

Bill No. SB 620

Barcode 920306

CHAMBER ACTION

Senate

House

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11 The Committee on Communications and Public Utilities (Garcia)  
12 recommended the following amendment:

14 **Senate Amendment (with title amendment)**

15 Delete everything after the enacting clause

17 and insert:

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

20 11.45 Definitions; duties; authorities; reports;  
21 rules.--

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

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

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

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

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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) Annually conduct an audit of the Wireless~~  
 6 ~~Emergency Telephone System Fund as described in s. 365.173.~~

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

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

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

- 30           1. Enhance citizen participation in local government;
- 31           2. Improve the financial condition of local

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1 governments;

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

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

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

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

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

19 ~~(k)(l)~~ Conduct audits of local governmental entities  
20 when 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.

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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.

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1  
2 However, each commercial mobile radio service provider and  
3 each intrastate interexchange telecommunications company shall  
4 continue to be liable for any taxes imposed under ~~pursuant to~~  
5 chapters 202, 203 and 212 and any fees assessed under s.  
6 ~~pursuant to ss. 364.025 and 364.336~~. Each intrastate  
7 interexchange telecommunications company shall continue to be  
8 subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285,  
9 364.336, 364.501, 364.603, and 364.604, shall provide the  
10 commission with the ~~such~~ current information as the commission  
11 deems necessary to contact and communicate with the company,  
12 shall continue to pay intrastate switched network access rates  
13 or other intercarrier compensation to the local exchange  
14 telecommunications company or the competitive local exchange  
15 telecommunications company for the origination and termination  
16 of interexchange telecommunications service, and shall reduce  
17 its intrastate long distance toll rates in accordance with s.  
18 364.163(2).

19 Section 3. Paragraph (a) of subsection (13) of section  
20 365.171, Florida Statutes, is amended to read:

21 365.171 Emergency telephone number "911."--

22 (13) "911" FEE.--

23 (a) Following approval by referendum as set forth in  
24 paragraph (b), or following approval by a majority vote of its  
25 board of county commissioners, a county may impose a "911" fee  
26 to be paid by the local exchange subscribers within its  
27 boundaries served by the "911" service. Proceeds from the  
28 "911" fee shall be used only for "911" expenditures as set  
29 forth in subparagraph 6. The manner of imposing and collecting  
30 said payment shall be as follows:

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

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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

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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.

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

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



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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

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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

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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

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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

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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

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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

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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

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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



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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

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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

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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

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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. For the purposes of this subsection  
11 only, "local government" shall mean any municipality or county  
12 and any agency of a municipality or county only. The term  
13 "local government" does not, however, include any airport, as  
14 defined by s. 330.27(2), even if it is owned or controlled by  
15 or through a municipality, county, or agency of a municipality  
16 or county. Further, notwithstanding anything in this section  
17 to the contrary, this subsection does not apply to or control  
18 a local government's actions as a property or structure owner  
19 in the use of any property or structure owned by such entity  
20 for the placement, construction, or modification of wireless  
21 communications facilities. In the use of property or  
22 structures owned by the local government, however, a local  
23 government may not use its regulatory authority so as to avoid  
24 compliance with, or in a manner that does not advance, the  
25 provisions of this subsection.+

26 (a) ~~Collocation~~ Collocation among wireless ~~telephone~~  
27 ~~service~~ providers is encouraged by the state. ~~To further~~  
28 ~~facilitate agreements among providers for collocation of their~~  
29 ~~facilities, any antennae and related equipment to service the~~  
30 ~~antennae that is being colocated on an existing above-ground~~  
31 ~~structure is not subject to land development regulation~~

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1 ~~pursuant to s. 163.3202, provided the height of the existing~~  
 2 ~~structure is not increased. However, construction of the~~  
 3 ~~antennae and related equipment is subject to local building~~  
 4 ~~regulations and any existing permits or agreements for such~~  
 5 ~~property, buildings, or structures.~~

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

17 (I) The collocation does not increase the height of  
 18 the tower to which the antennae are to be attached, measured  
 19 to the highest point of any part of the tower or any existing  
 20 antenna attached to the tower;

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

25 (III) The collocation consists of antennae, equipment  
 26 enclosures, and ancillary facilities that are of a design and  
 27 configuration consistent with all applicable regulations,  
 28 restrictions, or conditions, if any, applied to the initial  
 29 antennae placed on the tower and to its accompanying equipment  
 30 enclosures and ancillary facilities and, if applicable,  
 31 applied to the tower supporting the antennae. Such regulations

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1 may include the design and aesthetic requirements, but not  
2 procedural requirements, other than those authorized by this  
3 section, of the local government's land development  
4 regulations in effect at the time the initial antennae  
5 placement was approved.

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

15       (I) The collocation does not increase the height of  
16 the existing structure to which the antennae are to be  
17 attached, measured to the highest point of any part of the  
18 structure or any existing antenna attached to the structure;

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

23       (III) The collocation consists of antennae, equipment  
24 enclosures, and ancillary facilities that are of a design and  
25 configuration consistent with any applicable structural or  
26 aesthetic design requirements and any requirements for  
27 location on the structure, but not prohibitions or  
28 restrictions on the placement of additional collocations on  
29 the existing structure or procedural requirements, other than  
30 those authorized by this section, of the local government's  
31 land development regulations in effect at the time of the

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1 collocation application; and

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

10 c. Regulations, restrictions, conditions, or permits  
11 of the local government, acting in its regulatory capacity,  
12 that limit the number of collocations or require review  
13 processes inconsistent with this subsection shall not apply to  
14 collocations addressed in this subparagraph.

15 d. If only a portion of the collocation does not meet  
16 the requirements of this subparagraph, such as an increase in  
17 the height of the proposed antennae over the existing  
18 structure height or a proposal to expand the ground space  
19 approved in the site plan for the equipment enclosure, where  
20 all other portions of the collocation meet the requirements of  
21 this subparagraph, that portion of the collocation only may be  
22 reviewed under the local government's regulations applicable  
23 to an initial placement of that portion of the facility,  
24 including, but not limited to, its land development  
25 regulations, and within the review timeframes of subparagraph  
26 (d)2., and the rest of the collocation shall be reviewed in  
27 accordance with this subparagraph. A collocation proposal  
28 under this subparagraph that increases the ground space area,  
29 otherwise known as the compound, approved in the original site  
30 plan for equipment enclosures and ancillary facilities by no  
31 more than a cumulative amount of 400 square feet or 50 percent

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1 of the original compound size, whichever is greater, shall,  
2 however, require no more than administrative review for  
3 compliance with the local government's regulations, including,  
4 but not limited to, land development regulations review, and  
5 building-permit review, with no public hearing or public input  
6 review.

7       2. If a collocation does not meet the requirements of  
8 subparagraph 1., the local government may review the  
9 application under the local government's regulations,  
10 including, but not limited to, land development regulations,  
11 applicable to the placement of an initial antennae and its  
12 accompanying equipment enclosure and ancillary facilities.

13       3. If a collocation meets the requirements of  
14 subparagraph 1., the collocation shall not be considered a  
15 modification to an existing structure or an impermissible  
16 modification of a nonconforming structure.

17       4. ~~The Nothing herein shall relieve the permit holder~~  
18 for or owner of the existing tower on which the proposed  
19 antennae are to be collocated shall remain responsible for  
20 structure of compliance with any applicable condition or  
21 requirement of a permit, or agreement, or any applicable  
22 condition or requirement of the land development regulations  
23 regulation to which the existing tower had to comply at the  
24 time the tower was permitted, including any aesthetic  
25 requirements, provided the condition or requirement is not  
26 inconsistent with this paragraph or law.

27       5. An existing tower, including a nonconforming tower,  
28 may be structurally modified in order to permit collocation or  
29 may be replaced through no more than administrative review,  
30 with no public hearing or public input review, and  
31 building-permit review if the overall height of the tower is



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1 not increased and, if a replacement, the replacement tower is  
2 a monopole tower or, if the existing tower is a camouflaged  
3 tower, the replacement tower is a like-camouflaged tower.

4 (b)1. A local government's land development and  
5 construction regulations for wireless communications  
6 facilities and the local government's review of an application  
7 for the placement, construction, or modification of a wireless  
8 communications facility shall only address land development or  
9 zoning issues. In such local government regulations or review,  
10 the local government may not require information on or  
11 evaluate a wireless provider's business decisions about its  
12 service, customer demand for its service, or quality of its  
13 service to or from a particular area or site, unless the  
14 wireless provider voluntarily offers this information to the  
15 local government. In such local government regulations or  
16 review, a local government may not require information on or  
17 evaluate the wireless provider's designed service unless the  
18 information or materials are directly related to an identified  
19 land development or zoning issue or unless the wireless  
20 provider voluntarily offers the information. Information or  
21 materials directly related to an identified land development  
22 or zoning issue may include, but are not limited to, evidence  
23 that no existing structure can reasonably be used for the  
24 antennae placement instead of the construction of a new tower,  
25 that residential areas cannot be served from outside the  
26 residential area, as addressed in subparagraph 3., or that the  
27 proposed height of a new tower or initial antennae placement  
28 or a proposed height increase of a modified tower, replacement  
29 tower, or collocation is necessary to provide the provider's  
30 designed service. Nothing in this paragraph shall limit the  
31 local government from reviewing any applicable land

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1 development or zoning issue addressed in its adopted  
 2 regulations that do not conflict with this section, including,  
 3 but not limited to, aesthetics, landscaping, land use based  
 4 location priorities, structural design, and setbacks.

5 2. Any setback or distance separation required of a  
 6 tower may not exceed the minimum distance necessary, as  
 7 determined by the local government, to satisfy the structural  
 8 safety or aesthetic concerns that are to be protected by the  
 9 setback or distance separation.

10 3. A local government may exclude the placement of  
 11 wireless communications facilities in a residential area or  
 12 residential zoning district but only in a manner that does not  
 13 constitute an actual or effective prohibition of the  
 14 provider's designed service in that residential area or zoning  
 15 district. If a wireless provider demonstrates to the  
 16 satisfaction of the local government that it cannot reasonably  
 17 provide its designed service to the residential area or zone  
 18 from outside the residential area or zone, the local  
 19 government and provider shall cooperate to determine an  
 20 appropriate location for a wireless communications facility of  
 21 an appropriate design within the residential area or zone. The  
 22 local government may require that the wireless provider  
 23 reimburse the reasonable costs incurred by the local  
 24 government for this cooperative determination. An application  
 25 for such cooperative determination shall not be considered an  
 26 application under paragraph (11)(d).

27 4. A local government may impose a reasonable fee on  
 28 applications to place, construct, or modify a wireless  
 29 communications facility only if a similar fee is imposed on  
 30 applicants seeking other similar types of zoning, land use, or  
 31 building-permit review. A local government may impose fees for

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1 the review of applications for wireless communications  
 2 facilities by consultants or experts who conduct code  
 3 compliance review for the local government but any fee is  
 4 limited to specifically identified reasonable expenses  
 5 incurred in the review. A local government may impose  
 6 reasonable surety requirements to ensure the removal of  
 7 wireless communications facilities that are no longer being  
 8 used.

9       5. A local government may impose design requirements,  
 10 such as requirements for designing towers to support  
 11 collocation or aesthetic requirements, except as otherwise  
 12 limited in this section, but shall not impose or require  
 13 information on compliance with building code type standards  
 14 for the construction or modification of wireless  
 15 communications facilities beyond those adopted by the local  
 16 government under chapter 553 and that apply to all similar  
 17 types of construction.

18       (c)(b) Local governments may shall not require  
 19 wireless providers to provide evidence of a wireless  
 20 communications facility's compliance with federal regulations,  
 21 except. However, local governments shall receive evidence of  
 22 compliance with applicable Federal Aviation Administration  
 23 requirements under 14 C.F.R. s. 77, as amended, and evidence  
 24 of proper Federal Communications Commission licensure, or  
 25 other evidence of Federal Communications Commission authorized  
 26 spectrum use, but from a provider and may request the Federal  
 27 Communications Commission to provide information as to a  
 28 wireless provider's compliance with federal regulations, as  
 29 authorized by federal law.

30       (d)(e)1. A local government shall grant or deny each a  
 31 properly completed application for a collocation permit,

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1 ~~including permits under subparagraph (11)(a)1. paragraph (a),~~  
2 ~~for the colocation of a wireless communications facility on~~  
3 ~~property, buildings, or structures within the local~~  
4 ~~government's jurisdiction within the normal timeframe for a~~  
5 ~~similar building-permit review but in no case later than 45~~  
6 ~~business days after the date the properly completed~~  
7 ~~application is determined to be properly completed in~~  
8 ~~accordance with this paragraph initially submitted in~~  
9 ~~accordance with the applicable local government application~~  
10 ~~procedures, provided that such permit complies with applicable~~  
11 ~~federal regulations and applicable local zoning or land~~  
12 ~~development regulations, including any aesthetic requirements.~~  
13 ~~Local building regulations shall apply.~~

14       2. A local government shall grant or deny each a  
15 properly completed application for any other wireless  
16 communications facility within the normal timeframe for a  
17 similar type review but in no case later than a permit for the  
18 siting of a new wireless tower or antenna on property,  
19 buildings, or structures within the local government's  
20 jurisdiction within 90 business days after the date the  
21 properly completed application is determined to be properly  
22 completed in accordance with this paragraph initially  
23 submitted in accordance with the applicable local government  
24 application procedures, provided that such permit complies  
25 with applicable federal regulations and applicable local  
26 zoning or land development regulations, including any  
27 aesthetic requirements. Local building regulations shall  
28 apply.

29       3.a. An application is deemed submitted or resubmitted  
30 on the date the application is received by the local  
31 government. If the local government does not shall notify the

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1 permit applicant in writing that the application is not  
2 completed in compliance with the local government's  
3 regulations within 20 business days after the date the  
4 application is initially submitted or additional information  
5 resubmitted, as to whether the application is deemed, for  
6 administrative purposes only, to be properly completed and has  
7 been properly submitted. However, the such determination shall  
8 not be deemed as an approval of the application. If the  
9 application is not completed in compliance with the local  
10 government's regulations, the local government shall so notify  
11 the applicant in writing and the Such notification must shall  
12 indicate with specificity any deficiencies in the required  
13 documents or deficiencies in the content of the required  
14 documents which, if cured, shall make the application properly  
15 completed. Upon resubmission of information to cure the stated  
16 deficiencies, the local government shall notify the applicant,  
17 in writing, within the normal timeframes of review, but in no  
18 case longer than 20 business days after the additional  
19 information is submitted, of any remaining deficiencies that  
20 must be cured. Deficiencies in document type or content not  
21 specified by the local government do not make the application  
22 incomplete. Notwithstanding this sub-subparagraph, if a  
23 specified deficiency is not properly cured when the applicant  
24 resubmits its application to comply with the notice of  
25 deficiencies, the local government may continue to request the  
26 information until such time as the specified deficiency is  
27 cured. The local government may establish reasonable  
28 timeframes within which the required information to cure the  
29 application deficiency is to be provided or the application  
30 will be considered withdrawn or closed.

31           b. If the local government fails to grant or deny a

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

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

27 ~~(d) Any additional wireless communications facilities,~~  
 28 ~~such as communication cables, adjacent accessory structures,~~  
 29 ~~or adjacent accessory equipment used in the provision of~~  
 30 ~~cellular, enhanced specialized mobile radio, or personal~~  
 31 ~~communications services, required within the existing secured~~

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1 ~~equipment compound within the existing site shall be deemed a~~  
 2 ~~permitted use or activity. Local building and land development~~  
 3 ~~regulations, including any aesthetic requirements, shall~~  
 4 ~~apply.~~

5       (e) The replacement of or modification to a wireless  
 6 communications facility, except a tower, that results in a  
 7 wireless communications facility not readily discernibly  
 8 different in size, type, and appearance when viewed from  
 9 ground level from surrounding properties, and the replacement  
 10 or modification of equipment that is not visible from  
 11 surrounding properties, all as reasonably determined by the  
 12 local government, are subject to no more than applicable  
 13 building-permit review.

14       (f)(e) Any other ~~provision of~~ law to the contrary  
 15 notwithstanding, the Department of Management Services shall  
 16 negotiate, in the name of the state, leases for wireless  
 17 communications facilities that provide access to state  
 18 government-owned property not acquired for transportation  
 19 purposes, and the Department of Transportation shall  
 20 negotiate, in the name of the state, leases for wireless  
 21 communications facilities that provide access to property  
 22 acquired for state rights-of-way. On property acquired for  
 23 transportation purposes, leases shall be granted in accordance  
 24 with s. 337.251. On other state government-owned property,  
 25 leases shall be granted on a space available, first-come,  
 26 first-served basis. Payments required by state government  
 27 under a lease must be reasonable and must reflect the market  
 28 rate for the use of the state government-owned property. The  
 29 Department of Management Services and the Department of  
 30 Transportation are authorized to adopt rules for the terms and  
 31 conditions and granting of any such leases.

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1       (g) If any person adversely affected by any action or  
2 failure to act or regulation or requirement of a local  
3 government in the review or regulation of the wireless  
4 communication facilities files an appeal or brings an  
5 appropriate action in a court or venue of competent  
6 jurisdiction, following the exhaustion of all administrative  
7 remedies, the matter shall be considered on an expedited  
8 basis.

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



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

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

8 365.173 Wireless Emergency Telephone System Fund.--

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

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

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

18 2. Costs to comply with the requirements for E911  
 19 service contained in the order and any future rules related to  
 20 the order.

21  
 22 Any county that receives funds under this paragraph shall  
 23 establish a fund to be used exclusively for the receipt and  
 24 expenditure of the revenues collected under this paragraph.  
 25 All fees placed in the fund and any interest accrued shall be  
 26 used solely for costs described in subparagraphs 1. and 2. The  
 27 money collected and interest earned in this fund shall be  
 28 appropriated for these purposes by the county commissioners  
 29 and incorporated into the annual county budget. The fund shall  
 30 be included within the financial audit performed in accordance  
 31 with s. 218.39. A county may carry forward, for up to 3

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1 ~~successive calendar years,~~ up to 30 percent of the total funds  
 2 disbursed to the county by the board during a calendar year  
 3 for expenditures for capital outlay, capital improvements, or  
 4 equipment replacement, if such expenditures are made for the  
 5 purposes specified in this paragraph.

6 (b) Fifty-four percent of the moneys shall be  
 7 distributed in response to sworn invoices submitted to the  
 8 board by providers to reimburse such providers for the actual  
 9 costs incurred to provide 911 or E911 service, including the  
 10 costs of complying with the order. Such costs include costs  
 11 and expenses incurred by providers to design, purchase, lease,  
 12 program, install, test, upgrade, operate, and maintain all  
 13 necessary data, hardware, and software required to provide  
 14 E911 service. Up to 2 percent of the funds allocated to  
 15 providers shall be retained by the board to be applied to  
 16 costs and expenses incurred for the purposes of managing,  
 17 administering, and overseeing the receipts and disbursements  
 18 from the fund and other activities as defined in s.

19 365.172(6). Any funds retained for such purposes in a calendar  
 20 year which are not applied to such costs and expenses by March  
 21 31 of the following year shall be distributed to providers  
 22 pursuant to this paragraph. ~~Beginning in state fiscal year~~  
 23 ~~2000-2001,~~ Each provider shall submit to the board, by August  
 24 1 of each year, a detailed estimate of the capital and  
 25 operating expenses for which it anticipates that it will seek  
 26 reimbursement under this paragraph during the ensuing state  
 27 fiscal year. By September 15 of each year, the board shall  
 28 submit to the Legislature its legislative budget request for  
 29 funds to be allocated to providers under this paragraph during  
 30 the ensuing state fiscal year. The budget request shall be  
 31 based on the information submitted by the providers and

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1 | estimated surcharge revenues. Distributions of moneys in the  
 2 | fund by the board to providers must be fair and  
 3 | nondiscriminatory. If the total amount of moneys requested by  
 4 | providers pursuant to invoices submitted to the board and  
 5 | approved for payment exceeds the amount in the fund in any  
 6 | month, providers that have invoices approved for payment shall  
 7 | receive a pro rata share of moneys in the fund and the balance  
 8 | of the payments shall be carried over to the following month  
 9 | or months until all of the approved payments are made. The  
 10 | board may adopt rules necessary to address the manner in which  
 11 | pro rata distributions are made when the total amount of funds  
 12 | requested by providers pursuant to invoices submitted to the  
 13 | board exceeds the total amount of moneys on deposit in the  
 14 | fund.

15 |           (c) Two percent of the moneys shall be used to make  
 16 | monthly distributions to rural counties for the purpose of  
 17 | providing facilities and network and service enhancements and  
 18 | assistance for the 911 or E911 systems operated by rural  
 19 | counties and for the provision of reimbursable loans and  
 20 | grants by the office to rural counties for upgrading 911  
 21 | systems.

22 |  
 23 | The Legislature recognizes that the wireless E911 fee  
 24 | authorized under s. 365.172 will not necessarily provide the  
 25 | total funding required for establishing or providing the 911  
 26 | service. It is the intent of the Legislature that all revenue  
 27 | from the fee be used as specified in s. 365.171(13)(a)6.

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

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1 ~~board.~~

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

4 337.401 Use of right-of-way for utilities subject to  
5 regulation; permit; fees.--

6 (3)(a)1. Because of the unique circumstances  
7 applicable to providers of communications services, including,  
8 but not limited to, the circumstances described in paragraph  
9 (e) and the fact that federal and state law require the  
10 nondiscriminatory treatment of providers of telecommunications  
11 services, and because of the desire to promote competition  
12 among providers of communications services, it is the intent  
13 of the Legislature that municipalities and counties treat  
14 providers of communications services in a nondiscriminatory  
15 and competitively neutral manner when imposing rules or  
16 regulations governing the placement or maintenance of  
17 communications facilities in the public roads or  
18 rights-of-way. Rules or regulations imposed by a municipality  
19 or county relating to providers of communications services  
20 placing or maintaining communications facilities in its roads  
21 or rights-of-way must be generally applicable to all providers  
22 of communications services and, notwithstanding any other law,  
23 may not require a provider of communications services, except  
24 as otherwise provided in subparagraph 2., to apply for or  
25 enter into an individual license, franchise, or other  
26 agreement with the municipality or county as a condition of  
27 placing or maintaining communications facilities in its roads  
28 or rights-of-way. In addition to other reasonable rules or  
29 regulations that a municipality or county may adopt relating  
30 to the placement or maintenance of communications facilities  
31 in its roads or rights-of-way under this subsection, a

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1 municipality or county may require a provider of  
2 communications services that places or seeks to place  
3 facilities in its roads or rights-of-way to register with the  
4 municipality or county and to provide the name of the  
5 registrant; the name, address, and telephone number of a  
6 contact person for the registrant; the number of the  
7 registrant's current certificate of authorization issued by  
8 the Florida Public Service Commission or the Federal  
9 Communications Commission; and proof of insurance or  
10 self-insuring status adequate to defend and cover claims.  
11 ~~Nothing in this subparagraph is intended to limit or expand~~  
12 ~~any existing zoning or land use authority of a municipality or~~  
13 ~~county; however, no such zoning or land use authority may~~  
14 ~~require an individual license, franchise, or other agreement~~  
15 ~~as prohibited by this subparagraph.~~

16           2. Notwithstanding the provisions of subparagraph 1.,  
17 a municipality or county may, as provided by 47 U.S.C. s. 541,  
18 award one or more franchises within its jurisdiction for the  
19 provision of cable service, and a provider of cable service  
20 shall not provide cable service without such franchise. Each  
21 municipality and county retains authority to negotiate all  
22 terms and conditions of a cable service franchise allowed by  
23 federal law and s. 166.046, except those terms and conditions  
24 related to franchise fees and the definition of gross revenues  
25 or other definitions or methodologies related to the payment  
26 or assessment of franchise fees and permit fees as provided in  
27 paragraph (c) on providers of cable services. A municipality  
28 or county may exercise its right to require from providers of  
29 cable service in-kind requirements, including, but not limited  
30 to, institutional networks, and contributions for, or in  
31 support of, the use or construction of public, educational, or

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1 governmental access facilities to the extent permitted by  
 2 federal law. A provider of cable service may exercise its  
 3 right to recover any such expenses associated with such  
 4 in-kind requirements, to the extent permitted by federal law.

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

6

7

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

9 And the title is amended as follows:

10 Delete everything before the enacting clause

11

12 and insert:

13

A bill to be entitled

14

An act relating to the wireless emergency

15

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

16

removing the annual audit of the Wireless

17

Emergency Telephone System Fund from the duties

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of the Auditor General; amending s. 364.02,

19

F.S.; revising fee schedules for providers of

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interexchange telecommunications services;

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amending s. 365.171, F.S.; revising provisions

22

for certain nonemergency telephone number pilot

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projects; amending s. 365.172, F.S.; limiting

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application of definitions; adding definitions

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relating to wireless telephone communications;

26

revising duties of the Wireless 911 Board;

27

providing for grants and loans to certain

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counties for the purpose of upgrading E911

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systems; authorizing the hiring of an executive

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director and an independent, private attorney;

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specifying that state and local governments are

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1 not customers for specified purposes; providing  
2 legislative intent regarding the emergency  
3 wireless telephone system; providing standards  
4 for local governments to follow when regulating  
5 the placement, construction, or modification of  
6 a wireless communications facility; directing  
7 local governments to grant or deny properly  
8 completed applications within specified time  
9 periods; providing criteria and procedures for  
10 local approval of an application by a provider  
11 of wireless communications services;  
12 authorizing the local government to impose an  
13 application fee; directing local governments to  
14 notify a provider in writing of the  
15 deficiencies in an application; directing local  
16 governments to notify a provider in writing  
17 whether the resubmission of information  
18 properly completes the application; permitting  
19 local governments to continue requesting  
20 information until the application deficiencies  
21 are cured; providing for a limited review by a  
22 local government of an accessory wireless  
23 communications facility; prohibiting local  
24 governments from imposing certain restrictions  
25 on wireless communications facilities;  
26 providing that an action brought by a person  
27 adversely affected by a decision of a local  
28 government relating to a wireless  
29 communications facility shall be considered on  
30 an expedited basis; removing certain complaint  
31 procedures; amending s. 365.173, F.S.;

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1 directing how a county may use funds derived  
2 from the E911 fee; requiring the board of  
3 county commissioners to appropriate the funds  
4 to the proper uses; removing the requirement  
5 that the Auditor General annually audit the  
6 E911 fund; amending s. 337.401, F.S.; revising  
7 provisions relating to use of right-of-way for  
8 utilities subject to regulation to remove  
9 certain application provisions; providing an  
10 effective date.

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