure to act. The court shall consider the matter on an
9 expedited basis.

10 ~~(f) Any wireless telephone service provider may report~~
11 ~~to the board no later than September 1, 2003, the specific~~
12 ~~locations or general areas within a county or municipality~~
13 ~~where the provider has experienced unreasonable delay to~~
14 ~~locate wireless telecommunications facilities necessary to~~
15 ~~provide the needed coverage for compliance with federal Phase~~
16 ~~II E911 requirements using its own network. The provider shall~~
17 ~~also provide this information to the specifically identified~~
18 ~~county or municipality no later than September 1, 2003. Unless~~
19 ~~the board receives no report that unreasonable delays have~~
20 ~~occurred, the board shall, no later than September 30, 2003,~~
21 ~~establish a subcommittee responsible for developing a balanced~~
22 ~~approach between the ability of providers to locate wireless~~
23 ~~facilities necessary to comply with federal Phase II E911~~
24 ~~requirements using the carrier's own network and the desire of~~
25 ~~counties and municipalities to zone and regulate land uses to~~
26 ~~achieve public welfare goals. If a subcommittee is~~
27 ~~established, it shall include representatives from the Florida~~
28 ~~Telecommunications Industry Association, the Florida~~
29 ~~Association of Counties, and the Florida League of Cities. The~~
30 ~~subcommittee shall be charged with developing recommendations~~
31 ~~for the board and any specifically identified municipality or~~

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1 ~~county to consider regarding actions to be taken for~~
 2 ~~compliance for federal Phase II E911 requirements. In the~~
 3 ~~annual report due to the Governor and the Legislature by~~
 4 ~~February 28, 2004, the board shall include any recommendations~~
 5 ~~developed by the subcommittee to address compliance with~~
 6 ~~federal Phase II E911 requirements.~~

7 (13) PRIOR APPROVAL REQUIREMENT.--It is the intent of
 8 this act to assure the safety of employees, passengers, and
 9 freight at airports, as defined in s. 330.27(2) and not to
 10 require the placement at any airport of any wireless
 11 communication facility unless approved by the airport.
 12 Therefore, this section does not require the governing
 13 authority of any airport to make available any site, space, or
 14 facility owned or controlled by such airport to a service
 15 provider for the location or collocation of any tower or
 16 wireless communication facility, except on such terms and with
 17 such limitation as the governing authority of such airport may
 18 deem safe and appropriate. This section also does not affect
 19 an airport governing authority's power or authority to manage,
 20 control, or provide communications services, which include,
 21 but are not limited to, wired, cellular, wireless, and
 22 Internet services, information services, and data-related
 23 services for any facility owned or controlled by the airport.
 24 This section does not affect an airport governing authority's
 25 power or authority to recover costs or generate revenue from
 26 communications services provided on the airport.

27 Section 9. Paragraph (a) of subsection (2) and
 28 subsection (3) of section 365.173, Florida Statutes, are
 29 amended to read:

30 365.173 Wireless Emergency Telephone System Fund.--

31 (2) Subject to any modifications approved by the board

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1 pursuant to s. 365.172(8)(c), the moneys in the fund shall be
2 distributed and used only as follows:

3 (a) Forty-four percent of the moneys shall be
4 distributed each month to counties, based on the total number
5 of wireless subscriber billing addresses in each county, for
6 payment of:

7 1. Recurring costs of providing 911 or E911 service,
8 as provided by s. 365.171(13)(a)6.

9 2. Costs to comply with the requirements for E911
10 service contained in the order and any future rules related to
11 the order.

12
13 Any county that receives funds under this paragraph shall
14 establish a fund to be used exclusively for the receipt and
15 expenditure of the revenues collected under this paragraph.
16 All fees placed in the fund, and any interest accrued, shall
17 be used solely for costs described in subparagraphs 1 and 2.
18 The money collected and interest earned in this fund shall be
19 appropriated for these purposes by the county commissioners
20 and incorporated into the annual county budget. The fund shall
21 be included within the financial audit performed in accordance
22 with s. 218.39. A county may carry forward the, for up to 3
23 successive calendar years, up to 30 percent of the total funds
24 disbursed to the county by the board during a calendar year
25 for expenditures for capital outlay, capital improvements, or
26 equipment replacement, if the such expenditures are made for
27 the purposes specified in this paragraph.

28 ~~(3) The Auditor General shall annually audit the fund~~
29 ~~to ensure that moneys in the fund are being managed in~~
30 ~~accordance with this section and s. 365.172. The Auditor~~
31 ~~General shall provide a report of the annual audit to the~~

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1 ~~board.~~

2

3 (Redesignate subsequent sections.)

4

5

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

7 And the title is amended as follows:

8 On page 1, line 19,

9

10 insert:

11 amending s. 11.45, F.S.; removing the annual
 12 audit of the Wireless Emergency Telephone
 13 System Fund from the duties of the Auditor
 14 General; amending s. 365.172, F.S.; adding
 15 definitions relating to wireless telephone
 16 communications; revising duties of the Wireless
 17 911 Board; providing for an executive director,
 18 services of an attorney, and the appointment of
 19 a subcommittee; requiring a report by the
 20 subcommittee; providing legislative intent
 21 regarding the emergency wireless telephone
 22 system; providing standards for local
 23 governments to follow when regulating the
 24 placement, construction, or modification of a
 25 wireless communications facility; directing
 26 local governments to grant or deny properly
 27 completed applications within specified time
 28 periods; providing procedures for a provider of
 29 wireless communications services to submit an
 30 application for local approval; directing local
 31 governments to notify a provider of the

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1 deficiencies in an application; directing local
2 governments to notify a provider whether the
3 resubmission of information properly completes
4 the application; permitting local governments
5 to continue requesting information until the
6 application deficiencies are cured; providing
7 for a limited review by a local government of
8 an accessory wireless communications facility;
9 prohibiting local governments from imposing
10 certain restrictions on wireless communications
11 facilities; providing that a local government
12 may not require a wireless communications
13 provider to remove a wireless communications
14 facility unless the facility causes a specific
15 adverse impact on the structural safety or
16 aesthetic concerns of the locality; requiring a
17 local government to amend its ordinances in
18 order to comply with this act by a specified
19 date; revising provisions for lease of
20 state-owned property by a wireless provider;
21 providing that a person who is adversely
22 affected by a decision of a local government
23 relating to a wireless communications facility
24 may bring an action within a specified period;
25 providing for the computation of the time
26 period; providing that a person who is
27 adversely affected by a decision of a local
28 government relating to a wireless
29 communications facility may bring an action at
30 any time if the person is seeking only
31 equitable relief to compel a local government

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1 to comply with the procedures of the act;
2 providing that the governing authority of an
3 airport is not required to make available any
4 site, space, or facility owned or controlled by
5 the airport to a wireless service provider for
6 the location or collocation of any tower or
7 wireless communication facility; providing that
8 an airport authority is not restricted when
9 managing, controlling, or providing
10 communications services on any space or
11 facility owned or controlled by the airport
12 authority; amending s. 365.173, F.S.; directing
13 how a county may use funds derived from the
14 E911 fee; requiring the board of county
15 commissioners to appropriate the funds to the
16 proper uses; removing the requirement that the
17 Auditor General annually audit the E911 fund;

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