

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

316-2613-04

1                                   A bill to be entitled

2           An act relating to the wireless emergency

3           telephone system; amending s. 11.45, F.S.;

4           removing the annual audit of the Wireless

5           Emergency Telephone System Fund from the duties

6           of the Auditor General; amending s. 365.172,

7           F.S.; adding definitions relating to wireless

8           telephone communications; revising duties of

9           the Wireless 911 Board; providing for an

10          executive director, services of an attorney,

11          and the appointment of a subcommittee;

12          requiring a report by the subcommittee;

13          providing legislative intent regarding the

14          emergency wireless telephone system; providing

15          standards for local governments to follow when

16          regulating the placement, construction, or

17          modification of a wireless communications

18          facility; directing local governments to grant

19          or deny properly completed applications within

20          specified time periods; providing procedures

21          for a provider of wireless communications

22          services to submit an application for local

23          approval; directing local governments to notify

24          a provider of the deficiencies in an

25          application; directing local governments to

26          notify a provider whether the resubmission of

27          information properly completes the application;

28          permitting local governments to continue

29          requesting information until the application

30          deficiencies are cured; providing for a limited

31          review by a local government of an accessory

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

1 wireless communications facility; prohibiting  
2 local governments from imposing certain  
3 restrictions on wireless communications  
4 facilities; providing that a local government  
5 may not require a wireless communications  
6 provider to remove a wireless communications  
7 facility unless the facility causes a specific  
8 adverse impact on the structural safety or  
9 aesthetic concerns of the locality; requiring a  
10 local government to amend its ordinances in  
11 order to comply with this act by a specified  
12 date; revising provisions for lease of  
13 state-owned property by a wireless provider;  
14 providing that a person who is adversely  
15 affected by a decision of a local government  
16 relating to a wireless communications facility  
17 may bring an action within a specified period;  
18 providing for the computation of the time  
19 period; providing that a person who is  
20 adversely affected by a decision of a local  
21 government relating to a wireless  
22 communications facility may bring an action at  
23 any time if the person is seeking only  
24 equitable relief to compel a local government  
25 to comply with the procedures of the act;  
26 providing that the governing authority of an  
27 airport is not required to make available any  
28 site, space, or facility owned or controlled by  
29 the airport to a wireless service provider for  
30 the location or collocation of any tower or  
31 wireless communication facility; amending s.

1           365.173, F.S.; directing how a county may use  
2           funds derived from the E911 fee; requiring the  
3           board of county commissioners to appropriate  
4           the funds to the proper uses; removing the  
5           requirement that the Auditor General annually  
6           audit the E911 fund; providing an effective  
7           date.

8

9   Be It Enacted by the Legislature of the State of Florida:

10

11           Section 1. Subsection (2) of section 11.45, Florida  
12   Statutes, is amended to read:

13           11.45 Definitions; duties; authorities; reports;  
14   rules.--

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

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

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

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

25           (d) Annually conduct financial audits of the accounts  
26   and records of all district school boards in counties with  
27   populations of fewer than 150,000, according to the most  
28   recent federal decennial statewide census.

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

31

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

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

- 21           1. Enhance citizen participation in local government;
- 22           2. Improve the financial condition of local  
23 governments;
- 24           3. Provide essential government services in an  
25 efficient and effective manner; and
- 26           4. Improve decisionmaking on the part of the  
27 Legislature, state agencies, and local government officials on  
28 matters relating to local government.

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

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

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

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

22  
23 The Auditor General shall perform his or her duties  
24 independently but under the general policies established by  
25 the Legislative Auditing Committee. This subsection does not  
26 limit the Auditor General's discretionary authority to conduct  
27 other audits or engagements of governmental entities as  
28 authorized in subsection (3).

29           Section 2. Subsections (3), (6), and (11) and  
30 paragraph (a) of subsection (8) of section 365.172, Florida  
31 Statutes, are amended, present subsection (13) of that section

1 is redesignated as subsection (14), and a new subsection (13)  
2 is added to that section, to read:

3 365.172 Wireless emergency telephone number "E911."--

4 (3) DEFINITIONS.--As used in this section and ss.  
5 365.173 and 365.174, the term:

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

10 (b) "Administrative review" means the nondiscretionary  
11 review conducted by local governmental staff for compliance  
12 with local government ordinances, but does not include a  
13 public hearing or review of public input.

14 ~~(c)(b)~~ "Answering point" means the public safety  
15 agency that receives incoming 911 calls and dispatches  
16 appropriate public safety agencies to respond to the such  
17 calls.

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

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

26 ~~(f)(e)~~ "Board" means the board of directors of the  
27 Wireless 911 Board.

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

29 (h) "Building-permit review" means a review for  
30 compliance with building construction standards adopted by the  
31

1 local government under chapter 553 and does not include a  
2 review for compliance with land development regulations.

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

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

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

27 (l)(h) "Fee" means the E911 fee imposed under  
28 subsection (8).

29 (m)(i) "Fund" means the Wireless Emergency Telephone  
30 System Fund established in s. 365.173 and maintained under  
31 this section for the purpose of recovering the costs

1 associated with providing 911 service or E911 service,  
2 including the costs of implementing the order.

3 (n) "Historic building, structure, or district" means  
4 any building, structure, or district that has been officially  
5 designated as a historic building, historic structure, or  
6 historic district through a federal, state, or local  
7 designation program.

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

16 (p)(j) "Local exchange carrier" means a "competitive  
17 local exchange telecommunications company" or a "local  
18 exchange telecommunications company" as defined in s. 364.02.

19 (q)(k) "Local government" means any municipality,  
20 county, or political subdivision or agency of a municipality,  
21 county, or political subdivision.

22 (r)(l) "Mobile telephone number" or "MTN" means the  
23 telephone number assigned to a wireless telephone at the time  
24 of initial activation.

25 (s)(m) "Order" means:

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

28 a. Order adopted on June 12, 1996, with an effective  
29 date of October 1, 1996, the amendments to s. 20.03 and the  
30 creation of s. 20.18 of Title 47 of the Code of Federal  
31



1 Regulations adopted by the Federal Communications Commission  
2 pursuant to ~~the~~ such order.

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

5       c. Order No. FCC DA 98-2323 adopted on November 13,  
6 1998.

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

8       2. Orders and rules subsequently adopted by the  
9 Federal Communications Commission relating to the provision of  
10 wireless 911 services.

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

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

- 22       1. Is subject to the requirements of the order; or  
23       2. Elects to provide wireless 911 service or E911  
24 service in this state.

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

31

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

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

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

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

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

28           ~~(bb)~~ "Tower" means any structure designed primarily to  
29 support a wireless provider's antenna.

30           ~~(cc)~~ "Wireless communications facility" means any  
31 equipment or facility used to provide service, and includes,

1 but is not limited to, antennas, towers, equipment enclosures,  
2 cabling, antenna brackets, and other equipment.

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

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

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

16 (a) The board shall:

- 17 1. Administer the E911 fee.
- 18 2. Implement, maintain, and oversee the fund.
- 19 3. Review and oversee the disbursement of the revenues  
20 deposited into the fund as provided in s. 365.173. The board  
21 may establish a schedule for implementing wireless E911  
22 service by service area, and prioritize disbursements of  
23 revenues from the fund to providers and rural counties as  
24 provided in s. 365.173(2)(b) and (c) pursuant to the schedule,  
25 in order to implement E911 services in the most efficient and  
26 cost-effective manner.
- 27 4. Review documentation submitted by providers which  
28 reflects current and projected funds derived from the E911  
29 fee, and the expenses incurred and expected to be incurred, in  
30 order to comply with the E911 service requirements contained  
31 in the order for the purposes of:

1           a. Ensuring that providers receive fair and equitable  
2 distributions of funds from the fund.

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

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

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

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

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

20          7. Make and enter into contracts, pursuant to chapter  
21 287, and execute other instruments necessary or convenient for  
22 the exercise of the powers and functions of the board.

23          8. Take all necessary and reasonable steps by July 1,  
24 2000, to secure appropriate information and reports from  
25 providers and otherwise perform all of the functions that  
26 would be performed by an independent accounting firm prior to  
27 completing the request-for-proposals process under subsection  
28 (7).

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

- 1           10. Adopt, use, and alter a common corporate seal.
- 2           11. Elect or appoint the officers and agents that are  
3 required by the affairs of the board.
- 4           12. The board may adopt rules under ss. 120.536(1) and  
5 120.54 to implement this section and ss. 365.173 and 365.174.
- 6           13. Provide coordination, support, and technical  
7 assistance to counties to promote the deployment of advanced  
8 911 and E911 systems in the state.
- 9           14. Provide coordination and support for educational  
10 opportunities related to 911 issues for the 911 community in  
11 this state.
- 12           15. Act as an advocate for issues related to 911  
13 system functions, features, and operations to improve the  
14 delivery of 911 services to the residents of and visitors to  
15 this state.
- 16           16. Coordinate input from this state at national  
17 forums and associations, to ensure that policies related to  
18 911 systems and services are consistent with the policies of  
19 the 911 community in this state.
- 20           17. Work cooperatively with the system director  
21 established in s. 365.171(5) to enhance the state of 911  
22 services in this state and to provide unified leadership for  
23 all 911 issues through planning and coordination.
- 24           18. Do all acts and things necessary or convenient to  
25 carry out the powers granted in this section, including but  
26 not limited to, consideration of emerging technology and  
27 related cost savings.
- 28           19. By July 1, 2005, secure the services of an  
29 independent, private attorney via invitation to bid, request  
30 for proposals, invitation to negotiate, or professional  
31 contracts for legal services already established at the

1 Division of Purchasing of the Department of Management  
2 Services.

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

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

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

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

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

30           2. Whether the amount of the E911 fee and the  
31 allocation percentages set forth in s. 365.173 should be

1 adjusted to comply with the requirements of the order, and, if  
2 so, a recommended adjustment to the E911 fee.

3 3. Any other issues related to providing wireless E911  
4 services.

5 (8) WIRELESS E911 FEE.--

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

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

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

1 or agreements for such property, buildings, or structures.  
2 Nothing herein shall relieve the permitholder for or owner of  
3 the existing structure ~~from~~ ~~of~~ compliance with any applicable  
4 condition or requirement contained in ~~of~~ a permit, agreement,  
5 or land development regulation, including any aesthetic  
6 requirements, or law in effect at the time the existing  
7 structure or initial antenna location was permitted.

8 2. An existing tower, including a nonconforming tower,  
9 may be modified or replaced without increasing the height in  
10 order to permit collocation, provided that the replacement  
11 tower is a monopole tower or, if the tower to be replaced is a  
12 camouflaged tower, the replacement tower is a like-camouflaged  
13 tower. The modification or replacement shall be subject only  
14 to administrative review and to building-permit review.

15 (b)1. A local government is limited when evaluating a  
16 wireless provider's application for placement of a wireless  
17 communications facility to issues concerning land development  
18 and zoning. A local government may not request information on  
19 or review, consider, or evaluate a wireless provider's  
20 business need for a specific location for a wireless  
21 communications site or the need for wireless service to be  
22 provided from a particular site unless the wireless provider  
23 voluntarily offers this information to the local government. A  
24 local government may not request information on or review,  
25 consider, or evaluate the wireless provider's service quality  
26 or the network design of the wireless service unless the  
27 information or materials are directly related to an identified  
28 land development or zoning issue or the wireless provider  
29 voluntarily offers the information to the local government.

30 2. The setback or distance separation required of a  
31 tower may not exceed the minimum distance necessary to satisfy



1 the structural safety or aesthetic concerns that are protected  
2 by the setback or distance separation.

3 3. A local government must provide a reasonable  
4 opportunity for placing some form or type of wireless  
5 communications facility in all areas of a local government's  
6 jurisdiction, unless the jurisdiction can demonstrate that a  
7 prohibition of all forms or types of wireless communications  
8 facilities in a specific location or area is the only manner  
9 in which to protect the public health, safety, and welfare of  
10 that area.

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

24 (c)(b) Local governments ~~may shall~~ not require  
25 wireless providers to provide evidence of a wireless  
26 communications facility's compliance with federal regulations,  
27 except evidence of compliance with applicable Federal Aviation  
28 Administration requirements under 14 C.F.R. s. 77, as amended.  
29 However, local governments ~~may request shall receive~~ evidence  
30 of proper Federal Communications Commission licensure ~~or other~~  
31 evidence of Federal Communications Commission authorized

1 spectrum use from a wireless provider and may request the  
2 Federal Communications Commission to provide information as to  
3 a wireless provider's compliance with federal regulations, as  
4 authorized by federal law.

5 ~~(d)(e)~~1. A local government shall grant or deny each a  
6 properly completed application for a wireless communications  
7 facility reviewed through administrative review or an  
8 application reviewed through building-permit review a permit,  
9 ~~including permits under paragraph(a), for the collocation of a~~  
10 ~~wireless communications facility on property, buildings, or~~  
11 ~~structures within the local government's jurisdiction~~ within  
12 45 business days after the date the ~~properly completed~~  
13 application is determined to be properly completed initially  
14 ~~submitted~~ in accordance with this paragraph the applicable  
15 local government application procedures, provided that such  
16 permit complies with applicable federal regulations and  
17 applicable local zoning or land development regulations,  
18 including any aesthetic requirements. Local building  
19 regulations shall apply. If administrative reviews are  
20 required from multiple departments of the local government,  
21 such reviews shall be concurrent and all within the  
22 45-business-day timeframe.

23 2. A local government shall grant or deny each a  
24 properly completed application for a wireless communications  
25 facility reviewed through other than administrative review or  
26 building-permit review a permit for the siting of a new  
27 wireless tower or antenna on property, buildings, or  
28 structures within the local government's jurisdiction within  
29 90 business days after the date the ~~properly completed~~  
30 application is determined to be properly completed initially  
31 ~~submitted~~ in accordance with this paragraph the applicable

1 ~~local government application procedures, provided that such~~  
2 ~~permit complies with applicable federal regulations and~~  
3 ~~applicable local zoning or land development regulations,~~  
4 ~~including any aesthetic requirements. Local building~~  
5 ~~regulations shall apply. If the local government review of the~~  
6 ~~wireless communications facility also includes applications~~  
7 ~~for administrative review, each shall be within the applicable~~  
8 ~~timeframe indicated in this section.~~

9       3.a. An application is deemed submitted or resubmitted  
10 on the date the application is received by the local  
11 government. The local government shall notify the ~~permit~~  
12 applicant within 20 business days after the date the  
13 application is initially submitted as to whether the  
14 application is, for administrative purposes only, properly  
15 completed and has been properly submitted. However, ~~the such~~  
16 determination shall not be deemed as an approval of the  
17 application. If the application is not completed in compliance  
18 with the local government's regulations, the ~~Such~~ notification  
19 must ~~shall~~ indicate with specificity any deficiencies in the  
20 required documents or deficiencies in the content of the  
21 required documents which, if cured, ~~shall~~ make the application  
22 properly completed. Upon resubmission of information to cure  
23 the stated deficiencies, the local government shall notify the  
24 applicant within 20 business days after the additional  
25 information is submitted whether the application is properly  
26 completed or if there are any remaining deficiencies that must  
27 be cured. Any deficiencies in document type or content not  
28 specified by the local government in the initial notice are  
29 waived. Notwithstanding this sub-subparagraph, if a specified  
30 deficiency is not properly cured when the applicant resubmits  
31 its application to comply with the notice of deficiencies, the

1 local government may continue to request the information until  
2 such time as the specified deficiency is cured.

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

21       c. To be effective, a waiver of the timeframes set  
22 forth in this paragraph herein must be voluntarily agreed to  
23 by the applicant and the local government. A local government  
24 may request, but not require, a waiver of the timeframes by  
25 the applicant ~~an entity seeking a permit,~~ except that, with  
26 respect to a specific permit, a one-time waiver may be  
27 required in the case of a declared local, state, or federal  
28 emergency that directly affects the administration of all  
29 permitting activities of the local government.

30       ~~(d) Any additional wireless communications facilities,~~  
31 ~~such as communication cables, adjacent accessory structures,~~

1 ~~or adjacent accessory equipment used in the provision of~~  
2 ~~cellular, enhanced specialized mobile radio, or personal~~  
3 ~~communications services, required within the existing secured~~  
4 ~~equipment compound within the existing site shall be deemed a~~  
5 ~~permitted use or activity. Local building and land development~~  
6 ~~regulations, including any aesthetic requirements, shall~~  
7 ~~apply.~~

8 (e) A local government may not impose square footage  
9 or height limitations on equipment enclosures, cabinets, or  
10 buildings inconsistent with those required for other  
11 structures in the same zoning district. This paragraph  
12 supersedes any existing limitation imposed on equipment  
13 enclosures, cabinets, or buildings by ordinance, resolution,  
14 or land development regulation.

15 (f) The replacement of or modification to a wireless  
16 communications facility, except a tower, that results in a  
17 wireless communications facility of similar size, type, and  
18 appearance and the replacement or modification of equipment  
19 that is not visible from outside the wireless communications  
20 site are subject only to building-permit review.

21 (g) If a local government regulation or procedure does  
22 not conform to the requirements of this section, the  
23 regulation or procedure must be amended to do so by January 1,  
24 2005.

25 (h)1.(e) The use of state government-owned property  
26 for wireless communications facilities is encouraged. Any  
27 other provision of law to the contrary notwithstanding, the  
28 Department of Management Services or its designated  
29 representative shall negotiate, in the name of the state,  
30 leases for wireless communications facilities that provide  
31 access to state government-owned property not acquired for

1 transportation purposes, and the Department of Transportation  
2 shall negotiate, in the name of the state, leases for wireless  
3 communications facilities that provide access to property  
4 acquired for state rights-of-way.

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

1 leases for nontransportation state government-owned property  
2 shall be procured through negotiation by the Department of  
3 Management Services or its designated representative or  
4 through other competitive procurement method and leases shall  
5 be granted on a space available, ~~first come, first served~~  
6 basis as determined by the Department of Management Services.  
7 Payments required by state government under a lease must be  
8 reasonable and must reflect the market rate for the use of the  
9 state government-owned property. Lease payments shall be  
10 deposited in the Wireless Emergency Telephone System Fund.  
11 Fifty percent of these funds shall be transferred to the  
12 Department of Management Services Supervision Trust Fund for  
13 payment of costs to administer the lease program and the  
14 remainder shall be distributed to the owning agency. The other  
15 50 percent shall be distributed to counties for payment of  
16 E911 and 911 service costs. Distribution to the county where  
17 the lease is established shall be as indicated in s.  
18 365.173(2) with the remaining funds distributed to the  
19 counties to promote the statewide deployment of wireless  
20 enhanced 911 service with priority given to rural counties.  
21 The leasing process shall be as established by rule adopted by  
22 the Department of Management Services. The Department of  
23 Management Services and the Department of Transportation are  
24 authorized to adopt rules for the terms and conditions and  
25 granting of any such leases.

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

1 Department of Transportation, as applicable, shall not review  
2 or consider any zoning or land use issues.

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



1 and the applicant may proceed with placement of such  
2 facilities without interference or penalty.

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

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

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

6 (13) PRIOR APPROVAL REQUIREMENT.--It is the intent of  
7 this act to assure the safety of employees, passengers, and  
8 freight at airports, as defined in s. 330.27(2) and not to  
9 require the placement at any airport of any wireless  
10 communication facility unless approved by the airport.  
11 Therefore, this section does not require the governing  
12 authority of any airport to make available any site, space, or  
13 facility owned or controlled by such airport to a service  
14 provider for the location or collocation of any tower or  
15 wireless communication facility, except on such terms and with  
16 such limitation as the governing authority of such airport may  
17 deem safe and appropriate.

18 Section 3. Paragraph (a) of subsection (2) and  
19 subsection (3) of section 365.173, Florida Statutes, are  
20 amended to read:

21 365.173 Wireless Emergency Telephone System Fund.--

22 (2) Subject to any modifications approved by the board  
23 pursuant to s. 365.172(8)(c), the moneys in the fund shall be  
24 distributed and used only as follows:

25 (a) Forty-four percent of the moneys shall be  
26 distributed each month to counties, based on the total number  
27 of wireless subscriber billing addresses in each county, for  
28 payment of:

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

31

1           2. Costs to comply with the requirements for E911  
2 service contained in the order and any future rules related to  
3 the order.

4  
5 Any county that receives funds under this paragraph shall  
6 establish a fund to be used exclusively for the receipt and  
7 expenditure of the revenues collected under this paragraph.  
8 All fees placed in the fund, and any interest accrued, shall  
9 be used solely for costs described in subparagraphs 1 and 2.  
10 The money collected and interest earned in this fund shall be  
11 appropriated for these purposes by the county commissioners  
12 and incorporated into the annual county budget. The fund shall  
13 be included within the financial audit performed in accordance  
14 with s. 218.39. A county may carry forward ~~the, for up to 3~~  
15 ~~successive calendar years, up to 30 percent of the total funds~~  
16 disbursed to the county by the board during a calendar year  
17 for expenditures for capital outlay, capital improvements, or  
18 equipment replacement, if the ~~such~~ expenditures are made for  
19 the purposes specified in this paragraph.

20           ~~(3) The Auditor General shall annually audit the fund~~  
21 ~~to ensure that moneys in the fund are being managed in~~  
22 ~~accordance with this section and s. 365.172. The Auditor~~  
23 ~~General shall provide a report of the annual audit to the~~  
24 ~~board.~~

25           Section 4. This act shall take effect July 1, 2004.  
26  
27  
28  
29  
30  
31

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   CS/SB 2774  
4 The CS/CS differs from the CS in the following ways:  
5 - Amends s. 11.45, F.S., to delete the requirement that the  
6 Auditor General annually audit the Wireless Emergency  
7 Telephone System Fund;  
8 - Adds additional definitions;  
9 - Amends s. 365.172(6), F.S., to require the Wireless 911  
10 Board, by August 1, 2004, to establish a subcommittee  
11 responsible for analyzing the cost and effectiveness of a  
12 non-emergency 311 system, and report its findings to the  
13 board by December 31, 2004;  
14 - Amends provisions relating to local government regulation  
15 of wireless communications facilities;  
16 - Requires the Board of Trustees of the Internal  
17 Improvement Fund or the Division of State Lands of the  
18 Department of Environmental Protection to assess  
19 state-owned properties for availability for placement of  
20 E911 wireless communications facilities and provide an  
21 inventory of available and non-available state-owned  
22 properties by January 1, 2005;  
23 - Specifies that nothing in this act requires the governing  
24 authority of any airport to make space or facilities  
25 available for siting wireless facilities, except as  
26 determined appropriate by the governing board of the  
27 airport; and  
28 - Changes the restrictions imposed on county expenditures  
29 of E911 funds.  
30  
31