

Bill No. CS for SB 620

Barcode 674318

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
. .
. .
. .
. .
. .

The Committee on Governmental Oversight and Productivity
(Garcia) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

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

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

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

Bill No. CS for SB 620

Barcode 674318

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

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

8 (f) Annually conduct audits of the accounts and
 9 records of the Florida School for the Deaf and the Blind.

10 (g) At least every 2 years, conduct operational audits
 11 of the accounts and records of state agencies and
 12 universities. In connection with these audits, the Auditor
 13 General shall give appropriate consideration to reports issued
 14 by state agencies' inspectors general or universities'
 15 inspectors general and the resolution of findings therein.

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

- 31 1. Enhance citizen participation in local government;

Bill No. CS for SB 620

Barcode 674318

1 2. Improve the financial condition of local
2 governments;

3 3. Provide essential government services in an
4 efficient and effective manner; and

5 4. Improve decisionmaking on the part of the
6 Legislature, state agencies, and local government officials on
7 matters relating to local government.

8 (i) Once every 3 years, conduct performance audits of
9 the Department of Revenue's administration of the ad valorem
10 tax laws as described in s. 195.096.

11 (j) Once every 3 years, conduct financial audits of
12 the accounts and records of all district school boards in
13 counties with populations of 125,000 or more, according to the
14 most recent federal decennial statewide census.

15 (k) Once every 3 years, review a sample of each state
16 agency's internal audit reports to determine compliance with
17 current Standards for the Professional Practice of Internal
18 Auditing or, if appropriate, government auditing standards.

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

31

Bill No. CS for SB 620

Barcode 674318

1 The Auditor General shall perform his or her duties
 2 independently but under the general policies established by
 3 the Legislative Auditing Committee. This subsection does not
 4 limit the Auditor General's discretionary authority to conduct
 5 other audits or engagements of governmental entities as
 6 authorized in subsection (3).

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

9 364.02 Definitions.--As used in this chapter:

10 (13) "Telecommunications company" includes every
 11 corporation, partnership, and person and their lessees,
 12 trustees, or receivers appointed by any court whatsoever, and
 13 every political subdivision in the state, offering two-way
 14 telecommunications service to the public for hire within this
 15 state by the use of a telecommunications facility. The term
 16 "telecommunications company" does not include:

17 (a) An entity which provides a telecommunications
 18 facility exclusively to a certificated telecommunications
 19 company;

20 (b) An entity which provides a telecommunications
 21 facility exclusively to a company which is excluded from the
 22 definition of a telecommunications company under this
 23 subsection;

24 (c) A commercial mobile radio service provider;

25 (d) A facsimile transmission service;

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

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

30 (g) An intrastate interexchange telecommunications
 31 company.

Bill No. CS for SB 620

Barcode 674318

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

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

365.171 Emergency telephone number "911."--

(13) "911" FEE.--

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

1. At the request of the county subscribing to "911"

Bill No. CS for SB 620

Barcode 674318

1 service, the telephone company shall, insofar as is
2 practicable, bill the "911" fee to the local exchange
3 subscribers served by the "911" service, on an individual
4 access line basis, at a rate not to exceed 50 cents per month
5 per line (up to a maximum of 25 access lines per account bill
6 rendered). However, the fee may not be assessed on any pay
7 telephone in this state. A county collecting the fee for the
8 first time may collect the fee for no longer than 36 months
9 without initiating the acquisition of its "911" equipment.

10 2. Fees collected by the telephone company pursuant to
11 subparagraph 1. shall be returned to the county, less the
12 costs of administration retained pursuant to paragraph (c).
13 The county shall provide a minimum of 90 days' written notice
14 to the telephone company prior to the collection of any "911"
15 fees.

16 3. Any county that currently has an operational "911"
17 system or that is actively pursuing the implementation of a
18 "911" system shall establish a fund to be used exclusively for
19 receipt and expenditure of "911" fee revenues collected
20 pursuant to this section. All fees placed in said fund, and
21 any interest accrued thereupon, shall be used solely for "911"
22 costs described in subparagraph 6. The money collected and
23 interest earned in this fund shall be appropriated for "911"
24 purposes by the county commissioners and incorporated into the
25 annual county budget. Such fund shall be included within the
26 financial audit performed in accordance with s. 218.39. A
27 report of the audit shall be forwarded to the office within 60
28 days of its completion. A county may carry forward on an
29 annual basis unspent moneys in the fund for expenditures
30 allowed by this section, or it may reduce its fee. However, in
31 no event shall a county carry forward more than 10 percent of

Bill No. CS for SB 620

Barcode 674318

1 the "911" fee billed for the prior year. The amount of moneys
2 carried forward each year may be accumulated in order to allow
3 for capital improvements described in this subsection. The
4 carryover shall be documented by resolution of the board of
5 county commissioners expressing the purpose of the carryover
6 or by an adopted capital improvement program identifying
7 projected expansion or replacement expenditures for "911"
8 equipment and service features, or both. In no event shall the
9 "911" fee carryover surplus moneys be used for any purpose
10 other than for the "911" equipment, service features, and
11 installation charges authorized in subparagraph 6. Nothing in
12 this section shall prohibit a county from using other sources
13 of revenue for improvements, replacements, or expansions of
14 its "911" system. A county may increase its fee for purposes
15 authorized in this section. However, in no case shall the fee
16 exceed 50 cents per month per line. All current "911" fees
17 shall be reported to the office within 30 days of the start of
18 each county's fiscal period. Any fee adjustment made by a
19 county shall be reported to the office. A county shall give
20 the telephone company a 90-day written notice of such fee
21 adjustment.

22 4. The telephone company shall have no obligation to
23 take any legal action to enforce collection of the "911" fee.
24 The telephone company shall provide quarterly to the county a
25 list of the names, addresses, and telephone numbers of any and
26 all subscribers who have identified to the telephone company
27 their refusal to pay the "911" fee.

28 5. The county subscribing to "911" service shall
29 remain liable to the telephone company for any "911" service,
30 equipment, operation, or maintenance charge owed by the county
31 to the telephone company.

Bill No. CS for SB 620

Barcode 674318

1

2 As used in this paragraph, "telephone company" means an
3 exchange telephone service provider of "911" service or
4 equipment to any county within its certificated area.

5 6. It is the intent of the Legislature that the "911"
6 fee authorized by this section to be imposed by counties will
7 not necessarily provide the total funding required for
8 establishing or providing the "911" service. For purposes of
9 this section, "911" service includes the functions of database
10 management, call taking, location verification, and call
11 transfer. The following costs directly attributable to the
12 establishment and/or provision of "911" service are eligible
13 for expenditure of moneys derived from imposition of the "911"
14 fee authorized by this section: the acquisition,
15 implementation, and maintenance of Public Safety Answering
16 Point (PSAP) equipment and "911" service features, as defined
17 in the Florida Public Service Commission's lawfully approved
18 "911" and related tariffs and/or the acquisition,
19 installation, and maintenance of other "911" equipment,
20 including call answering equipment, call transfer equipment,
21 ANI controllers, ALI controllers, ANI displays, ALI displays,
22 station instruments, "911" telecommunications systems,
23 teleprinters, logging recorders, instant playback recorders,
24 telephone devices for the deaf (TDD) used in the "911" system,
25 PSAP backup power systems, consoles, automatic call
26 distributors, and interfaces (hardware and software) for
27 computer-aided dispatch (CAD) systems; salary and associated
28 expenses for "911" call takers for that portion of their time
29 spent taking and transferring "911" calls; salary and
30 associated expenses for a county to employ a full-time
31 equivalent "911" coordinator position and a full-time

Bill No. CS for SB 620

Barcode 674318

1 equivalent staff assistant position per county for the portion
 2 of their time spent administrating the "911" system; training
 3 costs for PSAP call takers in the proper methods and
 4 techniques used in taking and transferring "911" calls; and
 5 expenses required to develop and maintain all information (ALI
 6 and ANI databases and other information source repositories)
 7 necessary to properly inform call takers as to location
 8 address, type of emergency, and other information directly
 9 relevant to the "911" call-taking and transferring function
 10 ~~and, in a county defined in s. 125.011(1), such expenses~~
 11 ~~related to a nonemergency "311" system, or similar~~
 12 ~~nonemergency system, which improves the overall efficiency of~~
 13 ~~an existing "911" system or reduces "911" emergency response~~
 14 ~~time for a 2-year pilot project that ends June 30, 2003.~~

15 ~~However,~~ No wireless telephone service provider shall be
 16 required to participate in any ~~this~~ pilot project or to
 17 otherwise implement a nonemergency "311" system or similar
 18 nonemergency system. The "911" fee revenues shall not be used
 19 to pay for any item not listed, including, but not limited to,
 20 any capital or operational costs for emergency responses which
 21 occur after the call transfer to the responding public safety
 22 entity and the costs for constructing buildings, leasing
 23 buildings, maintaining buildings, or renovating buildings,
 24 except for those building modifications necessary to maintain
 25 the security and environmental integrity of the PSAP and "911"
 26 equipment rooms.

27 7. It is the goal of the Legislature that enhanced
 28 "911" service be available throughout the state. Expenditure
 29 by counties of the "911" fees authorized by this section
 30 should support this goal to the greatest extent feasible
 31 within the context of local service needs and fiscal

Bill No. CS for SB 620

Barcode 674318

1 capability. Nothing in this section shall be construed to
 2 prohibit two or more counties from establishing a combined
 3 emergency "911" telephone service by interlocal agreement and
 4 utilizing the "911" fees authorized by this section for such
 5 combined "911" service.

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

9 365.172 Wireless emergency telephone number "E911."--

10 (3) DEFINITIONS.--Only as used in this section and ss.
 11 365.173 and 365.174, the term:

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

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

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

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

27 (e) "Board" means the board of directors of the
 28 Wireless 911 Board.

29 (f) "Building-permit review" means a review for
 30 compliance with building construction standards adopted by the
 31 local government under chapter 553 and does not include a

Bill No. CS for SB 620

Barcode 674318

1 review for compliance with land development regulations.

2 ~~"Office" means the State Technology Office.~~

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

10 (h) "Designed service" means the configuration and
11 manner of deployment of service the wireless provider has
12 designed for an area as part of its network.

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

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

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

30 ~~(l)(i)~~ "Fund" means the Wireless Emergency Telephone
31 System Fund established in s. 365.173 and maintained under

Bill No. CS for SB 620

Barcode 674318

1 this section for the purpose of recovering the costs
2 associated with providing 911 service or E911 service,
3 including the costs of implementing the order.

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

10 (n) "Land development regulations" means any ordinance
11 enacted by a local government for the regulation of any aspect
12 of development, including an ordinance governing zoning,
13 subdivisions, landscaping, tree protection, or signs, the
14 local government's comprehensive plan, or any other ordinance
15 concerning any aspect of the development of land. The term
16 does not include any building construction standard adopted
17 under and in compliance with chapter 553.

18 (o)(j) "Local exchange carrier" means a "competitive
19 local exchange telecommunications company" or a "local
20 exchange telecommunications company" as defined in s. 364.02.

21 (p)(k) "Local government" means any municipality,
22 county, or political subdivision or agency of a municipality,
23 county, or political subdivision.

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

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

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

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

31 1. The following orders and rules of the Federal

Bill No. CS for SB 620

Barcode 674318

1 | Communications Commission issued in FCC Docket No. 94-102:

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

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

9 | c. Order No. FCC DA 98-2323 adopted on November 13,
10 | 1998.

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

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

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

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

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

29 | (w)~~(p)~~ "Public agency" means the state and any
30 | municipality, county, municipal corporation, or other
31 | governmental entity, public district, or public authority

Bill No. CS for SB 620

Barcode 674318

1 | located in whole or in part within this state which provides,
 2 | or has authority to provide, firefighting, law enforcement,
 3 | ambulance, medical, or other emergency services.

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

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

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

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

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

31 | ~~(cc)~~ "Tower" means any structure designed primarily to

Bill No. CS for SB 620

Barcode 674318

1 support a wireless provider's antennae.

2 (dd) "Wireless communications facility" means any
3 equipment or facility used to provide service and may include,
4 but is not limited to, antennae, towers, equipment enclosures,
5 cabling, antenna brackets, and other such equipment. Placing a
6 wireless communications facility on an existing structure does
7 not cause the existing structure to become a wireless
8 communications facility.

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

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

16 (a) The board shall:

- 17 1. Administer the E911 fee.
 - 18 2. Implement, maintain, and oversee the fund.
 - 19 3. Review and oversee the disbursement of the revenues
- 20 deposited into the fund as provided in s. 365.173. The board
21 may establish a schedule for implementing wireless E911
22 service by service area, and prioritize disbursements of
23 revenues from the fund to providers and rural counties as
24 provided in s. 365.173(2)(b) and (c) pursuant to the schedule,
25 in order to implement E911 services in the most efficient and
26 cost-effective manner. Revenues collected and deposited into
27 the fund for distribution as provided in s. 365.173(2)(b), but
28 which have not been disbursed because sworn invoices as
29 required by 365.173(2)(b) have not been submitted to the
30 board, may be utilized by the board as needed to provide
31 grants to rural counties and loans to medium counties for the

Bill No. CS for SB 620

Barcode 674318

1 purpose of upgrading E911 systems. Grants provided to rural
 2 counties would be in addition to disbursements provided under
 3 s. 365.173(2)(c). Loans provided to medium counties shall be
 4 based on county hardship criteria as determined and approved
 5 by the board. Revenues utilized for this purpose shall be
 6 fully repaid to the fund in a manner and under a timeframe as
 7 determined and approved by the board. The board shall take all
 8 actions within its authority to ensure that county recipients
 9 of such grants and loans utilize these funds only for the
 10 purpose under which they have been provided and may take any
 11 actions within its authority to secure county repayment of
 12 grant and loan revenues upon determination that the funds were
 13 not utilized for the purpose under which they were provided.

14 4. Review documentation submitted by providers which
 15 reflects current and projected funds derived from the E911
 16 fee, and the expenses incurred and expected to be incurred, in
 17 order to comply with the E911 service requirements contained
 18 in the order for the purposes of:

19 a. Ensuring that providers receive fair and equitable
 20 distributions of funds from the fund.

21 b. Ensuring that providers are not provided
 22 disbursements from the fund which exceed the costs of
 23 providing E911 service, including the costs of complying with
 24 the order.

25 c. Ascertaining the projected costs of compliance with
 26 the requirements of the order and projected collections of the
 27 E911 fee.

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

30 5. Review and approve or reject, in whole or in part,
 31 applications submitted by providers for recovery of moneys

Bill No. CS for SB 620

Barcode 674318

1 deposited into the fund.

2 6. Hire and retain employees, which may include an
3 independent executive director who shall possess experience in
4 the area of telecommunications and emergency 911 issues, for
5 the purposes of performing the technical and administrative
6 functions for the board.

7 7. Make and enter into contracts, pursuant to chapter
8 287, and execute other instruments necessary or convenient for
9 the exercise of the powers and functions of the board.

10 8. Take all necessary and reasonable steps by July 1,
11 2000, to secure appropriate information and reports from
12 providers and otherwise perform all of the functions that
13 would be performed by an independent accounting firm prior to
14 completing the request-for-proposals process under subsection
15 (7).

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

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

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

22 12. The board may adopt rules under ss. 120.536(1) and
23 120.54 to implement this section and ss. 365.173 and 365.174.

24 13. Provide coordination, support, and technical
25 assistance to counties to promote the deployment of advanced
26 911 and E911 systems in the state.

27 14. Provide coordination and support for educational
28 opportunities related to 911 issues for the 911 community in
29 this state.

30 15. Act as an advocate for issues related to 911
31 system functions, features, and operations to improve the

Bill No. CS for SB 620

Barcode 674318

1 delivery of 911 services to the residents of and visitors to
2 this state.

3 16. Coordinate input from this state at national
4 forums and associations, to ensure that policies related to
5 911 systems and services are consistent with the policies of
6 the 911 community in this state.

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

11 18. Do all acts and things necessary or convenient to
12 carry out the powers granted in this section, including but
13 not limited to, consideration of emerging technology and
14 related cost savings.

15 19. Have the authority to secure the services of an
16 independent, private attorney via invitation to bid, request
17 for proposals, invitation to negotiate, or professional
18 contracts for legal services already established at the
19 Division of Purchasing of the Department of Management
20 Services.

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

24 (c) By February 28 of each year, the board shall
25 prepare a report for submission by the office to the Governor,
26 the President of the Senate, and the Speaker of the House of
27 Representatives which reflects, for the immediately preceding
28 calendar year, the quarterly and annual receipts and
29 disbursements of moneys in the fund, the purposes for which
30 disbursements of moneys from the fund have been made, and the
31 availability and status of implementation of E911 service in

Bill No. CS for SB 620

Barcode 674318

1 this state.

2 (d) By February 28, 2001, the board shall undertake
3 and complete a study for submission by the office to the
4 Governor, the President of the Senate, and the Speaker of the
5 House of Representatives which addresses:

6 1. The total amount of E911 fee revenues collected by
7 each provider, the total amount of expenses incurred by each
8 provider to comply with the order, and the amount of moneys on
9 deposit in the fund, all as of December 1, 2000.

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

14 3. Any other issues related to providing wireless E911
15 services.

16 (8) WIRELESS E911 FEE.--

17 (a) Each home service provider shall collect a monthly
18 fee imposed on each customer whose place of primary use is
19 within this state. For purposes of this section, the state and
20 local governments are not customers. The rate of the fee shall
21 be 50 cents per month per each service number, beginning
22 August 1, 1999. The fee shall apply uniformly and be imposed
23 throughout the state.

24 (c) After July 1, 2001, the board may adjust the
25 allocation percentages provided in s. 365.173 or reduce the
26 amount of the fee, or both, if necessary to ensure full cost
27 recovery or prevent overrecovery of costs incurred in the
28 provision of E911 service, including costs incurred or
29 projected to be incurred to comply with the order. Any new
30 allocation percentages or reduced fee may not be adjusted for
31 1 year ~~2 years~~. The fee may not exceed 50 cents per month per

Bill No. CS for SB 620

Barcode 674318

1 each service number.

2 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--~~To~~
3 balance the public need for reliable E911 services through
4 reliable wireless systems and the public interest served by
5 governmental zoning and land development regulations and
6 notwithstanding any other law or local ordinance to the
7 contrary, the following standards shall apply to a local
8 government's actions, as a regulatory body, in the regulation
9 of the placement, construction, or modification of a wireless
10 communications facility. This subsection shall not, however,
11 be construed to waive or alter the provisions of ss. 286.011
12 or 286.0115. For the purposes of this subsection only, "local
13 government" shall mean any municipality or county and any
14 agency of a municipality or county only. The term "local
15 government" does not, however, include any airport, as defined
16 by s. 330.27(2), even if it is owned or controlled by or
17 through a municipality, county, or agency of a municipality or
18 county. Further, notwithstanding anything in this section to
19 the contrary, this subsection does not apply to or control a
20 local government's actions as a property or structure owner in
21 the use of any property or structure owned by such entity for
22 the placement, construction, or modification of wireless
23 communications facilities. In the use of property or
24 structures owned by the local government, however, a local
25 government may not use its regulatory authority so as to avoid
26 compliance with, or in a manner that does not advance, the
27 provisions of this subsection.+

28 (a) Collocation ~~Colocation~~ among wireless ~~telephone~~
29 ~~service~~ providers is encouraged by the state. ~~To further~~
30 ~~facilitate agreements among providers for colocation of their~~
31 ~~facilities, any antennae and related equipment to service the~~

Bill No. CS for SB 620

Barcode 674318

1 ~~antennae that is being colocated on an existing above-ground~~
 2 ~~structure is not subject to land development regulation~~
 3 ~~pursuant to s. 163.3202, provided the height of the existing~~
 4 ~~structure is not increased. However, construction of the~~
 5 ~~antennae and related equipment is subject to local building~~
 6 ~~regulations and any existing permits or agreements for such~~
 7 ~~property, buildings, or structures.~~

8 1.a. Collocations on towers, including nonconforming
 9 towers, that meet the requirements in sub-sub-subparagraphs
 10 (I), (II), and (III), are subject to only building-permit
 11 review which may include a review for compliance with this
 12 subparagraph. Such collocations are not subject to any design
 13 or placement requirements of the local government's land
 14 development regulations in effect at the time of the
 15 collocation that are more restrictive than those in effect at
 16 the time of the initial antennae placement approval, to any
 17 other portion of the land development regulations, or to
 18 public hearing review. This sub-subparagraph shall not
 19 preclude a public hearing for any appeal of the decision on
 20 the collocation application.

21 (I) The collocation does not increase the height of
 22 the tower to which the antennae are to be attached, measured
 23 to the highest point of any part of the tower or any existing
 24 antenna attached to the tower;

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

29 (III) The collocation consists of antennae, equipment
 30 enclosures, and ancillary facilities that are of a design and
 31 configuration consistent with all applicable regulations,

Bill No. CS for SB 620

Barcode 674318

1 restrictions, or conditions, if any, applied to the initial
2 antennae placed on the tower and to its accompanying equipment
3 enclosures and ancillary facilities and, if applicable,
4 applied to the tower supporting the antennae. Such regulations
5 may include the design and aesthetic requirements, but not
6 procedural requirements, other than those authorized by this
7 section, of the local government's land development
8 regulations in effect at the time the initial antennae
9 placement was approved.

10 b. Except for a historic building, structure, site,
11 object, or district, or a tower included in sub-subparagraph
12 a., collocations on all other existing structures that meet
13 the requirements in sub-sub-subparagraphs (I)-(IV) shall be
14 subject to no more than building-permit review, and an
15 administrative review for compliance with this subparagraph.
16 Such collocations are not subject to any portion of the local
17 government's land development regulations not addressed
18 herein, or to public hearing review. This sub-subparagraph
19 shall not preclude a public hearing for any appeal of the
20 decision on the collocation application.

21 (I) The collocation does not increase the height of
22 the existing structure to which the antennae are to be
23 attached, measured to the highest point of any part of the
24 structure or any existing antenna attached to the structure;

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

29 (III) The collocation consists of antennae, equipment
30 enclosures, and ancillary facilities that are of a design and
31 configuration consistent with any applicable structural or

Bill No. CS for SB 620

Barcode 674318

1 aesthetic design requirements and any requirements for
 2 location on the structure, but not prohibitions or
 3 restrictions on the placement of additional collocations on
 4 the existing structure or procedural requirements, other than
 5 those authorized by this section, of the local government's
 6 land development regulations in effect at the time of the
 7 collocation application; and

8 (IV) The collocation consists of antennae, equipment
 9 enclosures, and ancillary facilities that are of a design and
 10 configuration consistent with all applicable restrictions or
 11 conditions, if any, that do not conflict with
 12 sub-sub-subparagraph (III) and were applied to the initial
 13 antennae placed on the structure and to its accompanying
 14 equipment enclosures and ancillary facilities and, if
 15 applicable, applied to the structure supporting the antennae.

16 c. Regulations, restrictions, conditions, or permits
 17 of the local government, acting in its regulatory capacity,
 18 that limit the number of collocations or require review
 19 processes inconsistent with this subsection shall not apply to
 20 collocations addressed in this subparagraph.

21 d. If only a portion of the collocation does not meet
 22 the requirements of this subparagraph, such as an increase in
 23 the height of the proposed antennae over the existing
 24 structure height or a proposal to expand the ground space
 25 approved in the site plan for the equipment enclosure, where
 26 all other portions of the collocation meet the requirements of
 27 this subparagraph, that portion of the collocation only may be
 28 reviewed under the local government's regulations applicable
 29 to an initial placement of that portion of the facility,
 30 including, but not limited to, its land development
 31 regulations, and within the review timeframes of subparagraph

Barcode 674318

1 (d)2., and the rest of the collocation shall be reviewed in
 2 accordance with this subparagraph. A collocation proposal
 3 under this subparagraph that increases the ground space area,
 4 otherwise known as the compound, approved in the original site
 5 plan for equipment enclosures and ancillary facilities by no
 6 more than a cumulative amount of 400 square feet or 50 percent
 7 of the original compound size, whichever is greater, shall,
 8 however, require no more than administrative review for
 9 compliance with the local government's regulations, including,
 10 but not limited to, land development regulations review, and
 11 building-permit review, with no public hearing review. This
 12 sub-subparagraph shall not preclude a public hearing for any
 13 appeal of the decision on the collocation application.

14 2. If a collocation does not meet the requirements of
 15 subparagraph 1., the local government may review the
 16 application under the local government's regulations,
 17 including, but not limited to, land development regulations,
 18 applicable to the placement of an initial antennae and its
 19 accompanying equipment enclosure and ancillary facilities.

20 3. If a collocation meets the requirements of
 21 subparagraph 1., the collocation shall not be considered a
 22 modification to an existing structure or an impermissible
 23 modification of a nonconforming structure.

24 4. ~~The Nothing herein shall relieve the permit holder~~
 25 ~~for or~~ owner of the existing tower on which the proposed
 26 antennae are to be collocated shall remain responsible for
 27 ~~structure of~~ compliance with any applicable condition or
 28 requirement of a permit, or agreement, or any applicable
 29 condition or requirement of the land development regulations
 30 ~~regulation~~ to which the existing tower had to comply at the
 31 time the tower was permitted, including any aesthetic

Bill No. CS for SB 620

Barcode 674318

1 requirements, provided the condition or requirement is not
2 inconsistent with this paragraph or law.

3 5. An existing tower, including a nonconforming tower,
4 may be structurally modified in order to permit collocation or
5 may be replaced through no more than administrative review and
6 building-permit review, and is not subject to public hearing
7 review, if the overall height of the tower is not increased
8 and, if a replacement, the replacement tower is a monopole
9 tower or, if the existing tower is a camouflaged tower, the
10 replacement tower is a like-camouflaged tower. This
11 subparagraph shall not preclude a public hearing for any
12 appeal of the decision on the application.

13 (b)1. A local government's land development and
14 construction regulations for wireless communications
15 facilities and the local government's review of an application
16 for the placement, construction, or modification of a wireless
17 communications facility shall only address land development or
18 zoning issues. In such local government regulations or review,
19 the local government may not require information on or
20 evaluate a wireless provider's business decisions about its
21 service, customer demand for its service, or quality of its
22 service to or from a particular area or site, unless the
23 wireless provider voluntarily offers this information to the
24 local government. In such local government regulations or
25 review, a local government may not require information on or
26 evaluate the wireless provider's designed service unless the
27 information or materials are directly related to an identified
28 land development or zoning issue or unless the wireless
29 provider voluntarily offers the information. Information or
30 materials directly related to an identified land development
31 or zoning issue may include, but are not limited to, evidence

Bill No. CS for SB 620

Barcode 674318

1 that no existing structure can reasonably be used for the
2 antennae placement instead of the construction of a new tower,
3 that residential areas cannot be served from outside the
4 residential area, as addressed in subparagraph 3., or that the
5 proposed height of a new tower or initial antennae placement
6 or a proposed height increase of a modified tower, replacement
7 tower, or collocation is necessary to provide the provider's
8 designed service. Nothing in this paragraph shall limit the
9 local government from reviewing any applicable land
10 development or zoning issue addressed in its adopted
11 regulations that do not conflict with this section, including,
12 but not limited to, aesthetics, landscaping, land use based
13 location priorities, structural design, and setbacks.

14 2. Any setback or distance separation required of a
15 tower may not exceed the minimum distance necessary, as
16 determined by the local government, to satisfy the structural
17 safety or aesthetic concerns that are to be protected by the
18 setback or distance separation.

19 3. A local government may exclude the placement of
20 wireless communications facilities in a residential area or
21 residential zoning district but only in a manner that does not
22 constitute an actual or effective prohibition of the
23 provider's service in that residential area or zoning
24 district. If a wireless provider demonstrates to the
25 satisfaction of the local government that the provider cannot
26 reasonably provide its service to the residential area or zone
27 from outside the residential area or zone, the local
28 government and provider shall cooperate to determine an
29 appropriate location for a wireless communications facility of
30 an appropriate design within the residential area or zone. The
31 local government may require that the wireless provider

Bill No. CS for SB 620

Barcode 674318

1 reimburse the reasonable costs incurred by the local
 2 government for this cooperative determination. An application
 3 for such cooperative determination shall not be considered an
 4 application under paragraph (11)(d).

5 4. A local government may impose a reasonable fee on
 6 applications to place, construct, or modify a wireless
 7 communications facility only if a similar fee is imposed on
 8 applicants seeking other similar types of zoning, land use, or
 9 building-permit review. A local government may impose fees for
 10 the review of applications for wireless communications
 11 facilities by consultants or experts who conduct code
 12 compliance review for the local government but any fee is
 13 limited to specifically identified reasonable expenses
 14 incurred in the review. A local government may impose
 15 reasonable surety requirements to ensure the removal of
 16 wireless communications facilities that are no longer being
 17 used.

18 5. A local government may impose design requirements,
 19 such as requirements for designing towers to support
 20 collocation or aesthetic requirements, except as otherwise
 21 limited in this section, but shall not impose or require
 22 information on compliance with building code type standards
 23 for the construction or modification of wireless
 24 communications facilities beyond those adopted by the local
 25 government under chapter 553 and that apply to all similar
 26 types of construction.

27 (c)(b) Local governments may ~~shall~~ not require
 28 wireless providers to provide evidence of a wireless
 29 communications facility's compliance with federal regulations,
 30 except. However, local governments shall receive evidence of
 31 compliance with applicable Federal Aviation Administration

Bill No. CS for SB 620

Barcode 674318

1 requirements under 14 C.F.R. s. 77, as amended, and evidence
 2 of proper Federal Communications Commission licensure, or
 3 other evidence of Federal Communications Commission authorized
 4 spectrum use, but from a provider and may request the Federal
 5 Communications Commission to provide information as to a
 6 wireless provider's compliance with federal regulations, as
 7 authorized by federal law.

8 ~~(d)(c)~~1. A local government shall grant or deny each a
 9 properly completed application for a collocation permit,
 10 ~~including permits~~ under subparagraph (11)(a)1. paragraph (a),
 11 ~~for the colocation of a wireless communications facility on~~
 12 ~~property, buildings, or structures within the local~~
 13 ~~government's jurisdiction~~ based on the application's
 14 compliance with the local government's applicable regulations,
 15 as provided for in subparagraph (11)(a)1, and consistent with
 16 this subsection, and within the normal timeframe for a similar
 17 building-permit review but in no case later than 45 business
 18 days after the date the ~~properly completed~~ application is
 19 determined to be properly completed in accordance with this
 20 paragraph initially submitted in accordance with the
 21 applicable local government application procedures, provided
 22 that such permit complies with applicable federal regulations
 23 and applicable local zoning or land development regulations,
 24 including any aesthetic requirements. Local building
 25 regulations shall apply.

26 2. A local government shall grant or deny each a
 27 properly completed application for any other wireless
 28 communications facility based on the application's compliance
 29 with the local government's applicable regulations, including
 30 but not limited to land development regulations, consistent
 31 with this subsection and within the normal timeframe for a

Bill No. CS for SB 620

Barcode 674318

1 ~~similar type review but in no case later than a permit for the~~
 2 ~~siting of a new wireless tower or antenna on property,~~
 3 ~~buildings, or structures within the local government's~~
 4 ~~jurisdiction within 90 business days after the date the~~
 5 ~~properly completed~~ application is determined to be properly
 6 completed in accordance with this paragraph initially
 7 ~~submitted in accordance with the applicable local government~~
 8 ~~application procedures, provided that such permit complies~~
 9 ~~with applicable federal regulations and applicable local~~
 10 ~~zoning or land development regulations, including any~~
 11 ~~aesthetic requirements. Local building regulations shall~~
 12 ~~apply.~~

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

Bill No. CS for SB 620

Barcode 674318

1 in writing, within the normal timeframes of review, but in no
 2 case longer than 20 business days after the additional
 3 information is submitted, of any remaining deficiencies that
 4 must be cured. Deficiencies in document type or content not
 5 specified by the local government do not make the application
 6 incomplete. Notwithstanding this sub-subparagraph, if a
 7 specified deficiency is not properly cured when the applicant
 8 resubmits its application to comply with the notice of
 9 deficiencies, the local government may continue to request the
 10 information until such time as the specified deficiency is
 11 cured. The local government may establish reasonable
 12 timeframes within which the required information to cure the
 13 application deficiency is to be provided or the application
 14 will be considered withdrawn or closed.

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

Bill No. CS for SB 620

Barcode 674318

1 deemed to be automatically approved.

2 c. To be effective, a waiver of the timeframes set
 3 forth in this paragraph ~~herein~~ must be voluntarily agreed to
 4 by the applicant and the local government. A local government
 5 may request, but not require, a waiver of the timeframes by
 6 the applicant ~~an entity seeking a permit~~, except that, with
 7 respect to a specific application ~~permit~~, a one-time waiver
 8 may be required in the case of a declared local, state, or
 9 federal emergency that directly affects the administration of
 10 all permitting activities of the local government.

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

20 (e) The replacement of or modification to a wireless
 21 communications facility, except a tower, that results in a
 22 wireless communications facility not readily discernibly
 23 different in size, type, and appearance when viewed from
 24 ground level from surrounding properties, and the replacement
 25 or modification of equipment that is not visible from
 26 surrounding properties, all as reasonably determined by the
 27 local government, are subject to no more than applicable
 28 building-permit review.

29 ~~(f)(e)~~ Any other ~~provision of~~ law to the contrary
 30 notwithstanding, the Department of Management Services shall
 31 negotiate, in the name of the state, leases for wireless

Bill No. CS for SB 620

Barcode 674318

1 | communications facilities that provide access to state
 2 | government-owned property not acquired for transportation
 3 | purposes, and the Department of Transportation shall
 4 | negotiate, in the name of the state, leases for wireless
 5 | communications facilities that provide access to property
 6 | acquired for state rights-of-way. On property acquired for
 7 | transportation purposes, leases shall be granted in accordance
 8 | with s. 337.251. On other state government-owned property,
 9 | leases shall be granted on a space available, first-come,
 10 | first-served basis. Payments required by state government
 11 | under a lease must be reasonable and must reflect the market
 12 | rate for the use of the state government-owned property. The
 13 | Department of Management Services and the Department of
 14 | Transportation are authorized to adopt rules for the terms and
 15 | conditions and granting of any such leases.

16 | (g) If any person adversely affected by any action or
 17 | failure to act or regulation or requirement of a local
 18 | government in the review or regulation of the wireless
 19 | communication facilities files an appeal or brings an
 20 | appropriate action in a court or venue of competent
 21 | jurisdiction, following the exhaustion of all administrative
 22 | remedies, the matter shall be considered on an expedited
 23 | basis.

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

Bill No. CS for SB 620

Barcode 674318

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

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

23 365.173 Wireless Emergency Telephone System Fund.--

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

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

31 1. Recurring costs of providing 911 or E911 service,

Bill No. CS for SB 620

Barcode 674318

1 as provided by s. 365.171(13)(a)6.

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

5
6 Any county that receives funds under this paragraph shall
7 establish a fund to be used exclusively for the receipt and
8 expenditure of the revenues collected under this paragraph.

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

21 (b) Fifty-four percent of the moneys shall be
22 distributed in response to sworn invoices submitted to the
23 board by providers to reimburse such providers for the actual
24 costs incurred to provide 911 or E911 service, including the
25 costs of complying with the order. Such costs include costs
26 and expenses incurred by providers to design, purchase, lease,
27 program, install, test, upgrade, operate, and maintain all
28 necessary data, hardware, and software required to provide
29 E911 service. Up to 2 percent of the funds allocated to
30 providers shall be retained by the board to be applied to
31 costs and expenses incurred for the purposes of managing,

Bill No. CS for SB 620

Barcode 674318

1 administering, and overseeing the receipts and disbursements
2 from the fund and other activities as defined in s.
3 365.172(6). Any funds retained for such purposes in a calendar
4 year which are not applied to such costs and expenses by March
5 31 of the following year shall be distributed to providers
6 pursuant to this paragraph. ~~Beginning in state fiscal year~~
7 ~~2000-2001~~, Each provider shall submit to the board, by August
8 1 of each year, a detailed estimate of the capital and
9 operating expenses for which it anticipates that it will seek
10 reimbursement under this paragraph during the ensuing state
11 fiscal year. By September 15 of each year, the board shall
12 submit to the Legislature its legislative budget request for
13 funds to be allocated to providers under this paragraph during
14 the ensuing state fiscal year. The budget request shall be
15 based on the information submitted by the providers and
16 estimated surcharge revenues. Distributions of moneys in the
17 fund by the board to providers must be fair and
18 nondiscriminatory. If the total amount of moneys requested by
19 providers pursuant to invoices submitted to the board and
20 approved for payment exceeds the amount in the fund in any
21 month, providers that have invoices approved for payment shall
22 receive a pro rata share of moneys in the fund and the balance
23 of the payments shall be carried over to the following month
24 or months until all of the approved payments are made. The
25 board may adopt rules necessary to address the manner in which
26 pro rata distributions are made when the total amount of funds
27 requested by providers pursuant to invoices submitted to the
28 board exceeds the total amount of moneys on deposit in the
29 fund.

30 (c) Two percent of the moneys shall be used to make
31 monthly distributions to rural counties for the purpose of

Bill No. CS for SB 620

Barcode 674318

1 providing facilities and network and service enhancements and
 2 assistance for the 911 or E911 systems operated by rural
 3 counties and for the provision of reimbursable loans and
 4 grants by the office to rural counties for upgrading 911
 5 systems.

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

12 (3) Through fiscal year 2008-2009, the Auditor General
 13 shall annually audit the fund to ensure that moneys in the
 14 fund are being managed in accordance with this section and s.
 15 365.172. The Auditor General shall provide a report of the
 16 annual audit to the board.

17 Section 6. Paragraph (a) of subsection (3) of section
 18 337.401, Florida Statutes, is amended to read:

19 337.401 Use of right-of-way for utilities subject to
 20 regulation; permit; fees.--

21 (3)(a)1. Because of the unique circumstances
 22 applicable to providers of communications services, including,
 23 but not limited to, the circumstances described in paragraph
 24 (e) and the fact that federal and state law require the
 25 nondiscriminatory treatment of providers of telecommunications
 26 services, and because of the desire to promote competition
 27 among providers of communications services, it is the intent
 28 of the Legislature that municipalities and counties treat
 29 providers of communications services in a nondiscriminatory
 30 and competitively neutral manner when imposing rules or
 31 regulations governing the placement or maintenance of

Bill No. CS for SB 620

Barcode 674318

1 | communications facilities in the public roads or
2 | rights-of-way. Rules or regulations imposed by a municipality
3 | or county relating to providers of communications services
4 | placing or maintaining communications facilities in its roads
5 | or rights-of-way must be generally applicable to all providers
6 | of communications services and, notwithstanding any other law,
7 | may not require a provider of communications services, except
8 | as otherwise provided in subparagraph 2., to apply for or
9 | enter into an individual license, franchise, or other
10 | agreement with the municipality or county as a condition of
11 | placing or maintaining communications facilities in its roads
12 | or rights-of-way. In addition to other reasonable rules or
13 | regulations that a municipality or county may adopt relating
14 | to the placement or maintenance of communications facilities
15 | in its roads or rights-of-way under this subsection, a
16 | municipality or county may require a provider of
17 | communications services that places or seeks to place
18 | facilities in its roads or rights-of-way to register with the
19 | municipality or county and to provide the name of the
20 | registrant; the name, address, and telephone number of a
21 | contact person for the registrant; the number of the
22 | registrant's current certificate of authorization issued by
23 | the Florida Public Service Commission or the Federal
24 | Communications Commission; and proof of insurance or
25 | self-insuring status adequate to defend and cover claims.
26 | ~~Nothing in this subparagraph is intended to limit or expand~~
27 | ~~any existing zoning or land use authority of a municipality or~~
28 | ~~county; however, no such zoning or land use authority may~~
29 | ~~require an individual license, franchise, or other agreement~~
30 | ~~as prohibited by this subparagraph.~~

31 | 2. Notwithstanding the provisions of subparagraph 1.,

Bill No. CS for SB 620

Barcode 674318

1 a municipality or county may, as provided by 47 U.S.C. s. 541,
 2 award one or more franchises within its jurisdiction for the
 3 provision of cable service, and a provider of cable service
 4 shall not provide cable service without such franchise. Each
 5 municipality and county retains authority to negotiate all
 6 terms and conditions of a cable service franchise allowed by
 7 federal law and s. 166.046, except those terms and conditions
 8 related to franchise fees and the definition of gross revenues
 9 or other definitions or methodologies related to the payment
 10 or assessment of franchise fees and permit fees as provided in
 11 paragraph (c) on providers of cable services. A municipality
 12 or county may exercise its right to require from providers of
 13 cable service in-kind requirements, including, but not limited
 14 to, institutional networks, and contributions for, or in
 15 support of, the use or construction of public, educational, or
 16 governmental access facilities to the extent permitted by
 17 federal law. A provider of cable service may exercise its
 18 right to recover any such expenses associated with such
 19 in-kind requirements, to the extent permitted by federal law.

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

21

22

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

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26

27 and insert:

28

A bill to be entitled

29

An act relating to the wireless emergency

30

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

31

removing the annual audit of the Wireless

Bill No. CS for SB 620

Barcode 674318

1 Emergency Telephone System Fund from the duties
2 of the Auditor General; amending s. 364.02,
3 F.S.; revising fee schedules for providers of
4 interexchange telecommunications services;
5 amending s. 365.171, F.S.; revising provisions
6 for certain nonemergency telephone number pilot
7 projects; amending s. 365.172, F.S.; limiting
8 application of definitions; adding definitions
9 relating to wireless telephone communications;
10 revising duties of the Wireless 911 Board;
11 providing for grants and loans to certain
12 counties for the purpose of upgrading E911
13 systems; authorizing the hiring of an executive
14 director and an independent, private attorney;
15 specifying that state and local governments are
16 not customers under provisions for the wireless
17 E911 monthly fee; revising timeframe to reduce
18 the amount of the fee or for reallocation of
19 moneys collected for the fee; providing
20 legislative intent regarding the emergency
21 wireless telephone system; providing standards
22 for local governments to follow when regulating
23 the placement, construction, or modification of
24 a wireless communications facility; directing
25 local governments to grant or deny properly
26 completed applications within specified time
27 periods; providing criteria and procedures for
28 local approval of an application by a provider
29 of wireless communications services;
30 authorizing the local government to impose an
31 application fee; directing local governments to

Bill No. CS for SB 620

Barcode 674318

1 notify a provider in writing of the
2 deficiencies in an application; directing local
3 governments to notify a provider in writing
4 whether the resubmission of information
5 properly completes the application; authorizing
6 local governments to continue requesting
7 information until the application deficiencies
8 are cured; providing for a limited review by a
9 local government of an accessory wireless
10 communications facility; prohibiting local
11 governments from imposing certain restrictions
12 on wireless communications facilities;
13 providing that an action brought by a person
14 adversely affected by a decision of a local
15 government relating to a wireless
16 communications facility shall be considered on
17 an expedited basis; removing certain complaint
18 procedures; amending s. 365.173, F.S.;

19 directing how a county may use funds derived
20 from the E911 fee; requiring the board of
21 county commissioners to appropriate the funds
22 to the proper uses; removing the requirement
23 that the Auditor General annually audit the
24 E911 fund; amending s. 337.401, F.S.; revising
25 provisions relating to use of right-of-way for
26 utilities subject to regulation to remove
27 certain application provisions; providing an
28 effective date.

29
30
31