

CHAMBER ACTION

1 The Local Government Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the wireless emergency telephone
7 system; amending s. 11.45, F.S.; providing a timeframe for
8 annual audits of the Wireless Emergency Telephone System
9 Fund by the Auditor General; amending s. 364.02, F.S.;
10 revising fee schedules for providers of interexchange
11 telecommunications services; amending s. 365.171, F.S.;
12 revising provisions for certain nonemergency telephone
13 number pilot projects; amending s. 365.172, F.S.; limiting
14 application of definitions; adding definitions relating to
15 wireless telephone communications; revising duties of the
16 Wireless 911 Board; providing for grants and loans to
17 certain counties for the purpose of upgrading E911
18 systems; authorizing the hiring of an executive director
19 and an independent, private attorney; specifying that
20 state and local governments are not customers under
21 provisions for the wireless E911 monthly fee; revising
22 timeframe to reduce the amount of the fee or for
23 reallocation of moneys collected for the fee; providing

24 legislative intent regarding the emergency wireless
25 telephone system; providing standards for local
26 governments to follow when regulating the placement,
27 construction, or modification of a wireless communications
28 facility; revising requirements for collocation of certain
29 facilities; providing for review of collocations under
30 various circumstances and meeting specified requirements
31 under such circumstances; exempting such collocations from
32 certain local regulations; providing for review of certain
33 collocations that do not meet such requirements; revising
34 provisions for compliance with certain requirements by the
35 owner of the existing tower; providing for review for
36 replacement of certain towers to accommodate collocation
37 under certain conditions; providing criteria for local
38 government regulation of wireless communications
39 facilities and review of an application for the placement,
40 construction, or modification of such facilities;
41 authorizing a local government to exclude such facilities
42 under certain circumstances; providing for reimbursement
43 to the local government of certain costs; authorizing the
44 local government to impose certain fees and require a
45 surety for certain purposes; directing local governments
46 to grant or deny properly completed applications within
47 specified time periods; providing for approval when time
48 period is exceeded; providing circumstances for extension
49 of such time periods; providing criteria and procedures
50 for local approval of an application by a provider of
51 wireless communications services; prohibiting local

52 governments from imposing certain requirements on wireless
 53 communications providers; directing local governments to
 54 notify a provider in writing of the deficiencies in an
 55 application and whether the resubmission of information
 56 properly completes the application; providing for a
 57 limited review by a local government of an accessory
 58 wireless communications facility; providing that an action
 59 brought by a person adversely affected by a decision of a
 60 local government relating to a wireless communications
 61 facility shall be considered on an expedited basis;
 62 removing certain complaint procedures; amending s.
 63 365.173, F.S.; providing for deposit and appropriation of
 64 funds received by a county from the E911 fee; providing
 65 for audit of such funds; removing a restriction on the
 66 county's authority to carry forward such funds; providing
 67 a timeframe for annual audits by the Auditor General of
 68 the Wireless Emergency Telephone System Fund; amending s.
 69 337.401, F.S.; revising provisions relating to use of
 70 right-of-way for utilities subject to regulation to remove
 71 certain application provisions; providing an effective
 72 date.

73
 74 Be It Enacted by the Legislature of the State of Florida:

75
 76 Section 1. Paragraph (e) of subsection (2) of section
 77 11.45, Florida Statutes, is amended to read:

78 11.45 Definitions; duties; authorities; reports; rules.--

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

80 (e) Through fiscal year 2008-2009, annually conduct an
81 audit of the Wireless Emergency Telephone System Fund as
82 described in s. 365.173.

83
84 The Auditor General shall perform his or her duties
85 independently but under the general policies established by the
86 Legislative Auditing Committee. This subsection does not limit
87 the Auditor General's discretionary authority to conduct other
88 audits or engagements of governmental entities as authorized in
89 subsection (3).

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

92 364.02 Definitions.--As used in this chapter:

93 (13) "Telecommunications company" includes every
94 corporation, partnership, and person and their lessees,
95 trustees, or receivers appointed by any court whatsoever, and
96 every political subdivision in the state, offering two-way
97 telecommunications service to the public for hire within this
98 state by the use of a telecommunications facility. The term
99 "telecommunications company" does not include:

100 (a) An entity which provides a telecommunications facility
101 exclusively to a certificated telecommunications company;

102 (b) An entity which provides a telecommunications facility
103 exclusively to a company which is excluded from the definition
104 of a telecommunications company under this subsection;

105 (c) A commercial mobile radio service provider;

106 (d) A facsimile transmission service;

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107 (e) A private computer data network company not offering
108 service to the public for hire;

109 (f) A cable television company providing cable service as
110 defined in 47 U.S.C. s. 522; or

111 (g) An intrastate interexchange telecommunications
112 company.

113
114 However, each commercial mobile radio service provider and each
115 intrastate interexchange telecommunications company shall
116 continue to be liable for any taxes imposed under ~~pursuant to~~
117 chapters 202, 203 and 212 and any fees assessed under s.
118 ~~pursuant to ss. 364.025 and 364.336~~. Each intrastate
119 interexchange telecommunications company shall continue to be
120 subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285,
121 364.336, 364.501, 364.603, and 364.604, shall provide the
122 commission with the ~~such~~ current information as the commission
123 deems necessary to contact and communicate with the company,
124 shall continue to pay intrastate switched network access rates
125 or other intercarrier compensation to the local exchange
126 telecommunications company or the competitive local exchange
127 telecommunications company for the origination and termination
128 of interexchange telecommunications service, and shall reduce
129 its intrastate long distance toll rates in accordance with s.
130 364.163(2).

131 Section 3. Paragraph (a) of subsection (13) of section
132 365.171, Florida Statutes, is amended to read:

133 365.171 Emergency telephone number "911."--

134 (13) "911" FEE.--

135 (a) Following approval by referendum as set forth in
 136 paragraph (b), or following approval by a majority vote of its
 137 board of county commissioners, a county may impose a "911" fee
 138 to be paid by the local exchange subscribers within its
 139 boundaries served by the "911" service. Proceeds from the "911"
 140 fee shall be used only for "911" expenditures as set forth in
 141 subparagraph 6. The manner of imposing and collecting said
 142 payment shall be as follows:

143 1. At the request of the county subscribing to "911"
 144 service, the telephone company shall, insofar as is practicable,
 145 bill the "911" fee to the local exchange subscribers served by
 146 the "911" service, on an individual access line basis, at a rate
 147 not to exceed 50 cents per month per line (up to a maximum of 25
 148 access lines per account bill rendered). However, the fee may
 149 not be assessed on any pay telephone in this state. A county
 150 collecting the fee for the first time may collect the fee for no
 151 longer than 36 months without initiating the acquisition of its
 152 "911" equipment.

153 2. Fees collected by the telephone company pursuant to
 154 subparagraph 1. shall be returned to the county, less the costs
 155 of administration retained pursuant to paragraph (c). The county
 156 shall provide a minimum of 90 days' written notice to the
 157 telephone company prior to the collection of any "911" fees.

158 3. Any county that currently has an operational "911"
 159 system or that is actively pursuing the implementation of a
 160 "911" system shall establish a fund to be used exclusively for
 161 receipt and expenditure of "911" fee revenues collected pursuant
 162 to this section. All fees placed in said fund, and any interest

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163 accrued thereupon, shall be used solely for "911" costs
164 described in subparagraph 6. The money collected and interest
165 earned in this fund shall be appropriated for "911" purposes by
166 the county commissioners and incorporated into the annual county
167 budget. Such fund shall be included within the financial audit
168 performed in accordance with s. 218.39. A report of the audit
169 shall be forwarded to the office within 60 days of its
170 completion. A county may carry forward on an annual basis
171 unspent moneys in the fund for expenditures allowed by this
172 section, or it may reduce its fee. However, in no event shall a
173 county carry forward more than 10 percent of the "911" fee
174 billed for the prior year. The amount of moneys carried forward
175 each year may be accumulated in order to allow for capital
176 improvements described in this subsection. The carryover shall
177 be documented by resolution of the board of county commissioners
178 expressing the purpose of the carryover or by an adopted capital
179 improvement program identifying projected expansion or
180 replacement expenditures for "911" equipment and service
181 features, or both. In no event shall the "911" fee carryover
182 surplus moneys be used for any purpose other than for the "911"
183 equipment, service features, and installation charges authorized
184 in subparagraph 6. Nothing in this section shall prohibit a
185 county from using other sources of revenue for improvements,
186 replacements, or expansions of its "911" system. A county may
187 increase its fee for purposes authorized in this section.
188 However, in no case shall the fee exceed 50 cents per month per
189 line. All current "911" fees shall be reported to the office
190 within 30 days of the start of each county's fiscal period. Any

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

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191 fee adjustment made by a county shall be reported to the office.
192 A county shall give the telephone company a 90-day written
193 notice of such fee adjustment.

194 4. The telephone company shall have no obligation to take
195 any legal action to enforce collection of the "911" fee. The
196 telephone company shall provide quarterly to the county a list
197 of the names, addresses, and telephone numbers of any and all
198 subscribers who have identified to the telephone company their
199 refusal to pay the "911" fee.

200 5. The county subscribing to "911" service shall remain
201 liable to the telephone company for any "911" service,
202 equipment, operation, or maintenance charge owed by the county
203 to the telephone company.

204
205 As used in this paragraph, "telephone company" means an exchange
206 telephone service provider of "911" service or equipment to any
207 county within its certificated area.

208 6. It is the intent of the Legislature that the "911" fee
209 authorized by this section to be imposed by counties will not
210 necessarily provide the total funding required for establishing
211 or providing the "911" service. For purposes of this section,
212 "911" service includes the functions of database management,
213 call taking, location verification, and call transfer. The
214 following costs directly attributable to the establishment
215 and/or provision of "911" service are eligible for expenditure
216 of moneys derived from imposition of the "911" fee authorized by
217 this section: the acquisition, implementation, and maintenance
218 of Public Safety Answering Point (PSAP) equipment and "911"

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219 service features, as defined in the Florida Public Service
 220 Commission's lawfully approved "911" and related tariffs and/or
 221 the acquisition, installation, and maintenance of other "911"
 222 equipment, including call answering equipment, call transfer
 223 equipment, ANI controllers, ALI controllers, ANI displays, ALI
 224 displays, station instruments, "911" telecommunications systems,
 225 teleprinters, logging recorders, instant playback recorders,
 226 telephone devices for the deaf (TDD) used in the "911" system,
 227 PSAP backup power systems, consoles, automatic call
 228 distributors, and interfaces (hardware and software) for
 229 computer-aided dispatch (CAD) systems; salary and associated
 230 expenses for "911" call takers for that portion of their time
 231 spent taking and transferring "911" calls; salary and associated
 232 expenses for a county to employ a full-time equivalent "911"
 233 coordinator position and a full-time equivalent staff assistant
 234 position per county for the portion of their time spent
 235 administrating the "911" system; training costs for PSAP call
 236 takers in the proper methods and techniques used in taking and
 237 transferring "911" calls; and expenses required to develop and
 238 maintain all information (ALI and ANI databases and other
 239 information source repositories) necessary to properly inform
 240 call takers as to location address, type of emergency, and other
 241 information directly relevant to the "911" call-taking and
 242 transferring function; ~~and, in a county defined in s.~~
 243 ~~125.011(1), such expenses related to a nonemergency "311"~~
 244 ~~system, or similar nonemergency system, which improves the~~
 245 ~~overall efficiency of an existing "911" system or reduces "911"~~
 246 ~~emergency response time for a 2-year pilot project that ends~~

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247 ~~June 30, 2003. However,~~ No wireless telephone service provider
 248 shall be required to participate in any ~~this~~ pilot project or to
 249 otherwise implement a nonemergency "311" system or similar
 250 nonemergency system. The "911" fee revenues shall not be used to
 251 pay for any item not listed, including, but not limited to, any
 252 capital or operational costs for emergency responses which occur
 253 after the call transfer to the responding public safety entity
 254 and the costs for constructing buildings, leasing buildings,
 255 maintaining buildings, or renovating buildings, except for those
 256 building modifications necessary to maintain the security and
 257 environmental integrity of the PSAP and "911" equipment rooms.

258 7. It is the goal of the Legislature that enhanced "911"
 259 service be available throughout the state. Expenditure by
 260 counties of the "911" fees authorized by this section should
 261 support this goal to the greatest extent feasible within the
 262 context of local service needs and fiscal capability. Nothing in
 263 this section shall be construed to prohibit two or more counties
 264 from establishing a combined emergency "911" telephone service
 265 by interlocal agreement and utilizing the "911" fees authorized
 266 by this section for such combined "911" service.

267 Section 4. Subsections (3), (6), and (11) and paragraphs
 268 (a) and (c) of subsection (8) of section 365.172, Florida
 269 Statutes, are amended to read:

270 365.172 Wireless emergency telephone number "E911."--

271 (3) DEFINITIONS.--Only as used in this section and ss.

272 365.173 and 365.174, the term:

273 (a) "Active prepaid wireless telephone" means a prepaid
 274 wireless telephone that has been used by the customer during the

275 month to complete a telephone call for which the customer's card
276 or balance was decremented.

277 (b) "Answering point" means the public safety agency that
278 receives incoming 911 calls and dispatches appropriate public
279 safety agencies to respond to the ~~such~~ calls.

280 (c) "Automatic location identification" means the
281 capability of the E911 service which enables the automatic
282 display of information that defines the approximate geographic
283 location of the wireless telephone used to place a 911 call.

284 (d) "Automatic number identification" means the capability
285 of the E911 service which enables the automatic display of the
286 10-digit service number used to place a 911 call.

287 (e) "Board" means the board of directors of the Wireless
288 911 Board.

289 (f) "Building-permit review" means a review for compliance
290 with building construction standards adopted by the local
291 government under chapter 553 and does not include a review for
292 compliance with land development regulations. ~~"Office" means the~~
293 ~~State Technology Office.~~

294 (g) "Collocation" means the situation when a second or
295 subsequent wireless provider uses an existing structure to
296 locate a second or subsequent antennae. The term includes the
297 ground, platform, or roof installation of equipment enclosures,
298 cabinets, or buildings, and cables, brackets, and other
299 equipment associated with the location and operation of the
300 antennae.

301 (h) "Designed service" means the configuration and manner
302 of deployment of service the wireless provider has designed for

303 an area as part of its network.

304 (i)~~(g)~~ "E911" is the designation for a wireless enhanced
 305 911 system or wireless enhanced 911 service that is an emergency
 306 telephone system or service that provides a subscriber with
 307 wireless 911 service and, in addition, directs 911 calls to
 308 appropriate public safety answering points by selective routing
 309 based on the geographical location from which the call
 310 originated, or as otherwise provided in the state plan under s.
 311 365.171, and that provides for automatic number identification
 312 and automatic location-identification features in accordance
 313 with the requirements of the order.

314 (j) "Existing structure" means a structure that exists at
 315 the time an application for permission to place antennae on a
 316 structure is filed with a local government. The term includes
 317 any structure that can structurally support the attachment of
 318 antennae in compliance with applicable codes.

319 (k)~~(h)~~ "Fee" means the E911 fee imposed under subsection
 320 (8).

321 (l)~~(i)~~ "Fund" means the Wireless Emergency Telephone
 322 System Fund established in s. 365.173 and maintained under this
 323 section for the purpose of recovering the costs associated with
 324 providing 911 service or E911 service, including the costs of
 325 implementing the order.

326 (m) "Historic building, structure, site, object, or
 327 district" means any building, structure, site, object, or
 328 district that has been officially designated as a historic
 329 building, historic structure, historic site, historic object, or

330 historic district through a federal, state, or local designation
 331 program.

332 (n) "Land development regulations" means any ordinance
 333 enacted by a local government for the regulation of any aspect
 334 of development, including an ordinance governing zoning,
 335 subdivisions, landscaping, tree protection, or signs, the local
 336 government's comprehensive plan, or any other ordinance
 337 concerning any aspect of the development of land. The term does
 338 not include any building construction standard adopted under and
 339 in compliance with chapter 553.

340 (o)(j) "Local exchange carrier" means a "competitive local
 341 exchange telecommunications company" or a "local exchange
 342 telecommunications company" as defined in s. 364.02.

343 (p)(k) "Local government" means any municipality, county,
 344 or political subdivision or agency of a municipality, county, or
 345 political subdivision.

346 (q) "Medium county" means any county that has a population
 347 of 75,000 or more but less than 750,000.

348 (r)(l) "Mobile telephone number" or "MTN" means the
 349 telephone number assigned to a wireless telephone at the time of
 350 initial activation.

351 (s) "Office" means the State Technology Office.

352 (t)(m) "Order" means:

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

355 a. Order adopted on June 12, 1996, with an effective date
 356 of October 1, 1996, the amendments to s. 20.03 and the creation
 357 of s. 20.18 of Title 47 of the Code of Federal Regulations

358 adopted by the Federal Communications Commission pursuant to
359 such order.

360 b. Memorandum and Order No. FCC 97-402 adopted on December
361 23, 1997.

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

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

364 2. Orders and rules subsequently adopted by the Federal
365 Communications Commission relating to the provision of wireless
366 911 services.

367 (u)~~(e)~~ "Prepaid wireless telephone service" means wireless
368 telephone service that is activated in advance by payment for a
369 finite dollar amount of service or for a finite set of minutes
370 that terminate either upon use by a customer and delivery by the
371 wireless provider of an agreed-upon amount of service
372 corresponding to the total dollar amount paid in advance or
373 within a certain period of time following the initial purchase
374 or activation, unless additional payments are made.

375 (v)~~(n)~~ "Provider" or "wireless provider" means a person or
376 entity who provides service and either:

- 377 1. Is subject to the requirements of the order; or
- 378 2. Elects to provide wireless 911 service or E911 service
379 in this state.

380 (w)~~(p)~~ "Public agency" means the state and any
381 municipality, county, municipal corporation, or other
382 governmental entity, public district, or public authority
383 located in whole or in part within this state which provides, or
384 has authority to provide, firefighting, law enforcement,
385 ambulance, medical, or other emergency services.

386 (x)~~(g)~~ "Public safety agency" means a functional division
387 of a public agency which provides firefighting, law enforcement,
388 medical, or other emergency services.

389 (y)~~(r)~~ "Rural county" means any county that has a
390 population of fewer than 75,000.

391 (z)~~(s)~~ "Service" means "commercial mobile radio service"
392 as provided under ss. 3(27) and 332(d) of the Federal
393 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and
394 the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-
395 66, August 10, 1993, 107 Stat. 312. The term "service" includes
396 the term "wireless" and service provided by any wireless real-
397 time two-way wire communication device, including radio-
398 telephone communications used in cellular telephone service;
399 personal communications service; or the functional or
400 competitive equivalent of a radio-telephone communications line
401 used in cellular telephone service, a personal communications
402 service, or a network radio access line. The term does not
403 include wireless providers that offer mainly dispatch service in
404 a more localized, noncellular configuration; providers offering
405 only data, one-way, or stored-voice services on an
406 interconnected basis; providers of air-to-ground services; or
407 public coast stations.

408 (aa)~~(t)~~ "Service number" means the unique 10-digit
409 wireless telephone number assigned to a service subscriber.

410 (bb)~~(u)~~ "Sufficient positive balance" means a dollar
411 amount greater than or equal to the monthly wireless surcharge
412 amount.

413 (cc) "Tower" means any structure designed primarily to
 414 support a wireless provider's antennae.

415 (dd) "Wireless communications facility" means any
 416 equipment or facility used to provide service and may include,
 417 but is not limited to, antennae, towers, equipment enclosures,
 418 cabling, antenna brackets, and other such equipment. Placing a
 419 wireless communications facility on an existing structure does
 420 not cause the existing structure to become a wireless
 421 communications facility.

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

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

428 (a) The board shall:

429 1. Administer the E911 fee.

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

431 3. Review and oversee the disbursement of the revenues
 432 deposited into the fund as provided in s. 365.173. The board may
 433 establish a schedule for implementing wireless E911 service by
 434 service area, and prioritize disbursements of revenues from the
 435 fund to providers and rural counties as provided in s.
 436 365.173(2)(b) and (c) pursuant to the schedule, in order to
 437 implement E911 services in the most efficient and cost-effective
 438 manner. Revenues collected and deposited into the fund for
 439 distribution as provided in s. 365.173(2)(b), but which have not
 440 been disbursed because sworn invoices as required by

441 365.173(2)(b) have not been submitted to the board, may be
 442 utilized by the board as needed to provide grants to rural
 443 counties and loans to medium counties for the purpose of
 444 upgrading E911 systems. Grants provided to rural counties would
 445 be in addition to disbursements provided under s. 365.173(2)(c).
 446 Loans provided to medium counties shall be based on county
 447 hardship criteria as determined and approved by the board.
 448 Revenues utilized for this purpose shall be fully repaid to the
 449 fund in a manner and under a timeframe as determined and
 450 approved by the board. The board shall take all actions within
 451 its authority to ensure that county recipients of such grants
 452 and loans utilize these funds only for the purpose under which
 453 they have been provided and may take any actions within its
 454 authority to secure county repayment of grant and loan revenues
 455 upon determination that the funds were not utilized for the
 456 purpose under which they were provided.

457 4. Review documentation submitted by providers which
 458 reflects current and projected funds derived from the E911 fee,
 459 and the expenses incurred and expected to be incurred, in order
 460 to comply with the E911 service requirements contained in the
 461 order for the purposes of:

462 a. Ensuring that providers receive fair and equitable
 463 distributions of funds from the fund.

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

467 c. Ascertaining the projected costs of compliance with the
468 requirements of the order and projected collections of the E911
469 fee.

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

472 5. Review and approve or reject, in whole or in part,
473 applications submitted by providers for recovery of moneys
474 deposited into the fund.

475 6. Hire and retain employees, which may include an
476 independent executive director who shall possess experience in
477 the area of telecommunications and emergency 911 issues, for the
478 purposes of performing the technical and administrative
479 functions for the board.

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

483 8. Take all necessary and reasonable steps by July 1,
484 2000, to secure appropriate information and reports from
485 providers and otherwise perform all of the functions that would
486 be performed by an independent accounting firm prior to
487 completing the request-for-proposals process under subsection
488 (7).

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

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

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

495 | 12. The board may adopt rules under ss. 120.536(1) and
496 | 120.54 to implement this section and ss. 365.173 and 365.174.

497 | 13. Provide coordination, support, and technical
498 | assistance to counties to promote the deployment of advanced 911
499 | and E911 systems in the state.

500 | 14. Provide coordination and support for educational
501 | opportunities related to 911 issues for the 911 community in
502 | this state.

503 | 15. Act as an advocate for issues related to 911 system
504 | functions, features, and operations to improve the delivery of
505 | 911 services to the residents of and visitors to this state.

506 | 16. Coordinate input from this state at national forums
507 | and associations, to ensure that policies related to 911 systems
508 | and services are consistent with the policies of the 911
509 | community in this state.

510 | 17. Work cooperatively with the system director
511 | established in s. 365.171(5) to enhance the state of 911
512 | services in this state and to provide unified leadership for all
513 | 911 issues through planning and coordination.

514 | 18. Do all acts and things necessary or convenient to
515 | carry out the powers granted in this section, including but not
516 | limited to, consideration of emerging technology and related
517 | cost savings.

518 | 19. Have the authority to secure the services of an
519 | independent, private attorney via invitation to bid, request for
520 | proposals, invitation to negotiate, or professional contracts
521 | for legal services already established at the Division of
522 | Purchasing of the Department of Management Services.

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

526 (c) By February 28 of each year, the board shall prepare a
527 report for submission by the office to the Governor, the
528 President of the Senate, and the Speaker of the House of
529 Representatives which reflects, for the immediately preceding
530 calendar year, the quarterly and annual receipts and
531 disbursements of moneys in the fund, the purposes for which
532 disbursements of moneys from the fund have been made, and the
533 availability and status of implementation of E911 service in
534 this state.

535 (d) By February 28, 2001, the board shall undertake and
536 complete a study for submission by the office to the Governor,
537 the President of the Senate, and the Speaker of the House of
538 Representatives which addresses:

539 1. The total amount of E911 fee revenues collected by each
540 provider, the total amount of expenses incurred by each provider
541 to comply with the order, and the amount of moneys on deposit in
542 the fund, all as of December 1, 2000.

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

547 3. Any other issues related to providing wireless E911
548 services.

549 (8) WIRELESS E911 FEE.--

550 (a) Each home service provider shall collect a monthly fee
 551 imposed on each customer whose place of primary use is within
 552 this state. For purposes of this section, the state and local
 553 governments are not customers. The rate of the fee shall be 50
 554 cents per month per each service number, beginning August 1,
 555 1999. The fee shall apply uniformly and be imposed throughout
 556 the state.

557 (c) After July 1, 2001, the board may adjust the
 558 allocation percentages provided in s. 365.173 or reduce the
 559 amount of the fee, or both, if necessary to ensure full cost
 560 recovery or prevent overrecovery of costs incurred in the
 561 provision of E911 service, including costs incurred or projected
 562 to be incurred to comply with the order. Any new allocation
 563 percentages or reduced fee may not be adjusted for 1 year ~~2~~
 564 ~~years~~. The fee may not exceed 50 cents per month per each
 565 service number.

566 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--To balance
 567 the public need for reliable E911 services through reliable
 568 wireless systems and the public interest served by governmental
 569 zoning and land development regulations and notwithstanding any
 570 other law or local ordinance to the contrary, the following
 571 standards shall apply to a local government's actions, as a
 572 regulatory body, in the regulation of the placement,
 573 construction, or modification of a wireless communications
 574 facility. However, this subsection shall not be construed to
 575 wave or alter the provisions of s. 286.011 or s. 286.0115. For
 576 the purposes of this subsection only, "local government" shall
 577 mean any municipality or county and any agency of a municipality

578 or county only. The term "local government" does not, however,
 579 include any airport, as defined by s. 330.27(2), even if it is
 580 owned or controlled by or through a municipality, county, or
 581 agency of a municipality or county. Further, notwithstanding
 582 anything in this section to the contrary, this subsection does
 583 not apply to or control a local government's actions as a
 584 property or structure owner in the use of any property or
 585 structure owned by such entity for the placement, construction,
 586 or modification of wireless communications facilities. However,
 587 in the use of property or structures owned by the local
 588 government, a local government may not use its regulatory
 589 authority so as to avoid compliance with, or in a manner that
 590 does not advance, the provisions of this subsection.÷

591 (a) Collocation ~~Colocation~~ among wireless telephone
 592 service providers is encouraged by the state. ~~To further~~
 593 ~~facilitate agreements among providers for colocation of their~~
 594 ~~facilities, any antennae and related equipment to service the~~
 595 ~~antennae that is being colocated on an existing above-ground~~
 596 ~~structure is not subject to land development regulation pursuant~~
 597 ~~to s. 163.3202, provided the height of the existing structure is~~
 598 ~~not increased. However, construction of the antennae and related~~
 599 ~~equipment is subject to local building regulations and any~~
 600 ~~existing permits or agreements for such property, buildings, or~~
 601 ~~structures.~~

602 1.a. Collocations on towers, including nonconforming
 603 towers, that meet the requirements in sub-sub-subparagraphs (I),
 604 (II), and (III), are subject to only building-permit review,
 605 which may include a review for compliance with this

606 subparagraph. Such collocations are not subject to any design or
 607 placement requirements of the local government's land
 608 development regulations in effect at the time of the collocation
 609 that are more restrictive than those in effect at the time of
 610 the initial antennae placement approval, to any other portion of
 611 the land development regulations, or to public hearing review.
 612 This sub-subparagraph shall not preclude a public hearing for
 613 any appeal of the decision on the collocation application.

614 (I) The collocation does not increase the height of the
 615 tower to which the antennae are to be attached, measured to the
 616 highest point of any part of the tower or any existing antenna
 617 attached to the tower;

618 (II) The collocation does not increase the ground space
 619 area, commonly known as the compound, approved in the site plan
 620 for equipment enclosures and ancillary facilities; and

621 (III) The collocation consists of antennae, equipment
 622 enclosures, and ancillary facilities that are of a design and
 623 configuration consistent with all applicable regulations,
 624 restrictions, or conditions, if any, applied to the initial
 625 antennae placed on the tower and to its accompanying equipment
 626 enclosures and ancillary facilities and, if applicable, applied
 627 to the tower supporting the antennae. Such regulations may
 628 include the design and aesthetic requirements, but not
 629 procedural requirements, other than those authorized by this
 630 section, of the local government's land development regulations
 631 in effect at the time the initial antennae placement was
 632 approved.

633 b. Except for a historic building, structure, site,
 634 object, or district, or a tower included in sub-subparagraph a.,
 635 collocations on all other existing structures that meet the
 636 requirements in sub-sub-subparagraphs (I)-(IV) shall be subject
 637 to no more than building-permit review and an administrative
 638 review for compliance with this subparagraph. Such collocations
 639 are not subject to any portion of the local government's land
 640 development regulations not addressed herein, or to public
 641 hearing review. This sub-subparagraph shall not preclude a
 642 public hearing for any appeal of the decision on the collocation
 643 application.

644 (I) The collocation does not increase the height of the
 645 existing structure to which the antennae are to be attached,
 646 measured to the highest point of any part of the structure or
 647 any existing antenna attached to the structure;

648 (II) The collocation does not increase the ground space
 649 area, otherwise known as the compound, if any, approved in the
 650 site plan for equipment enclosures and ancillary facilities;

651 (III) The collocation consists of antennae, equipment
 652 enclosures, and ancillary facilities that are of a design and
 653 configuration consistent with any applicable structural or
 654 aesthetic design requirements and any requirements for location
 655 on the structure, but not prohibitions or restrictions on the
 656 placement of additional collocations on the existing structure
 657 or procedural requirements, other than those authorized by this
 658 section, of the local government's land development regulations
 659 in effect at the time of the collocation application; and

660 (IV) The collocation consists of antennae, equipment
661 enclosures, and ancillary facilities that are of a design and
662 configuration consistent with all applicable restrictions or
663 conditions, if any, that do not conflict with sub-sub-
664 paragraph (III) and were applied to the initial antennae
665 placed on the structure and to its accompanying equipment
666 enclosures and ancillary facilities and, if applicable, applied
667 to the structure supporting the antennae.

668 c. Regulations, restrictions, conditions, or permits of
669 the local government, acting in its regulatory capacity, that
670 limit the number of collocations or require review processes
671 inconsistent with this subsection shall not apply to
672 collocations addressed in this subparagraph.

673 d. If only a portion of the collocation does not meet the
674 requirements of this subparagraph, such as an increase in the
675 height of the proposed antennae over the existing structure
676 height or a proposal to expand the ground space approved in the
677 site plan for the equipment enclosure, where all other portions
678 of the collocation meet the requirements of this subparagraph,
679 that portion of the collocation only may be reviewed under the
680 local government's regulations applicable to an initial
681 placement of that portion of the facility, including, but not
682 limited to, its land development regulations, and within the
683 review timeframes of subparagraph (d)2., and the rest of the
684 collocation shall be reviewed in accordance with this
685 subparagraph. However, a collocation proposal under this
686 subparagraph that increases the ground space area, otherwise
687 known as the compound, approved in the original site plan for

688 equipment enclosures and ancillary facilities by no more than a
 689 cumulative amount of 400 square feet or 50 percent of the
 690 original compound size, whichever is greater, shall require no
 691 more than administrative review for compliance with the local
 692 government's regulations, including, but not limited to, land
 693 development regulations review and building-permit review, with
 694 no public hearing review. This sub-subparagraph shall not
 695 preclude a public hearing for any appeal of the decision on the
 696 collocation application.

697 2. If a collocation does not meet the requirements of
 698 subparagraph 1., the local government may review the application
 699 under the local government's regulations, including, but not
 700 limited to, land development regulations, applicable to the
 701 placement of an initial antennae and its accompanying equipment
 702 enclosure and ancillary facilities.

703 3. If a collocation meets the requirements of subparagraph
 704 1., the collocation shall not be considered a modification to an
 705 existing structure or an impermissible modification of a
 706 nonconforming structure.

707 4. ~~The Nothing herein shall relieve the permitholder for~~
 708 ~~owner of the existing tower on which the proposed antennae~~
 709 ~~are to be collocated shall remain responsible for structure of~~
 710 compliance with any applicable condition or requirement of a
 711 permit, ~~or agreement, or any applicable condition or requirement~~
 712 ~~of the land development regulations to which the existing tower~~
 713 ~~had to comply at the time the tower was permitted regulation,~~
 714 including any aesthetic requirements, ~~provided the condition or~~
 715 requirement is not inconsistent with this paragraph ~~or law.~~

716 5. An existing tower, including a nonconforming tower, may
717 be structurally modified in order to permit collocation or may
718 be replaced through no more than administrative review and
719 building permit review, and is not subject to public hearing
720 review, if the overall height of the tower is not increased and,
721 if a replacement, the replacement tower is a monopole tower or,
722 if the existing tower is a camouflaged tower, the replacement
723 tower is a like-camouflaged tower. This subparagraph shall not
724 preclude a public hearing for any appeal of the decision on the
725 application.

726 (b)1. A local government's land development and
727 construction regulations for wireless communications facilities
728 and the local government's review of an application for the
729 placement, construction, or modification of a wireless
730 communications facility shall only address land development or
731 zoning issues. In such local government regulations or review,
732 the local government may not require information on or evaluate
733 a wireless provider's business decisions about its service,
734 customer demand for its service, or quality of its service to or
735 from a particular area or site, unless the wireless provider
736 voluntarily offers this information to the local government. In
737 such local government regulations or review, a local government
738 may not require information on or evaluate the wireless
739 provider's designed service unless the information or materials
740 are directly related to an identified land development or zoning
741 issue or unless the wireless provider voluntarily offers the
742 information. Information or materials directly related to an
743 identified land development or zoning issue may include, but are

744 not limited to, evidence that no existing structure can
745 reasonably be used for the antennae placement instead of the
746 construction of a new tower, that residential areas cannot be
747 served from outside the residential area, as addressed in
748 subparagraph 3., or that the proposed height of a new tower or
749 initial antennae placement or a proposed height increase of a
750 modified tower, replacement tower, or collocation is necessary
751 to provide the provider's designed service. Nothing in this
752 paragraph shall limit the local government from reviewing any
753 applicable land development or zoning issue addressed in its
754 adopted regulations that do not conflict with this section,
755 including, but not limited to, aesthetics, landscaping, land use
756 based location priorities, structural design, and setbacks.

757 2. Any setback or distance separation required of a tower
758 may not exceed the minimum distance necessary, as determined by
759 the local government, to satisfy the structural safety or
760 aesthetic concerns that are to be protected by the setback or
761 distance separation.

762 3. A local government may exclude the placement of
763 wireless communications facilities in a residential area or
764 residential zoning district but only in a manner that does not
765 constitute an actual or effective prohibition of the provider's
766 service in that residential area or zoning district. If a
767 wireless provider demonstrates to the satisfaction of the local
768 government that the provider cannot reasonably provide its
769 service to the residential area or zone from outside the
770 residential area or zone, the municipality or county and
771 provider shall cooperate to determine an appropriate location

772 for a wireless communications facility of an appropriate design
 773 within the residential area or zone. The local government may
 774 require that the wireless provider reimburse the reasonable
 775 costs incurred by the local government for this cooperative
 776 determination. An application for such cooperative determination
 777 shall not be considered an application under paragraph (d).

778 4. A local government may impose a reasonable fee on
 779 applications to place, construct, or modify a wireless
 780 communications facility only if a similar fee is imposed on
 781 applicants seeking other similar types of zoning, land use, or
 782 building-permit review. A local government may impose fees for
 783 the review of applications for wireless communications
 784 facilities by consultants or experts who conduct code compliance
 785 review for the local government but any fee is limited to
 786 specifically identified reasonable expenses incurred in the
 787 review. A local government may impose reasonable surety
 788 requirements to ensure the removal of wireless communications
 789 facilities that are no longer being used.

790 5. A local government may impose design requirements, such
 791 as requirements for designing towers to support collocation or
 792 aesthetic requirements, except as otherwise limited in this
 793 section, but shall not impose or require information on
 794 compliance with building code type standards for the
 795 construction or modification of wireless communications
 796 facilities beyond those adopted by the local government under
 797 chapter 553 and that apply to all similar types of construction.

798 (c)(b) Local governments may ~~shall~~ not require wireless
 799 providers to provide evidence of a wireless communications

800 facility's compliance with federal regulations, except. ~~However,~~
 801 ~~local governments shall receive~~ evidence of compliance with
 802 applicable Federal Aviation Administration requirements under 14
 803 C.F.R. s. 77, as amended, and evidence of proper Federal
 804 Communications Commission licensure, or other evidence of
 805 Federal Communications Commission authorized spectrum use, but
 806 ~~from a provider and~~ may request the Federal Communications
 807 Commission to provide information as to a wireless provider's
 808 compliance with federal regulations, as authorized by federal
 809 law.

810 (d)(e)1. A local government shall grant or deny each a
 811 properly completed application for a collocation ~~permit,~~
 812 ~~including permits~~ under subparagraph (a)1. based on the
 813 application's compliance with the local government's applicable
 814 regulations, as provided for in subparagraph (a)1. and
 815 consistent with this subsection, and ~~paragraph (a), for the~~
 816 ~~collocation of a wireless communications facility on property,~~
 817 ~~buildings, or structures within the local government's~~
 818 ~~jurisdiction~~ within the normal timeframe for a similar building-
 819 permit review but in no case later than 45 business days after
 820 the date the properly completed application is determined to be
 821 properly completed in accordance with this paragraph initially
 822 ~~submitted in accordance with the applicable local government~~
 823 ~~application procedures, provided that such permit complies with~~
 824 ~~applicable federal regulations and applicable local zoning or~~
 825 ~~land development regulations, including any aesthetic~~
 826 ~~requirements. Local building regulations shall apply.~~

827 2. A local government shall grant or deny each a properly
 828 completed application for any other wireless communications
 829 facility based on the application's compliance with the local
 830 government's applicable regulations, including, but not limited
 831 to, land development regulations, consistent with this
 832 subsection and within the normal timeframe for a similar type
 833 review but in no case later than ~~a permit for the siting of a~~
 834 ~~new wireless tower or antenna on property, buildings, or~~
 835 ~~structures within the local government's jurisdiction within 90~~
 836 business days after the date the ~~properly completed~~ application
 837 is determined to be properly completed in accordance with this
 838 paragraph ~~initially submitted in accordance with the applicable~~
 839 ~~local government application procedures, provided that such~~
 840 ~~permit complies with applicable federal regulations and~~
 841 ~~applicable local zoning or land development regulations,~~
 842 ~~including any aesthetic requirements. Local building regulations~~
 843 ~~shall apply.~~

844 3.a. An application is deemed submitted or resubmitted on
 845 the date the application is received by the local government. If
 846 the local government does not ~~shall~~ notify the ~~permit~~ applicant
 847 in writing that the application is not completed in compliance
 848 with the local government's regulations within 20 business days
 849 after the date the application is initially submitted or
 850 additional information resubmitted, as to whether the
 851 application is deemed, for administrative purposes only, to be
 852 properly completed and ~~has been~~ properly submitted. However, the
 853 ~~such~~ determination shall not be deemed as an approval of the
 854 application. If the application is not completed in compliance

855 | with the local government's regulations, the local government
 856 | shall so notify the applicant in writing and the ~~Such~~
 857 | notification ~~shall~~ must indicate with specificity any
 858 | deficiencies in the required documents or deficiencies in the
 859 | content of the required documents which, if cured, ~~shall~~ make
 860 | the application properly completed. Upon resubmission of
 861 | information to cure the stated deficiencies, the local
 862 | government shall notify the applicant, in writing, within the
 863 | normal timeframes of review, but in no case longer than 20
 864 | business days after the additional information is submitted, of
 865 | any remaining deficiencies that must be cured. Deficiencies in
 866 | document type or content not specified by the local government
 867 | do not make the application incomplete. Notwithstanding this
 868 | sub-subparagraph, if a specified deficiency is not properly
 869 | cured when the applicant resubmits its application to comply
 870 | with the notice of deficiencies, the local government may
 871 | continue to request the information until such time as the
 872 | specified deficiency is cured. The local government may
 873 | establish reasonable timeframes within which the required
 874 | information to cure the application deficiency is to be provided
 875 | or the application will be considered withdrawn or closed.

876 | b. If the local government fails to grant or deny a
 877 | properly completed application for a wireless communications
 878 | facility ~~permit which has been properly submitted~~ within the
 879 | timeframes set forth in this paragraph, the application ~~permit~~
 880 | shall be deemed automatically approved and the applicant
 881 | ~~provider~~ may proceed with placement of the ~~such~~ facilities
 882 | without interference or penalty. The timeframes specified in

883 ~~subparagraph~~ subparagraphs 1. and 2. ~~may shall~~ be extended only
 884 to the extent that the application ~~permit~~ has not been granted
 885 or denied because the local government's procedures generally
 886 applicable to all other similar types of applications ~~permits,~~
 887 require action by the governing body and such action has not
 888 taken place within the timeframes specified in subparagraph
 889 ~~subparagraphs 1. and 2.~~ Under such circumstances, the local
 890 government must act to either grant or deny the application
 891 ~~permit~~ at its next regularly scheduled meeting or, otherwise,
 892 the application is ~~permit shall be~~ deemed to be automatically
 893 approved.

894 c. To be effective, a waiver of the timeframes set forth
 895 in this paragraph ~~herein~~ must be voluntarily agreed to by the
 896 applicant and the local government. A local government may
 897 request, but not require, a waiver of the timeframes by the
 898 applicant ~~an entity seeking a permit,~~ except that, with respect
 899 to a specific application ~~permit,~~ a one-time waiver may be
 900 required in the case of a declared local, state, or federal
 901 emergency that directly affects the administration of all
 902 permitting activities of the local government.

903 ~~(d) Any additional wireless communications facilities,~~
 904 ~~such as communication cables, adjacent accessory structures, or~~
 905 ~~adjacent accessory equipment used in the provision of cellular,~~
 906 ~~enhanced specialized mobile radio, or personal communications~~
 907 ~~services, required within the existing secured equipment~~
 908 ~~compound within the existing site shall be deemed a permitted~~
 909 ~~use or activity. Local building and land development~~
 910 ~~regulations, including any aesthetic requirements, shall apply.~~

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911 (e) The replacement of or modification to a wireless
912 communications facility, except a tower, that results in a
913 wireless communications facility not readily discernibly
914 different in size, type, and appearance when viewed from ground
915 level from surrounding properties, and the replacement or
916 modification of equipment that is not visible from surrounding
917 properties, all as reasonably determined by the local
918 government, are subject to no more than applicable building-
919 permit review.

920 (f)~~(e)~~ Any other ~~provision of~~ law to the contrary
921 notwithstanding, the Department of Management Services shall
922 negotiate, in the name of the state, leases for wireless
923 communications facilities that provide access to state
924 government-owned property not acquired for transportation
925 purposes, and the Department of Transportation shall negotiate,
926 in the name of the state, leases for wireless communications
927 facilities that provide access to property acquired for state
928 rights-of-way. On property acquired for transportation purposes,
929 leases shall be granted in accordance with s. 337.251. On other
930 state government-owned property, leases shall be granted on a
931 space available, first-come, first-served basis. Payments
932 required by state government under a lease must be reasonable
933 and must reflect the market rate for the use of the state
934 government-owned property. The Department of Management Services
935 and the Department of Transportation are authorized to adopt
936 rules for the terms and conditions and granting of any such
937 leases.

938 (g) If any person adversely affected by any action or
 939 failure to act or regulation or requirement of a local
 940 government in the review or regulation of the wireless
 941 communication facilities files an appeal or brings an
 942 appropriate action in a court or venue of competent
 943 jurisdiction, following the exhaustion of all administrative
 944 remedies, the matter shall be considered on an expedited basis.

945 ~~(f) Any wireless telephone service provider may report to~~
 946 ~~the board no later than September 1, 2003, the specific~~
 947 ~~locations or general areas within a county or municipality where~~
 948 ~~the provider has experienced unreasonable delay to locate~~
 949 ~~wireless telecommunications facilities necessary to provide the~~
 950 ~~needed coverage for compliance with federal Phase II E911~~
 951 ~~requirements using its own network. The provider shall also~~
 952 ~~provide this information to the specifically identified county~~
 953 ~~or municipality no later than September 1, 2003. Unless the~~
 954 ~~board receives no report that unreasonable delays have occurred,~~
 955 ~~the board shall, no later than September 30, 2003, establish a~~
 956 ~~subcommittee responsible for developing a balanced approach~~
 957 ~~between the ability of providers to locate wireless facilities~~
 958 ~~necessary to comply with federal Phase II E911 requirements~~
 959 ~~using the carrier's own network and the desire of counties and~~
 960 ~~municipalities to zone and regulate land uses to achieve public~~
 961 ~~welfare goals. If a subcommittee is established, it shall~~
 962 ~~include representatives from the Florida Telecommunications~~
 963 ~~Industry Association, the Florida Association of Counties, and~~
 964 ~~the Florida League of Cities. The subcommittee shall be charged~~
 965 ~~with developing recommendations for the board and any~~

966 ~~specifically identified municipality or county to consider~~
 967 ~~regarding actions to be taken for compliance for federal Phase~~
 968 ~~II E911 requirements. In the annual report due to the Governor~~
 969 ~~and the Legislature by February 28, 2004, the board shall~~
 970 ~~include any recommendations developed by the subcommittee to~~
 971 ~~address compliance with federal Phase II E911 requirements.~~

972 Section 5. Subsections (2) and (3) of section 365.173,
 973 Florida Statutes, are amended to read:

974 365.173 Wireless Emergency Telephone System Fund.--

975 (2) Subject to any modifications approved by the board
 976 pursuant to s. 365.172(6)(a)3. or s. 365.172(8)(c), the moneys
 977 in the fund shall be distributed and used only as follows:

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

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

983 2. Costs to comply with the requirements for E911 service
 984 contained in the order and any future rules related to the
 985 order.

986
 987 Any county that receives funds under this paragraph shall
 988 establish a fund to be used exclusively for the receipt and
 989 expenditure of the revenues collected under this paragraph. All
 990 fees placed in the fund and any interest accrued shall be used
 991 solely for costs described in subparagraphs 1. and 2. The money
 992 collected and interest earned in this fund shall be appropriated
 993 for these purposes by the county commissioners and incorporated

994 | into the annual county budget. The fund shall be included within
 995 | the financial audit performed in accordance with s. 218.39. A
 996 | county may carry forward, ~~for up to 3 successive calendar years,~~
 997 | up to 30 percent of the total funds disbursed to the county by
 998 | the board during a calendar year for expenditures for capital
 999 | outlay, capital improvements, or equipment replacement, if such
 1000 | expenditures are made for the purposes specified in this
 1001 | paragraph.

1002 | (b) Fifty-four percent of the moneys shall be distributed
 1003 | in response to sworn invoices submitted to the board by
 1004 | providers to reimburse such providers for the actual costs
 1005 | incurred to provide 911 or E911 service, including the costs of
 1006 | complying with the order. Such costs include costs and expenses
 1007 | incurred by providers to design, purchase, lease, program,
 1008 | install, test, upgrade, operate, and maintain all necessary
 1009 | data, hardware, and software required to provide E911 service.
 1010 | Up to 2 percent of the funds allocated to providers shall be
 1011 | retained by the board to be applied to costs and expenses
 1012 | incurred for the purposes of managing, administering, and
 1013 | overseeing the receipts and disbursements from the fund and
 1014 | other activities as defined in s. 365.172(6). Any funds retained
 1015 | for such purposes in a calendar year which are not applied to
 1016 | such costs and expenses by March 31 of the following year shall
 1017 | be distributed to providers pursuant to this paragraph.
 1018 | ~~Beginning in state fiscal year 2000-2001,~~ Each provider shall
 1019 | submit to the board, by August 1 of each year, a detailed
 1020 | estimate of the capital and operating expenses for which it
 1021 | anticipates that it will seek reimbursement under this paragraph

1022 during the ensuing state fiscal year. By September 15 of each
 1023 year, the board shall submit to the Legislature its legislative
 1024 budget request for funds to be allocated to providers under this
 1025 paragraph during the ensuing state fiscal year. The budget
 1026 request shall be based on the information submitted by the
 1027 providers and estimated surcharge revenues. Distributions of
 1028 moneys in the fund by the board to providers must be fair and
 1029 nondiscriminatory. If the total amount of moneys requested by
 1030 providers pursuant to invoices submitted to the board and
 1031 approved for payment exceeds the amount in the fund in any
 1032 month, providers that have invoices approved for payment shall
 1033 receive a pro rata share of moneys in the fund and the balance
 1034 of the payments shall be carried over to the following month or
 1035 months until all of the approved payments are made. The board
 1036 may adopt rules necessary to address the manner in which pro
 1037 rata distributions are made when the total amount of funds
 1038 requested by providers pursuant to invoices submitted to the
 1039 board exceeds the total amount of moneys on deposit in the fund.

1040 (c) Two percent of the moneys shall be used to make
 1041 monthly distributions to rural counties for the purpose of
 1042 providing facilities and network and service enhancements and
 1043 assistance for the 911 or E911 systems operated by rural
 1044 counties and for the provision of reimbursable loans and grants
 1045 by the office to rural counties for upgrading 911 systems.

1046
 1047 The Legislature recognizes that the wireless E911 fee authorized
 1048 under s. 365.172 will not necessarily provide the total funding
 1049 required for establishing or providing the 911 service. It is

1050 | the intent of the Legislature that all revenue from the fee be
1051 | used as specified in s. 365.171(13)(a)6.

1052 | (3) Through fiscal year 2008-2009, the Auditor General
1053 | shall annually audit the fund to ensure that moneys in the fund
1054 | are being managed in accordance with this section and s.
1055 | 365.172. The Auditor General shall provide a report of the
1056 | annual audit to the board.

1057 | Section 6. Paragraph (a) of subsection (3) of section
1058 | 337.401, Florida Statutes, is amended to read:

1059 | 337.401 Use of right-of-way for utilities subject to
1060 | regulation; permit; fees.--

1061 | (3)(a)1. Because of the unique circumstances applicable to
1062 | providers of communications services, including, but not limited
1063 | to, the circumstances described in paragraph (e) and the fact
1064 | that federal and state law require the nondiscriminatory
1065 | treatment of providers of telecommunications services, and
1066 | because of the desire to promote competition among providers of
1067 | communications services, it is the intent of the Legislature
1068 | that municipalities and counties treat providers of
1069 | communications services in a nondiscriminatory and competitively
1070 | neutral manner when imposing rules or regulations governing the
1071 | placement or maintenance of communications facilities in the
1072 | public roads or rights-of-way. Rules or regulations imposed by a
1073 | municipality or county relating to providers of communications
1074 | services placing or maintaining communications facilities in its
1075 | roads or rights-of-way must be generally applicable to all
1076 | providers of communications services and, notwithstanding any
1077 | other law, may not require a provider of communications

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1078 services, except as otherwise provided in subparagraph 2., to
 1079 apply for or enter into an individual license, franchise, or
 1080 other agreement with the municipality or county as a condition
 1081 of placing or maintaining communications facilities in its roads
 1082 or rights-of-way. In addition to other reasonable rules or
 1083 regulations that a municipality or county may adopt relating to
 1084 the placement or maintenance of communications facilities in its
 1085 roads or rights-of-way under this subsection, a municipality or
 1086 county may require a provider of communications services that
 1087 places or seeks to place facilities in its roads or rights-of-
 1088 way to register with the municipality or county and to provide
 1089 the name of the registrant; the name, address, and telephone
 1090 number of a contact person for the registrant; the number of the
 1091 registrant's current certificate of authorization issued by the
 1092 Florida Public Service Commission or the Federal Communications
 1093 Commission; and proof of insurance or self-insuring status
 1094 adequate to defend and cover claims. ~~Nothing in this~~
 1095 ~~subparagraph is intended to limit or expand any existing zoning~~
 1096 ~~or land use authority of a municipality or county; however, no~~
 1097 ~~such zoning or land use authority may require an individual~~
 1098 ~~license, franchise, or other agreement as prohibited by this~~
 1099 ~~subparagraph.~~

1100 2. Notwithstanding the provisions of subparagraph 1., a
 1101 municipality or county may, as provided by 47 U.S.C. s. 541,
 1102 award one or more franchises within its jurisdiction for the
 1103 provision of cable service, and a provider of cable service
 1104 shall not provide cable service without such franchise. Each
 1105 municipality and county retains authority to negotiate all terms

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1106 | and conditions of a cable service franchise allowed by federal
1107 | law and s. 166.046, except those terms and conditions related to
1108 | franchise fees and the definition of gross revenues or other
1109 | definitions or methodologies related to the payment or
1110 | assessment of franchise fees and permit fees as provided in
1111 | paragraph (c) on providers of cable services. A municipality or
1112 | county may exercise its right to require from providers of cable
1113 | service in-kind requirements, including, but not limited to,
1114 | institutional networks, and contributions for, or in support of,
1115 | the use or construction of public, educational, or governmental
1116 | access facilities to the extent permitted by federal law. A
1117 | provider of cable service may exercise its right to recover any
1118 | such expenses associated with such in-kind requirements, to the
1119 | extent permitted by federal law.

1120 | Section 7. This act shall take effect July 1, 2005.