

1                   A bill to be entitled  
2           An act relating to the wireless emergency telephone  
3           system; amending s. 11.45, F.S.; removing the annual audit  
4           of the Wireless Emergency Telephone System Fund from the  
5           duties of the Auditor General; amending s. 364.02, F.S.;  
6           revising fee schedules for providers of interexchange  
7           telecommunications services; amending s. 365.172, F.S.;  
8           adding definitions relating to wireless telephone  
9           communications; revising duties of the Wireless 911 Board;  
10          requiring the hiring of an executive director and an  
11          independent, private attorney; providing legislative  
12          intent regarding the emergency wireless telephone system;  
13          providing standards for local governments to follow when  
14          regulating the placement, construction, or modification of  
15          a wireless communications facility; directing local  
16          governments to grant or deny properly completed  
17          applications within specified time periods; providing  
18          procedures for a provider of wireless communications  
19          services to submit an application for local approval;  
20          directing local governments to notify a provider in  
21          writing of the deficiencies in an application; directing  
22          local governments to notify a provider in writing whether  
23          the resubmission of information properly completes the  
24          application; permitting local governments to continue  
25          requesting information until the application deficiencies  
26          are cured; providing for a limited review by a local  
27          government of an accessory wireless communications  
28          facility; prohibiting local governments from imposing

29 certain restrictions on wireless communications  
 30 facilities; providing that a person who is adversely  
 31 affected by a decision of a local government relating to a  
 32 wireless communications facility may bring an action  
 33 within a specified period; providing for the computation  
 34 of the time period; amending s. 365.173, F.S.; directing  
 35 how a county may use funds derived from the E911 fee;  
 36 requiring the board of county commissioners to appropriate  
 37 the funds to the proper uses; removing the requirement  
 38 that the Auditor General annually audit the E911 fund;  
 39 amending s. 337.401, F.S.; requiring municipalities and  
 40 counties to treat communications services providers in a  
 41 manner that is competitively neutral and nondiscriminatory  
 42 when using public roads and rights-of-ways; prohibiting  
 43 municipalities and counties from requiring communications  
 44 services providers to obtain a license or franchise from  
 45 the municipality or county; providing an effective date.

46

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

48

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

51 11.45 Definitions; duties; authorities; reports; rules.--

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

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

56 (b) Annually conduct a financial audit of state

57 government.

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

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

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

66 (e)(f) Annually conduct audits of the accounts and records  
67 of the Florida School for the Deaf and the Blind.

68 (f)(g) At least every 2 years, conduct operational audits  
69 of the accounts and records of state agencies and universities.  
70 In connection with these audits, the Auditor General shall give  
71 appropriate consideration to reports issued by state agencies'  
72 inspectors general or universities' inspectors general and the  
73 resolution of findings therein.

74 (g)(h) At least every 2 years, conduct a performance audit  
75 of the local government financial reporting system, which, for  
76 the purpose of this chapter, means any statutory provisions  
77 related to local government financial reporting. The purpose of  
78 such an audit is to determine the accuracy, efficiency, and  
79 effectiveness of the reporting system in achieving its goals and  
80 to make recommendations to the local governments, the Governor,  
81 and the Legislature as to how the reporting system can be  
82 improved and how program costs can be reduced. The Auditor  
83 General shall determine the scope of such audits. The local  
84 government financial reporting system should provide for the

85 timely, accurate, uniform, and cost-effective accumulation of  
86 financial and other information that can be used by the members  
87 of the Legislature and other appropriate officials to accomplish  
88 the following goals:

- 89 1. Enhance citizen participation in local government;
- 90 2. Improve the financial condition of local governments;
- 91 3. Provide essential government services in an efficient  
92 and effective manner; and
- 93 4. Improve decisionmaking on the part of the Legislature,  
94 state agencies, and local government officials on matters  
95 relating to local government.

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

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

103 (j)~~(k)~~ Once every 3 years, review a sample of each state  
104 agency's internal audit reports to determine compliance with  
105 current Standards for the Professional Practice of Internal  
106 Auditing or, if appropriate, government auditing standards.

107 (k)~~(l)~~ Conduct audits of local governmental entities when  
108 determined to be necessary by the Auditor General, when directed  
109 by the Legislative Auditing Committee, or when otherwise  
110 required by law. No later than 18 months after the release of  
111 the audit report, the Auditor General shall perform such  
112 appropriate followup procedures as he or she deems necessary to

113 determine the audited entity's progress in addressing the  
 114 findings and recommendations contained within the Auditor  
 115 General's previous report. The Auditor General shall provide a  
 116 copy of his or her determination to each member of the audited  
 117 entity's governing body and to the Legislative Auditing  
 118 Committee.

119  
 120 The Auditor General shall perform his or her duties  
 121 independently but under the general policies established by the  
 122 Legislative Auditing Committee. This subsection does not limit  
 123 the Auditor General's discretionary authority to conduct other  
 124 audits or engagements of governmental entities as authorized in  
 125 subsection (3).

126 Section 2. Subsection (13) of section 364.02, Florida  
 127 Statutes, is amended to read:

128 364.02 Definitions.--As used in this chapter:

129 (13) "Telecommunications company" includes every  
 130 corporation, partnership, and person and their lessees,  
 131 trustees, or receivers appointed by any court whatsoever, and  
 132 every political subdivision in the state, offering two-way  
 133 telecommunications service to the public for hire within this  
 134 state by the use of a telecommunications facility. The term  
 135 "telecommunications company" does not include:

136 (a) An entity which provides a telecommunications facility  
 137 exclusively to a certificated telecommunications company;

138 (b) An entity which provides a telecommunications facility  
 139 exclusively to a company which is excluded from the definition  
 140 of a telecommunications company under this subsection;

- 141 (c) A commercial mobile radio service provider;
- 142 (d) A facsimile transmission service;
- 143 (e) A private computer data network company not offering
- 144 service to the public for hire;
- 145 (f) A cable television company providing cable service as
- 146 defined in 47 U.S.C. s. 522; or
- 147 (g) An intrastate interexchange telecommunications
- 148 company.

149

150 However, each commercial mobile radio service provider and each

151 intrastate interexchange telecommunications company shall

152 continue to be liable for any taxes imposed under ~~pursuant to~~

153 chapters 202, 203 and 212 and any fees assessed under s. 364.025

154 ~~pursuant to ss. 364.025 and 364.336~~. Each intrastate

155 interexchange telecommunications company shall continue to be

156 subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285,

157 364.336, 364.501, 364.603, and 364.604, shall provide the

158 commission with the ~~such~~ current information as the commission

159 deems necessary to contact and communicate with the company,

160 shall continue to pay intrastate switched network access rates

161 or other intercarrier compensation to the local exchange

162 telecommunications company or the competitive local exchange

163 telecommunications company for the origination and termination

164 of interexchange telecommunications service, and shall reduce

165 its intrastate long distance toll rates in accordance with s.

166 364.163(2).

167 Section 3. Subsections (3), (6), and (11) and paragraph

168 (a) of subsection (8) of section 365.172, Florida Statutes, are

169 amended to read:

170 365.172 Wireless emergency telephone number "E911."--

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

173 (a) "Active prepaid wireless telephone" means a prepaid  
 174 wireless telephone that has been used by the customer during the  
 175 month to complete a telephone call for which the customer's card  
 176 or balance was decremented.

177 (b) "Administrative review" means the nondiscretionary  
 178 review conducted by local governmental staff for compliance with  
 179 local government ordinances, but does not include a public  
 180 hearing or review of public input.

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

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

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

191 (f)~~(e)~~ "Board" means the board of directors of the  
 192 Wireless 911 Board.

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

194 (h) "Building-permit review" means a review for compliance  
 195 with building construction standards adopted by the local  
 196 government under chapter 553 and does not include a review for

197 compliance with land development regulations.

198 (i) "Collocation" means the situation when a second or  
 199 subsequent wireless provider uses an existing structure to  
 200 locate a second or subsequent antenna. The term includes the  
 201 ground, platform, or roof installation of equipment enclosures,  
 202 cabinets, or buildings, and cables, brackets, and other  
 203 equipment associated with the location and operation of the  
 204 antennas. A collocation shall not be considered a modification  
 205 to an existing structure which subjects the structure to greater  
 206 than building-permit review or which constitutes an  
 207 impermissible modification of a nonconforming structure.

208 (j)(g) "E911" is the designation for a wireless enhanced  
 209 911 system or wireless enhanced 911 service that is an emergency  
 210 telephone system or service that provides a subscriber with  
 211 wireless 911 service and, in addition, directs 911 calls to  
 212 appropriate public safety answering points by selective routing  
 213 based on the geographical location from which the call  
 214 originated, or as otherwise provided in the state plan under s.  
 215 365.171, and that provides for automatic number identification  
 216 and automatic location-identification features in accordance  
 217 with the requirements of the order.

218 (k) "Existing structure" means a structure that exists at  
 219 the time an application for permission to place antennas on a  
 220 structure is filed with a local government. The term includes  
 221 any structure that can support the attachment of antennas,  
 222 including, but not limited to, towers, buildings, utility  
 223 structures, light poles, water towers, clock towers, bell  
 224 towers, and steeples.



225 (l)~~(h)~~ "Fee" means the E911 fee imposed under subsection  
 226 (8).

227 (m)~~(i)~~ "Fund" means the Wireless Emergency Telephone  
 228 System Fund established in s. 365.173 and maintained under this  
 229 section for the purpose of recovering the costs associated with  
 230 providing 911 service or E911 service, including the costs of  
 231 implementing the order.

232 (n) "Land-development regulation" means any ordinance  
 233 enacted by a local governing body for the regulation of any  
 234 aspect of development, including an ordinance governing zoning,  
 235 subdivisions, landscaping, tree protection, or signs, or any  
 236 other ordinance concerning any aspect of the development of  
 237 land. The term does not include any building-construction  
 238 standard adopted under and in compliance with chapter 553.

239 (o)~~(j)~~ "Local exchange carrier" means a "competitive local  
 240 exchange telecommunications company" or a "local exchange  
 241 telecommunications company" as defined in s. 364.02.

242 (p)~~(k)~~ "Local government" means any municipality, county,  
 243 or political subdivision or agency of a municipality, county, or  
 244 political subdivision.

245 (q)~~(l)~~ "Mobile telephone number" or "MTN" means the  
 246 telephone number assigned to a wireless telephone at the time of  
 247 initial activation.

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

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

251 a. Order adopted on June 12, 1996, with an effective date  
 252 of October 1, 1996, the amendments to s. 20.03 and the creation

253 of s. 20.18 of Title 47 of the Code of Federal Regulations  
 254 adopted by the Federal Communications Commission pursuant to the  
 255 ~~such~~ order.

256 b. Memorandum and Order No. FCC 97-402 adopted on December  
 257 23, 1997.

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

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

260 2. Orders and rules subsequently adopted by the Federal  
 261 Communications Commission relating to the provision of wireless  
 262 911 services.

263 ~~(s)(e)~~ (s) "Prepaid wireless telephone service" means wireless  
 264 telephone service that is activated in advance by payment for a  
 265 finite dollar amount of service or for a finite set of minutes  
 266 that terminate either upon use by a customer and delivery by the  
 267 wireless provider of an agreed-upon amount of service  
 268 corresponding to the total dollar amount paid in advance or  
 269 within a certain period of time following the initial purchase  
 270 or activation, unless additional payments are made.

271 ~~(t)(n)~~ (t) "Provider" or "wireless provider" means a person or  
 272 entity who provides service and either:

- 273 1. Is subject to the requirements of the order; or
- 274 2. Elects to provide wireless 911 service or E911 service
- 275 in this state.

276 ~~(u)(p)~~ (u) "Public agency" means the state and any  
 277 municipality, county, municipal corporation, or other  
 278 governmental entity, public district, or public authority  
 279 located in whole or in part within this state which provides, or  
 280 has authority to provide, firefighting, law enforcement,

281 ambulance, medical, or other emergency services.

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

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

287 (x)~~(s)~~ "Service" means "commercial mobile radio service"  
 288 as provided under ss. 3(27) and 332(d) of the Federal  
 289 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and  
 290 the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-  
 291 66, August 10, 1993, 107 Stat. 312. The term "service" includes  
 292 the term "wireless" and service provided by any wireless real-  
 293 time two-way wire communication device, including radio-  
 294 telephone communications used in cellular telephone service;  
 295 personal communications service; or the functional or  
 296 competitive equivalent of a radio-telephone communications line  
 297 used in cellular telephone service, a personal communications  
 298 service, or a network radio access line. The term does not  
 299 include wireless providers that offer mainly dispatch service in  
 300 a more localized, noncellular configuration; providers offering  
 301 only data, one-way, or stored-voice services on an  
 302 interconnected basis; providers of air-to-ground services; or  
 303 public coast stations.

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

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

308 (aa) "Tower" means any structure designed primarily to

309 support a wireless provider's antenna.

310 (bb) "Wireless communications facility" means any  
 311 equipment or facility used to provide service, and may include,  
 312 but is not limited to, antennas, towers, equipment enclosures,  
 313 cabling, antenna brackets, and other such equipment. Placing a  
 314 wireless communications facility on an existing structure does  
 315 not cause the existing structure to become a wireless  
 316 communications facility.

317 (cc) "Wireless communications site" means only the area on  
 318 the roof, structure, or ground which is designed, intended to be  
 319 used, or is used for the location of a wireless communications  
 320 facility, and any fencing and landscaping provided in  
 321 association with the wireless communications facility.

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

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

328 (a) The board shall:

- 329 1. Administer the E911 fee.
- 330 2. Implement, maintain, and oversee the fund.
- 331 3. Review and oversee the disbursement of the revenues
- 332 deposited into the fund as provided in s. 365.173. The board may
- 333 establish a schedule for implementing wireless E911 service by
- 334 service area, and prioritize disbursements of revenues from the
- 335 fund to providers and rural counties as provided in s.
- 336 365.173(2)(b) and (c) pursuant to the schedule, in order to

337 | implement E911 services in the most efficient and cost-effective  
 338 | manner.

339 |         4. Review documentation submitted by providers which  
 340 | reflects current and projected funds derived from the E911 fee,  
 341 | and the expenses incurred and expected to be incurred, in order  
 342 | to comply with the E911 service requirements contained in the  
 343 | order for the purposes of:

344 |             a. Ensuring that providers receive fair and equitable  
 345 | distributions of funds from the fund.

346 |             b. Ensuring that providers are not provided disbursements  
 347 | from the fund which exceed the costs of providing E911 service,  
 348 | including the costs of complying with the order.

349 |             c. Ascertaining the projected costs of compliance with the  
 350 | requirements of the order and projected collections of the E911  
 351 | fee.

352 |             d. Implementing changes to the allocation percentages or  
 353 | reducing the E911 fee under paragraph (8)(c).

354 |         5. Review and approve or reject, in whole or in part,  
 355 | applications submitted by providers for recovery of moneys  
 356 | deposited into the fund.

357 |         6. Hire and retain employees, which may include an  
 358 | independent executive director who shall possess experience in  
 359 | the area of telecommunications and emergency 911 issues, for the  
 360 | purposes of performing the technical and administrative  
 361 | functions for the board.

362 |         7. Make and enter into contracts, pursuant to chapter 287,  
 363 | and execute other instruments necessary or convenient for the  
 364 | exercise of the powers and functions of the board.

365           8. Take all necessary and reasonable steps by July 1,  
 366 2000, to secure appropriate information and reports from  
 367 providers and otherwise perform all of the functions that would  
 368 be performed by an independent accounting firm prior to  
 369 completing the request-for-proposals process under subsection  
 370 (7).

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

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

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

377           12. The board may adopt rules under ss. 120.536(1) and  
 378 120.54 to implement this section and ss. 365.173 and 365.174.

379           13. Provide coordination, support, and technical  
 380 assistance to counties to promote the deployment of advanced 911  
 381 and E911 systems in the state.

382           14. Provide coordination and support for educational  
 383 opportunities related to 911 issues for the 911 community in  
 384 this state.

385           15. Act as an advocate for issues related to 911 system  
 386 functions, features, and operations to improve the delivery of  
 387 911 services to the residents of and visitors to this state.

388           16. Coordinate input from this state at national forums  
 389 and associations, to ensure that policies related to 911 systems  
 390 and services are consistent with the policies of the 911  
 391 community in this state.

392           17. Work cooperatively with the system director

393 established in s. 365.171(5) to enhance the state of 911  
 394 services in this state and to provide unified leadership for all  
 395 911 issues through planning and coordination.

396 18. Do all acts and things necessary or convenient to  
 397 carry out the powers granted in this section, including but not  
 398 limited to, consideration of emerging technology and related  
 399 cost savings.

400 19. Have the authority to secure the services of an  
 401 independent, private attorney via invitation to bid, request for  
 402 proposals, invitation to negotiate, or professional contracts  
 403 for legal services already established at the Division of  
 404 Purchasing of the Department of Management Services.

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

408 (c) By February 28 of each year, the board shall prepare a  
 409 report for submission by the office to the Governor, the  
 410 President of the Senate, and the Speaker of the House of  
 411 Representatives which reflects, for the immediately preceding  
 412 calendar year, the quarterly and annual receipts and  
 413 disbursements of moneys in the fund, the purposes for which  
 414 disbursements of moneys from the fund have been made, and the  
 415 availability and status of implementation of E911 service in  
 416 this state.

417 (d) By February 28, 2001, the board shall undertake and  
 418 complete a study for submission by the office to the Governor,  
 419 the President of the Senate, and the Speaker of the House of  
 420 Representatives which addresses:

421 1. The total amount of E911 fee revenues collected by each  
 422 provider, the total amount of expenses incurred by each provider  
 423 to comply with the order, and the amount of moneys on deposit in  
 424 the fund, all as of December 1, 2000.

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

429 3. Any other issues related to providing wireless E911  
 430 services.

431 (8) WIRELESS E911 FEE.--

432 (a) Each home service provider shall collect a monthly fee  
 433 imposed on each customer whose place of primary use is within  
 434 this state. For purposes of this section, the state and local  
 435 governments are not customers. The rate of the fee shall be 50  
 436 cents per month per each service number, beginning August 1,  
 437 1999. The fee shall apply uniformly and be imposed throughout  
 438 the state.

439 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--In order  
 440 to balance the public need for reliable E911 services through  
 441 reliable wireless systems with the public interest served by  
 442 governmental zoning and land development regulations and  
 443 notwithstanding any other law or local ordinance to the  
 444 contrary, the following standards shall apply to a local  
 445 government's regulation of the placement, construction, or  
 446 modification of a wireless communications facility:

447 (a)1. Collocation ~~Colocation~~ among wireless telephone  
 448 ~~service~~ providers is encouraged by the state. Collocations that



449 do not increase the height of the structure to which the  
 450 antennas are to be attached, measured to the highest point of  
 451 any part of the structure or any appurtenance attached to the  
 452 structure, and consist of antennas, equipment enclosures, and  
 453 ancillary facilities that are of a design and configuration  
 454 consistent with all applicable restrictions or conditions  
 455 applied to the first antenna placement on the structure and, if  
 456 applicable, applied to the structure supporting the antennas,  
 457 ~~are To further facilitate agreements among providers for~~  
 458 ~~colocation of their facilities, any antennae and related~~  
 459 ~~equipment to service the antennae that is being collocated on an~~  
 460 ~~existing above-ground structure is not subject to land~~  
 461 ~~development regulation and are subject to building-permit review~~  
 462 ~~only pursuant to s. 163.3202, provided the height of the~~  
 463 ~~existing structure is not increased. However, construction of~~  
 464 ~~the antennae and related equipment is subject to local building~~  
 465 ~~regulations and to any applicable existing permits or agreements~~  
 466 ~~for the such property, buildings, or structures. However,~~  
 467 restrictions, conditions, permits, or agreements imposed by a  
 468 local government, acting in its regulatory capacity, which are  
 469 inconsistent with this section do not apply to the collocations.  
 470 If some portion of the collocation does not meet the  
 471 requirements of this paragraph, that portion only may be  
 472 reviewed under the local government's regulation for a first  
 473 placement of that portion of the facility. Nothing herein shall  
 474 ~~relieve the permitholder for or owner of the existing structure~~  
 475 ~~of compliance with any applicable condition or requirement of a~~  
 476 ~~permit, agreement, or land development regulation, including any~~

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477 ~~aesthetic requirements, or law.~~

478 2. An existing tower, including a nonconforming tower, may  
479 be structurally modified in order to permit collocation or may  
480 be replaced through no more than administrative review and  
481 building-permit review if the overall height of the tower is not  
482 increased and, if a replacement, the replacement tower is a  
483 monopole tower or, if the existing tower is a camouflaged tower,  
484 the replacement tower is a like-camouflaged tower.

485 (b)1. A local government is limited when evaluating a  
486 wireless provider's application for placement of a wireless  
487 communications facility to issues concerning land development  
488 and zoning. A local government may not request information on or  
489 review, consider, or evaluate a wireless provider's business  
490 need for a specific location for a wireless communications site  
491 or the need for wireless service to be provided from a  
492 particular site unless the wireless provider voluntarily offers  
493 this information to the local government. A local government may  
494 not request information on or review, consider, or evaluate the  
495 wireless provider's service quality or the network design of the  
496 wireless service unless the information or materials are  
497 directly related to an identified land development or zoning  
498 issue or unless the wireless provider voluntarily offers the  
499 information.

500 2. The setback or distance separation required of a tower  
501 may not exceed the minimum distance necessary to satisfy the  
502 structural safety or aesthetic concerns that are protected by  
503 the setback or distance separation.

504 3. A local government may exclude the placement of

505 wireless communications facilities in a residential area or  
506 residential zoning district only if the provider can reasonably  
507 provide its designed service to the residential area or zone  
508 from outside the residential area or zone in a manner consistent  
509 with the provider's network design. Exclusion from the  
510 residential area may not prohibit or have the effect of  
511 prohibiting the provider's service through a technological,  
512 structural, economic, practical, or other prohibition or  
513 unreasonably discriminate among providers of functionally  
514 equivalent services. If the exclusion cannot exist in a  
515 residential area or residential zone, the local government and  
516 provider must work cooperatively to approve the appropriate  
517 structure design in the residential area or residential zone,  
518 consistent with the community and the provision of the  
519 provider's service. If the communications facilities are  
520 excluded from the residential area or zone, the local government  
521 and provider must cooperatively work to approve the appropriate  
522 location and structural design in a way that is consistent with  
523 the community and the provision of the provider's service.

524 4. A local government may impose a fee, surety, or  
525 insurance requirement on a wireless provider when applying to  
526 place, construct, or modify a wireless communications facility  
527 only if a similar fee, surety, or insurance requirement is also  
528 imposed on applicants seeking similar types of zoning, land use,  
529 or building-permit review. Fees for review of applications for  
530 wireless communications facilities by consultants or experts who  
531 are engaged to review general zoning and land use matters on  
532 behalf of the local government may be recovered, but only if the

533 recovery is routinely sought from applicants seeking a similar  
 534 level of review for zoning or land-development approvals, and  
 535 any fees must be reasonable.

536 5. A local government may not impose structural or  
 537 construction standards on the placement, construction, or  
 538 modification of wireless communications facilities beyond those  
 539 adopted by the local government under chapter 553 which apply to  
 540 all similar types of construction or require information on  
 541 compliance with the extraordinary standards. However, local  
 542 governments may request, but not require, that wireless  
 543 communication facilities be placed, constructed, and modified in  
 544 accordance with accepted trade construction standards, such as  
 545 EIA/TIA standards.

546 (c)(b) Local governments may ~~shall~~ not require wireless  
 547 providers to provide evidence of a wireless communications  
 548 facility's compliance with federal regulations, except evidence  
 549 of compliance with applicable Federal Aviation Administration  
 550 requirements under 14 C.F.R. s. 77, as amended. However, local  
 551 governments may request ~~shall receive~~ evidence of proper Federal  
 552 Communications Commission licensure or other evidence of Federal  
 553 Communications Commission authorized spectrum use from a  
 554 wireless provider and may request the Federal Communications  
 555 Commission to provide information as to a wireless provider's  
 556 compliance with federal regulations, as authorized by federal  
 557 law.

558 (d)(e)1. A local government shall grant or deny each a  
 559 properly completed application for a collocation under  
 560 subparagraph (11)(a)1. within the normal timeframe for a similar

561 building permit review but in no case later than a permit,  
562 including permits under paragraph (a), for the colocation of a  
563 wireless communications facility on property, buildings, or  
564 structures within the local government's jurisdiction within 45  
565 business days after the date the properly completed application  
566 is determined to be properly completed initially submitted in  
567 accordance with this paragraph the applicable local government  
568 application procedures, provided that such permit complies with  
569 applicable federal regulations and applicable local zoning or  
570 land development regulations, including any aesthetic  
571 requirements. Local building regulations shall apply.

572 2. A local government shall grant or deny each a properly  
573 completed application for any other wireless communications  
574 facility within the normal timeframe for a similar building  
575 permit review but in no case later than a permit for the siting  
576 of a new wireless tower or antenna on property, buildings, or  
577 structures within the local government's jurisdiction within 90  
578 business days after the date the properly completed application  
579 is determined to be properly completed initially submitted in  
580 accordance with this paragraph the applicable local government  
581 application procedures, provided that such permit complies with  
582 applicable federal regulations and applicable local zoning or  
583 land development regulations, including any aesthetic  
584 requirements. The building-permit review portion of the local  
585 government review must be completed within the normal timeframe  
586 for a similar building permit review but in no case later than  
587 45 business days after the application is completed. Local  
588 building regulations shall apply.

589           3.a. An application is deemed submitted or resubmitted on  
590 the date the application is received by the local government.  
591 The local government shall notify the ~~permit~~ applicant, in  
592 writing, within 20 business days after the date the application  
593 is initially submitted as to whether the application is, for  
594 administrative purposes only, properly completed and has been  
595 properly submitted. However, the ~~such~~ determination shall not be  
596 deemed as an approval of the application. If the application is  
597 not completed in compliance with the local government's  
598 regulations, the ~~Such~~ notification must ~~shall~~ indicate with  
599 specificity any deficiencies in the required documents or  
600 deficiencies in the content of the required documents which, if  
601 cured, ~~shall~~ make the application properly completed. Upon  
602 resubmission of information to cure the stated deficiencies, the  
603 local government shall notify the applicant, in writing, within  
604 20 business days after the additional information is submitted  
605 whether the application is properly completed or if there are  
606 any remaining deficiencies that must be cured. Any deficiencies  
607 in document type or content not specified by the local  
608 government do not make an application incomplete and are waived.  
609 Notwithstanding this sub-subparagraph, if a specified deficiency  
610 is not properly cured when the applicant resubmits its  
611 application to comply with the notice of deficiencies, the local  
612 government may continue to request the information until such  
613 time as the specified deficiency is cured.

614           b. If the local government fails to grant or deny a  
615 properly completed application for a wireless communications  
616 facility ~~permit which has been properly submitted~~ within the

617 | timeframes set forth in this paragraph, the application  
 618 | ~~paragraph, the permit~~ shall be deemed automatically approved and  
 619 | the applicant ~~provider~~ may proceed with placement of the such  
 620 | facilities without interference or penalty. The timeframes  
 621 | specified in subparagraph ~~subparagraphs 1. and 2.~~ may shall be  
 622 | extended only to the extent that the application ~~permit~~ has not  
 623 | been granted or denied because the local government's procedures  
 624 | generally applicable to all applications ~~permits~~, require action  
 625 | by the governing body and such action has not taken place within  
 626 | the timeframes specified in subparagraph ~~subparagraphs 1. and 2.~~  
 627 | Under these ~~such~~ circumstances, the local government must act to  
 628 | either grant or deny the application ~~permit~~ at its next  
 629 | regularly scheduled meeting or, otherwise, the application is  
 630 | ~~permit shall be~~ deemed to be automatically approved.

631 |       c. To be effective, a waiver of the timeframes set forth  
 632 | in this paragraph ~~herein~~ must be voluntarily agreed to by the  
 633 | applicant and the local government. A local government may  
 634 | request, but not require, a waiver of the timeframes by the  
 635 | applicant ~~an entity seeking a permit~~, except that, with respect  
 636 | to a specific permit, a one-time waiver may be required in the  
 637 | case of a declared local, state, or federal emergency that  
 638 | directly affects the administration of all permitting activities  
 639 | of the local government.

640 |       ~~(d) Any additional wireless communications facilities,~~  
 641 | ~~such as communication cables, adjacent accessory structures, or~~  
 642 | ~~adjacent accessory equipment used in the provision of cellular,~~  
 643 | ~~enhanced specialized mobile radio, or personal communications~~  
 644 | ~~services, required within the existing secured equipment~~

645 ~~compound within the existing site shall be deemed a permitted~~  
646 ~~use or activity. Local building and land development~~  
647 ~~regulations, including any aesthetic requirements, shall apply.~~

648 (e) A local government may not impose square footage or  
649 height limitations on equipment enclosures, cabinets, or  
650 buildings inconsistent with those required for other structures  
651 in the same zoning district. This paragraph supersedes any  
652 existing limitation imposed on equipment enclosures, cabinets,  
653 or buildings by ordinance, resolution, or land development  
654 regulation.

655 (f) The replacement of or modification to a wireless  
656 communications facility, except a tower, that results in a  
657 wireless communications facility of similar size, type, and  
658 appearance and the replacement or modification of equipment that  
659 is not visible from outside the wireless communications site are  
660 subject to no more than applicable building-permit review.

661 (g)(e) Any other ~~provision of~~ law to the contrary  
662 notwithstanding, the Department of Management Services shall  
663 negotiate, in the name of the state, leases for wireless  
664 communications facilities that provide access to state  
665 government-owned property not acquired for transportation  
666 purposes, and the Department of Transportation shall negotiate,  
667 in the name of the state, leases for wireless communications  
668 facilities that provide access to property acquired for state  
669 rights-of-way. On property acquired for transportation purposes,  
670 leases shall be granted in accordance with s. 337.251. On other  
671 state government-owned property, leases shall be granted on a  
672 space available, first-come, first-served basis. Payments



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673 required by state government under a lease must be reasonable  
674 and must reflect the market rate for the use of the state  
675 government-owned property. The Department of Management Services  
676 and the Department of Transportation are authorized to adopt  
677 rules for the terms and conditions and granting of any such  
678 leases.

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

684 ~~(f) Any wireless telephone service provider may report to~~  
685 ~~the board no later than September 1, 2003, the specific~~  
686 ~~locations or general areas within a county or municipality where~~  
687 ~~the provider has experienced unreasonable delay to locate~~  
688 ~~wireless telecommunications facilities necessary to provide the~~  
689 ~~needed coverage for compliance with federal Phase II E911~~  
690 ~~requirements using its own network. The provider shall also~~  
691 ~~provide this information to the specifically identified county~~  
692 ~~or municipality no later than September 1, 2003. Unless the~~  
693 ~~board receives no report that unreasonable delays have occurred,~~  
694 ~~the board shall, no later than September 30, 2003, establish a~~  
695 ~~subcommittee responsible for developing a balanced approach~~  
696 ~~between the ability of providers to locate wireless facilities~~  
697 ~~necessary to comply with federal Phase II E911 requirements~~  
698 ~~using the carrier's own network and the desire of counties and~~  
699 ~~municipalities to zone and regulate land uses to achieve public~~  
700 ~~welfare goals. If a subcommittee is established, it shall~~

701 ~~include representatives from the Florida Telecommunications~~  
 702 ~~Industry Association, the Florida Association of Counties, and~~  
 703 ~~the Florida League of Cities. The subcommittee shall be charged~~  
 704 ~~with developing recommendations for the board and any~~  
 705 ~~specifically identified municipality or county to consider~~  
 706 ~~regarding actions to be taken for compliance for federal Phase~~  
 707 ~~II E911 requirements. In the annual report due to the Governor~~  
 708 ~~and the Legislature by February 28, 2004, the board shall~~  
 709 ~~include any recommendations developed by the subcommittee to~~  
 710 ~~address compliance with federal Phase II E911 requirements.~~

711 Section 4. Subsections (2) and (3) of section 365.173,  
 712 Florida Statutes, are amended to read:

713 365.173 Wireless Emergency Telephone System Fund.--

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

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

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

722 2. Costs to comply with the requirements for E911 service  
 723 contained in the order and any future rules related to the  
 724 order.

725  
 726 Any county that receives funds under this paragraph shall  
 727 establish a fund to be used exclusively for the receipt and  
 728 expenditure of the revenues collected under this paragraph. All

729 fees placed in the fund and any interest accrued shall be used  
730 solely for costs described in subparagraphs 1. and 2. The money  
731 collected and interest earned in this fund shall be appropriated  
732 for these purposes by the county commissioners and incorporated  
733 into the annual county budget. The fund shall be included within  
734 the financial audit performed in accordance with s. 218.39. A  
735 county may carry forward the, ~~for up to 3 successive calendar~~  
736 ~~years, up to 30 percent of the total~~ funds disbursed to the  
737 county by the board during a calendar year for expenditures for  
738 capital outlay, capital improvements, or equipment replacement,  
739 if the ~~such~~ expenditures are made for the purposes specified in  
740 this paragraph.

741 (b) Fifty-four percent of the moneys shall be distributed  
742 in response to sworn invoices submitted to the board by  
743 providers to reimburse such providers for the actual costs  
744 incurred to provide 911 or E911 service, including the costs of  
745 complying with the order. Such costs include costs and expenses  
746 incurred by providers to design, purchase, lease, program,  
747 install, test, upgrade, operate, and maintain all necessary  
748 data, hardware, and software required to provide E911 service.  
749 Up to 2 percent of the funds allocated to providers shall be  
750 retained by the board to be applied to costs and expenses  
751 incurred for the purposes of managing, administering, and  
752 overseeing the receipts and disbursements from the fund and  
753 other activities as defined in s. 365.172(6). Any funds retained  
754 for such purposes in a calendar year which are not applied to  
755 such costs and expenses by March 31 of the following year shall  
756 be distributed to providers pursuant to this paragraph.

757 Beginning in state fiscal year 2000-2001, each provider shall  
758 submit to the board, by August 1 of each year, a detailed  
759 estimate of the capital and operating expenses for which it  
760 anticipates that it will seek reimbursement under this paragraph  
761 during the ensuing state fiscal year. By September 15 of each  
762 year, the board shall submit to the Legislature its legislative  
763 budget request for funds to be allocated to providers under this  
764 paragraph during the ensuing state fiscal year. The budget  
765 request shall be based on the information submitted by the  
766 providers and estimated surcharge revenues. Distributions of  
767 moneys in the fund by the board to providers must be fair and  
768 nondiscriminatory. If the total amount of moneys requested by  
769 providers pursuant to invoices submitted to the board and  
770 approved for payment exceeds the amount in the fund in any  
771 month, providers that have invoices approved for payment shall  
772 receive a pro rata share of moneys in the fund and the balance  
773 of the payments shall be carried over to the following month or  
774 months until all of the approved payments are made. The board  
775 may adopt rules necessary to address the manner in which pro  
776 rata distributions are made when the total amount of funds  
777 requested by providers pursuant to invoices submitted to the  
778 board exceeds the total amount of moneys on deposit in the fund.

779 (c) Two percent of the moneys shall be used to make  
780 monthly distributions to rural counties for the purpose of  
781 providing facilities and network and service enhancements and  
782 assistance for the 911 or E911 systems operated by rural  
783 counties and for the provision of reimbursable loans and grants  
784 by the office to rural counties for upgrading 911 systems.

785  
 786 The Legislature recognizes that the wireless E911 fee authorized  
 787 under s. 365.172 will not necessarily provide the total funding  
 788 required for establishing or providing the 911 service. It is  
 789 the intent of the Legislature that all revenue from the fee be  
 790 used as specified in s. 365.171(13)(a)6.

791 ~~(3) The Auditor General shall annually audit the fund to~~  
 792 ~~ensure that moneys in the fund are being managed in accordance~~  
 793 ~~with this section and s. 365.172. The Auditor General shall~~  
 794 ~~provide a report of the annual audit to the board.~~

795 Section 5. Paragraph (a) of subsection (3) of section  
 796 337.401, Florida Statutes, is amended to read:

797 337.401 Use of right-of-way for utilities subject to  
 798 regulation; permit; fees.--

799 (3)(a)1. Because of the unique circumstances applicable to  
 800 providers of communications services, including, but not limited  
 801 to, the circumstances described in paragraph (e) and the fact  
 802 that federal and state law require the nondiscriminatory  
 803 treatment of providers of telecommunications services, and  
 804 because of the desire to promote competition among providers of  
 805 communications services, it is the intent of the Legislature  
 806 that municipalities and counties treat providers of  
 807 communications services in a nondiscriminatory and competitively  
 808 neutral manner when imposing rules or regulations governing the  
 809 placement or maintenance of communications facilities in the  
 810 public roads or rights-of-way. Rules or regulations imposed by a  
 811 municipality or county relating to providers of communications  
 812 services placing or maintaining communications facilities in its

813 roads or rights-of-way must be generally applicable to all  
814 providers of communications services and, notwithstanding any  
815 other law, may not require a provider of communications  
816 services, except as otherwise provided in subparagraph 2., to  
817 apply for or enter into an individual license, franchise, or  
818 other agreement with the municipality or county as a condition  
819 of placing or maintaining communications facilities in its roads  
820 or rights-of-way. In addition to other reasonable rules or  
821 regulations that a municipality or county may adopt relating to  
822 the placement or maintenance of communications facilities in its  
823 roads or rights-of-way under this subsection, a municipality or  
824 county may require a provider of communications services that  
825 places or seeks to place facilities in its roads or rights-of-  
826 way to register with the municipality or county and to provide  
827 the name of the registrant; the name, address, and telephone  
828 number of a contact person for the registrant; the number of the  
829 registrant's current certificate of authorization issued by the  
830 Florida Public Service Commission or the Federal Communications  
831 Commission; and proof of insurance or self-insuring status  
832 adequate to defend and cover claims. Nothing in this  
833 subparagraph is intended to limit or expand any existing zoning  
834 or land use authority of a municipality or county; however, a  
835 municipality or county shall exercise ~~no~~ such zoning or land use  
836 authority so as to treat communications services providers in a  
837 manner that is competitively neutral and nondiscriminatory in  
838 the use of the public road and rights-of-way and may not require  
839 an individual license, franchise, or other agreement as  
840 prohibited by this subparagraph.

841           2. Notwithstanding the provisions of subparagraph 1., a  
842 municipality or county may, as provided by 47 U.S.C. s. 541,  
843 award one or more franchises within its jurisdiction for the  
844 provision of cable service, and a provider of cable service  
845 shall not provide cable service without such franchise. Each  
846 municipality and county retains authority to negotiate all terms  
847 and conditions of a cable service franchise allowed by federal  
848 law and s. 166.046, except those terms and conditions related to  
849 franchise fees and the definition of gross revenues or other  
850 definitions or methodologies related to the payment or  
851 assessment of franchise fees and permit fees as provided in  
852 paragraph (c) on providers of cable services. A municipality or  
853 county may exercise its right to require from providers of cable  
854 service in-kind requirements, including, but not limited to,  
855 institutional networks, and contributions for, or in support of,  
856 the use or construction of public, educational, or governmental  
857 access facilities to the extent permitted by federal law. A  
858 provider of cable service may exercise its right to recover any  
859 such expenses associated with such in-kind requirements, to the  
860 extent permitted by federal law.

861           Section 6. This act shall take effect July 1, 2005.