

By the Committee on Communications and Public Utilities; and  
Senator Bennett

579-1738-05

1                                   A bill to be entitled  
2           An act relating to the wireless emergency  
3           telephone system; amending s. 11.45, F.S.;  
4           removing the annual audit of the Wireless  
5           Emergency Telephone System Fund from the duties  
6           of the Auditor General; amending s. 364.02,  
7           F.S.; revising fee schedules for providers of  
8           interexchange telecommunications services;  
9           amending s. 365.171, F.S.; revising provisions  
10          for certain nonemergency telephone number pilot  
11          projects; amending s. 365.172, F.S.; limiting  
12          application of definitions; adding definitions  
13          relating to wireless telephone communications;  
14          revising duties of the Wireless 911 Board;  
15          providing for grants and loans to certain  
16          counties for the purpose of upgrading E911  
17          systems; authorizing the hiring of an executive  
18          director and an independent, private attorney;  
19          specifying that state and local governments are  
20          not customers for specified purposes; providing  
21          legislative intent regarding the emergency  
22          wireless telephone system; providing standards  
23          for local governments to follow when regulating  
24          the placement, construction, or modification of  
25          a wireless communications facility; directing  
26          local governments to grant or deny properly  
27          completed applications within specified time  
28          periods; providing criteria and procedures for  
29          local approval of an application by a provider  
30          of wireless communications services;  
31          authorizing the local government to impose an

1 application fee; directing local governments to  
2 notify a provider in writing of the  
3 deficiencies in an application; directing local  
4 governments to notify a provider in writing  
5 whether the resubmission of information  
6 properly completes the application; permitting  
7 local governments to continue requesting  
8 information until the application deficiencies  
9 are cured; providing for a limited review by a  
10 local government of an accessory wireless  
11 communications facility; prohibiting local  
12 governments from imposing certain restrictions  
13 on wireless communications facilities;  
14 providing that an action brought by a person  
15 adversely affected by a decision of a local  
16 government relating to a wireless  
17 communications facility shall be considered on  
18 an expedited basis; removing certain complaint  
19 procedures; amending s. 365.173, F.S.;  
20 directing how a county may use funds derived  
21 from the E911 fee; requiring the board of  
22 county commissioners to appropriate the funds  
23 to the proper uses; removing the requirement  
24 that the Auditor General annually audit the  
25 E911 fund; amending s. 337.401, F.S.; revising  
26 provisions relating to use of right-of-way for  
27 utilities subject to regulation to remove  
28 certain application provisions; providing an  
29 effective date.

30  
31 Be It Enacted by the Legislature of the State of Florida:

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

3           11.45 Definitions; duties; authorities; reports;  
4 rules.--

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

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

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

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

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

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

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

23           (f)(g) At least every 2 years, conduct operational  
24 audits of the accounts and records of state agencies and  
25 universities. In connection with these audits, the Auditor  
26 General shall give appropriate consideration to reports issued  
27 by state agencies' inspectors general or universities'  
28 inspectors general and the resolution of findings therein.

29           (g)(h) At least every 2 years, conduct a performance  
30 audit of the local government financial reporting system,  
31 which, for the purpose of this chapter, means any statutory

1 provisions related to local government financial reporting.  
2 The purpose of such an audit is to determine the accuracy,  
3 efficiency, and effectiveness of the reporting system in  
4 achieving its goals and to make recommendations to the local  
5 governments, the Governor, and the Legislature as to how the  
6 reporting system can be improved and how program costs can be  
7 reduced. The Auditor General shall determine the scope of such  
8 audits. The local government financial reporting system should  
9 provide for the timely, accurate, uniform, and cost-effective  
10 accumulation of financial and other information that can be  
11 used by the members of the Legislature and other appropriate  
12 officials to accomplish the following goals:

- 13 1. Enhance citizen participation in local government;
- 14 2. Improve the financial condition of local  
15 governments;
- 16 3. Provide essential government services in an  
17 efficient and effective manner; and
- 18 4. Improve decisionmaking on the part of the  
19 Legislature, state agencies, and local government officials on  
20 matters relating to local government.

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

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

28 ~~(j)(k)~~ Once every 3 years, review a sample of each  
29 state agency's internal audit reports to determine compliance  
30 with current Standards for the Professional Practice of  
31

1 Internal Auditing or, if appropriate, government auditing  
2 standards.

3       ~~(k)(1)~~ Conduct audits of local governmental entities  
4 when determined to be necessary by the Auditor General, when  
5 directed by the Legislative Auditing Committee, or when  
6 otherwise required by law. No later than 18 months after the  
7 release of the audit report, the Auditor General shall perform  
8 such appropriate followup procedures as he or she deems  
9 necessary to determine the audited entity's progress in  
10 addressing the findings and recommendations contained within  
11 the Auditor General's previous report. The Auditor General  
12 shall provide a copy of his or her determination to each  
13 member of the audited entity's governing body and to the  
14 Legislative Auditing Committee.

15  
16 The Auditor General shall perform his or her duties  
17 independently but under the general policies established by  
18 the Legislative Auditing Committee. This subsection does not  
19 limit the Auditor General's discretionary authority to conduct  
20 other audits or engagements of governmental entities as  
21 authorized in subsection (3).

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

24       364.02 Definitions.--As used in this chapter:

25       (13) "Telecommunications company" includes every  
26 corporation, partnership, and person and their lessees,  
27 trustees, or receivers appointed by any court whatsoever, and  
28 every political subdivision in the state, offering two-way  
29 telecommunications service to the public for hire within this  
30 state by the use of a telecommunications facility. The term  
31 "telecommunications company" does not include:

1 (a) An entity which provides a telecommunications  
2 facility exclusively to a certificated telecommunications  
3 company;

4 (b) An entity which provides a telecommunications  
5 facility exclusively to a company which is excluded from the  
6 definition of a telecommunications company under this  
7 subsection;

8 (c) A commercial mobile radio service provider;

9 (d) A facsimile transmission service;

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

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

14 (g) An intrastate interexchange telecommunications  
15 company.

16  
17 However, each commercial mobile radio service provider and  
18 each intrastate interexchange telecommunications company shall  
19 continue to be liable for any taxes imposed under ~~pursuant to~~  
20 chapters 202, 203 and 212 and any fees assessed under s.  
21 ~~pursuant to ss. 364.025 and 364.336~~. Each intrastate  
22 interexchange telecommunications company shall continue to be  
23 subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285,  
24 364.336, 364.501, 364.603, and 364.604, shall provide the  
25 commission with the ~~such~~ current information as the commission  
26 deems necessary to contact and communicate with the company,  
27 shall continue to pay intrastate switched network access rates  
28 or other intercarrier compensation to the local exchange  
29 telecommunications company or the competitive local exchange  
30 telecommunications company for the origination and termination  
31 of interexchange telecommunications service, and shall reduce

1 | its intrastate long distance toll rates in accordance with s.  
2 | 364.163(2).

3 |         Section 3. Paragraph (a) of subsection (13) of section  
4 | 365.171, Florida Statutes, is amended to read:

5 |             365.171 Emergency telephone number "911."--

6 |             (13) "911" FEE.--

7 |             (a) Following approval by referendum as set forth in  
8 | paragraph (b), or following approval by a majority vote of its  
9 | board of county commissioners, a county may impose a "911" fee  
10 | to be paid by the local exchange subscribers within its  
11 | boundaries served by the "911" service. Proceeds from the  
12 | "911" fee shall be used only for "911" expenditures as set  
13 | forth in subparagraph 6. The manner of imposing and collecting  
14 | said payment shall be as follows:

15 |             1. At the request of the county subscribing to "911"  
16 | service, the telephone company shall, insofar as is  
17 | practicable, bill the "911" fee to the local exchange  
18 | subscribers served by the "911" service, on an individual  
19 | access line basis, at a rate not to exceed 50 cents per month  
20 | per line (up to a maximum of 25 access lines per account bill  
21 | rendered). However, the fee may not be assessed on any pay  
22 | telephone in this state. A county collecting the fee for the  
23 | first time may collect the fee for no longer than 36 months  
24 | without initiating the acquisition of its "911" equipment.

25 |             2. Fees collected by the telephone company pursuant to  
26 | subparagraph 1. shall be returned to the county, less the  
27 | costs of administration retained pursuant to paragraph (c).  
28 | The county shall provide a minimum of 90 days' written notice  
29 | to the telephone company prior to the collection of any "911"  
30 | fees.

31 |

1           3. Any county that currently has an operational "911"  
2 system or that is actively pursuing the implementation of a  
3 "911" system shall establish a fund to be used exclusively for  
4 receipt and expenditure of "911" fee revenues collected  
5 pursuant to this section. All fees placed in said fund, and  
6 any interest accrued thereupon, shall be used solely for "911"  
7 costs described in subparagraph 6. The money collected and  
8 interest earned in this fund shall be appropriated for "911"  
9 purposes by the county commissioners and incorporated into the  
10 annual county budget. Such fund shall be included within the  
11 financial audit performed in accordance with s. 218.39. A  
12 report of the audit shall be forwarded to the office within 60  
13 days of its completion. A county may carry forward on an  
14 annual basis unspent moneys in the fund for expenditures  
15 allowed by this section, or it may reduce its fee. However, in  
16 no event shall a county carry forward more than 10 percent of  
17 the "911" fee billed for the prior year. The amount of moneys  
18 carried forward each year may be accumulated in order to allow  
19 for capital improvements described in this subsection. The  
20 carryover shall be documented by resolution of the board of  
21 county commissioners expressing the purpose of the carryover  
22 or by an adopted capital improvement program identifying  
23 projected expansion or replacement expenditures for "911"  
24 equipment and service features, or both. In no event shall the  
25 "911" fee carryover surplus moneys be used for any purpose  
26 other than for the "911" equipment, service features, and  
27 installation charges authorized in subparagraph 6. Nothing in  
28 this section shall prohibit a county from using other sources  
29 of revenue for improvements, replacements, or expansions of  
30 its "911" system. A county may increase its fee for purposes  
31 authorized in this section. However, in no case shall the fee



1 exceed 50 cents per month per line. All current "911" fees  
2 shall be reported to the office within 30 days of the start of  
3 each county's fiscal period. Any fee adjustment made by a  
4 county shall be reported to the office. A county shall give  
5 the telephone company a 90-day written notice of such fee  
6 adjustment.

7           4. The telephone company shall have no obligation to  
8 take any legal action to enforce collection of the "911" fee.  
9 The telephone company shall provide quarterly to the county a  
10 list of the names, addresses, and telephone numbers of any and  
11 all subscribers who have identified to the telephone company  
12 their refusal to pay the "911" fee.

13           5. The county subscribing to "911" service shall  
14 remain liable to the telephone company for any "911" service,  
15 equipment, operation, or maintenance charge owed by the county  
16 to the telephone company.

17  
18 As used in this paragraph, "telephone company" means an  
19 exchange telephone service provider of "911" service or  
20 equipment to any county within its certificated area.

21           6. It is the intent of the Legislature that the "911"  
22 fee authorized by this section to be imposed by counties will  
23 not necessarily provide the total funding required for  
24 establishing or providing the "911" service. For purposes of  
25 this section, "911" service includes the functions of database  
26 management, call taking, location verification, and call  
27 transfer. The following costs directly attributable to the  
28 establishment and/or provision of "911" service are eligible  
29 for expenditure of moneys derived from imposition of the "911"  
30 fee authorized by this section: the acquisition,  
31 implementation, and maintenance of Public Safety Answering

1 Point (PSAP) equipment and "911" service features, as defined  
2 in the Florida Public Service Commission's lawfully approved  
3 "911" and related tariffs and/or the acquisition,  
4 installation, and maintenance of other "911" equipment,  
5 including call answering equipment, call transfer equipment,  
6 ANI controllers, ALI controllers, ANI displays, ALI displays,  
7 station instruments, "911" telecommunications systems,  
8 teleprinters, logging recorders, instant playback recorders,  
9 telephone devices for the deaf (TDD) used in the "911" system,  
10 PSAP backup power systems, consoles, automatic call  
11 distributors, and interfaces (hardware and software) for  
12 computer-aided dispatch (CAD) systems; salary and associated  
13 expenses for "911" call takers for that portion of their time  
14 spent taking and transferring "911" calls; salary and  
15 associated expenses for a county to employ a full-time  
16 equivalent "911" coordinator position and a full-time  
17 equivalent staff assistant position per county for the portion  
18 of their time spent administrating the "911" system; training  
19 costs for PSAP call takers in the proper methods and  
20 techniques used in taking and transferring "911" calls; and  
21 expenses required to develop and maintain all information (ALI  
22 and ANI databases and other information source repositories)  
23 necessary to properly inform call takers as to location  
24 address, type of emergency, and other information directly  
25 relevant to the "911" call-taking and transferring function;  
26 ~~and, in a county defined in s. 125.011(1), such expenses~~  
27 ~~related to a nonemergency "311" system, or similar~~  
28 ~~nonemergency system, which improves the overall efficiency of~~  
29 ~~an existing "911" system or reduces "911" emergency response~~  
30 ~~time for a 2 year pilot project that ends June 30, 2003.~~  
31 ~~However,~~ No wireless telephone service provider shall be

1 required to participate in ~~any this~~ pilot project or to  
2 otherwise implement a nonemergency "311" system or similar  
3 nonemergency system. The "911" fee revenues shall not be used  
4 to pay for any item not listed, including, but not limited to,  
5 any capital or operational costs for emergency responses which  
6 occur after the call transfer to the responding public safety  
7 entity and the costs for constructing buildings, leasing  
8 buildings, maintaining buildings, or renovating buildings,  
9 except for those building modifications necessary to maintain  
10 the security and environmental integrity of the PSAP and "911"  
11 equipment rooms.

12         7. It is the goal of the Legislature that enhanced  
13 "911" service be available throughout the state. Expenditure  
14 by counties of the "911" fees authorized by this section  
15 should support this goal to the greatest extent feasible  
16 within the context of local service needs and fiscal  
17 capability. Nothing in this section shall be construed to  
18 prohibit two or more counties from establishing a combined  
19 emergency "911" telephone service by interlocal agreement and  
20 utilizing the "911" fees authorized by this section for such  
21 combined "911" service.

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

25         365.172 Wireless emergency telephone number "E911."--

26         (3) DEFINITIONS.--Only as used in this section and ss.  
27 365.173 and 365.174, the term:

28         (a) "Active prepaid wireless telephone" means a  
29 prepaid wireless telephone that has been used by the customer  
30 during the month to complete a telephone call for which the  
31 customer's card or balance was decremented.

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

4 (c) "Automatic location identification" means the  
5 capability of the E911 service which enables the automatic  
6 display of information that defines the approximate geographic  
7 location of the wireless telephone used to place a 911 call.

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

12 (e) "Board" means the board of directors of the  
13 Wireless 911 Board.

14 (f) "Building-permit review" means a review for  
15 compliance with building construction standards adopted by the  
16 local government under chapter 553 and does not include a  
17 review for compliance with land development regulations.

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

19 (g) "Collocation" means the situation when a second or  
20 subsequent wireless provider uses an existing structure to  
21 locate a second or subsequent antennae. The term includes the  
22 ground, platform, or roof installation of equipment  
23 enclosures, cabinets, or buildings, and cables, brackets, and  
24 other equipment associated with the location and operation of  
25 the antennae.

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

29 (i) ~~(g)~~ "E911" is the designation for a wireless  
30 enhanced 911 system or wireless enhanced 911 service that is  
31 an emergency telephone system or service that provides a

1 subscriber with wireless 911 service and, in addition, directs  
2 911 calls to appropriate public safety answering points by  
3 selective routing based on the geographical location from  
4 which the call originated, or as otherwise provided in the  
5 state plan under s. 365.171, and that provides for automatic  
6 number identification and automatic location-identification  
7 features in accordance with the requirements of the order.

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

13 (k)(h) "Fee" means the E911 fee imposed under  
14 subsection (8).

15 (l)(i) "Fund" means the Wireless Emergency Telephone  
16 System Fund established in s. 365.173 and maintained under  
17 this section for the purpose of recovering the costs  
18 associated with providing 911 service or E911 service,  
19 including the costs of implementing the order.

20 (m) "Historic building, structure, site, object, or  
21 district" means any building, structure, site, object, or  
22 district that has been officially designated as a historic  
23 building, historic structure, historic site, historic object,  
24 or historic district through a federal, state, or local  
25 designation program.

26 (n) "Land development regulations" means any ordinance  
27 enacted by a local government for the regulation of any aspect  
28 of development, including an ordinance governing zoning,  
29 subdivisions, landscaping, tree protection, or signs, the  
30 local government's comprehensive plan, or any other ordinance  
31 concerning any aspect of the development of land. The term

1 does not include any building construction standard adopted  
2 under and in compliance with chapter 553.

3 ~~(o)(j)~~ "Local exchange carrier" means a "competitive  
4 local exchange telecommunications company" or a "local  
5 exchange telecommunications company" as defined in s. 364.02.

6 ~~(p)(k)~~ "Local government" means any municipality,  
7 county, or political subdivision or agency of a municipality,  
8 county, or political subdivision.

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

11 ~~(r)(l)~~ "Mobile telephone number" or "MTN" means the  
12 telephone number assigned to a wireless telephone at the time  
13 of initial activation.

14 ~~(s)~~ "Office" means the State Technology Office.

15 ~~(t)(m)~~ "Order" means:

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

18 a. Order adopted on June 12, 1996, with an effective  
19 date of October 1, 1996, the amendments to s. 20.03 and the  
20 creation of s. 20.18 of Title 47 of the Code of Federal  
21 Regulations adopted by the Federal Communications Commission  
22 pursuant to such order.

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

25 c. Order No. FCC DA 98-2323 adopted on November 13,  
26 1998.

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

28 2. Orders and rules subsequently adopted by the  
29 Federal Communications Commission relating to the provision of  
30 wireless 911 services.

31

1           (u)~~(o)~~ "Prepaid wireless telephone service" means  
2 wireless telephone service that is activated in advance by  
3 payment for a finite dollar amount of service or for a finite  
4 set of minutes that terminate either upon use by a customer  
5 and delivery by the wireless provider of an agreed-upon amount  
6 of service corresponding to the total dollar amount paid in  
7 advance or within a certain period of time following the  
8 initial purchase or activation, unless additional payments are  
9 made.

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

- 12           1. Is subject to the requirements of the order; or  
13           2. Elects to provide wireless 911 service or E911  
14 service in this state.

15           (w)~~(p)~~ "Public agency" means the state and any  
16 municipality, county, municipal corporation, or other  
17 governmental entity, public district, or public authority  
18 located in whole or in part within this state which provides,  
19 or has authority to provide, firefighting, law enforcement,  
20 ambulance, medical, or other emergency services.

21           (x)~~(q)~~ "Public safety agency" means a functional  
22 division of a public agency which provides firefighting, law  
23 enforcement, medical, or other emergency services.

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

26           (z)~~(s)~~ "Service" means "commercial mobile radio  
27 service" as provided under ss. 3(27) and 332(d) of the Federal  
28 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,  
29 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.  
30 103-66, August 10, 1993, 107 Stat. 312. The term "service"  
31 includes the term "wireless" and service provided by any

1 | wireless real-time two-way wire communication device,  
2 | including radio-telephone communications used in cellular  
3 | telephone service; personal communications service; or the  
4 | functional or competitive equivalent of a radio-telephone  
5 | communications line used in cellular telephone service, a  
6 | personal communications service, or a network radio access  
7 | line. The term does not include wireless providers that offer  
8 | mainly dispatch service in a more localized, noncellular  
9 | configuration; providers offering only data, one-way, or  
10 | stored-voice services on an interconnected basis; providers of  
11 | air-to-ground services; or public coast stations.

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

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

17 |       ~~(cc)~~ "Tower" means any structure designed primarily to  
18 | support a wireless provider's antennae.

19 |       ~~(dd)~~ "Wireless communications facility" means any  
20 | equipment or facility used to provide service and may include,  
21 | but is not limited to, antennae, towers, equipment enclosures,  
22 | cabling, antenna brackets, and other such equipment. Placing a  
23 | wireless communications facility on an existing structure does  
24 | not cause the existing structure to become a wireless  
25 | communications facility.

26 |       ~~(ee)(v)~~ "Wireless 911 system" or "wireless 911  
27 | service" means an emergency telephone system or service that  
28 | provides a subscriber with the ability to reach an answering  
29 | point by dialing the digits "911." A wireless 911 system is  
30 | complementary to a wired 911 system as provided for in s.  
31 | 365.171.



1           (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.--  
2           (a) The board shall:  
3           1. Administer the E911 fee.  
4           2. Implement, maintain, and oversee the fund.  
5           3. Review and oversee the disbursement of the revenues  
6 deposited into the fund as provided in s. 365.173. The board  
7 may establish a schedule for implementing wireless E911  
8 service by service area, and prioritize disbursements of  
9 revenues from the fund to providers and rural counties as  
10 provided in s. 365.173(2)(b) and (c) pursuant to the schedule,  
11 in order to implement E911 services in the most efficient and  
12 cost-effective manner. Revenues collected and deposited into  
13 the fund for distribution as provided in s. 365.173(2)(b), but  
14 which have not been disbursed because sworn invoices as  
15 required by 365.173(2)(b) have not been submitted to the  
16 board, may be utilized by the board as needed to provide  
17 grants to rural counties and loans to medium counties for the  
18 purpose of upgrading E911 systems. Grants provided to rural  
19 counties would be in addition to disbursements provided under  
20 s. 365.173(2)(c). Loans provided to medium counties shall be  
21 based on county hardship criteria as determined and approved  
22 by the board. Revenues utilized for this purpose shall be  
23 fully repaid to the fund in a manner and under a timeframe as  
24 determined and approved by the board. The board shall take all  
25 actions within its authority to ensure that county recipients  
26 of such grants and loans utilize these funds only for the  
27 purpose under which they have been provided and may take any  
28 actions within its authority to secure county repayment of  
29 grant and loan revenues upon determination that the funds were  
30 not utilized for the purpose under which they were provided.  
31

1           4. Review documentation submitted by providers which  
2 reflects current and projected funds derived from the E911  
3 fee, and the expenses incurred and expected to be incurred, in  
4 order to comply with the E911 service requirements contained  
5 in the order for the purposes of:

6           a. Ensuring that providers receive fair and equitable  
7 distributions of funds from the fund.

8           b. Ensuring that providers are not provided  
9 disbursements from the fund which exceed the costs of  
10 providing E911 service, including the costs of complying with  
11 the order.

12           c. Ascertaining the projected costs of compliance with  
13 the requirements of the order and projected collections of the  
14 E911 fee.

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

17           5. Review and approve or reject, in whole or in part,  
18 applications submitted by providers for recovery of moneys  
19 deposited into the fund.

20           6. Hire and retain employees, which may include an  
21 independent executive director who shall possess experience in  
22 the area of telecommunications and emergency 911 issues, for  
23 the purposes of performing the technical and administrative  
24 functions for the board.

25           7. Make and enter into contracts, pursuant to chapter  
26 287, and execute other instruments necessary or convenient for  
27 the exercise of the powers and functions of the board.

28           8. Take all necessary and reasonable steps by July 1,  
29 2000, to secure appropriate information and reports from  
30 providers and otherwise perform all of the functions that  
31 would be performed by an independent accounting firm prior to

1 completing the request-for-proposals process under subsection  
2 (7).

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

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

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

9           12. The board may adopt rules under ss. 120.536(1) and  
10 120.54 to implement this section and ss. 365.173 and 365.174.

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

14           14. Provide coordination and support for educational  
15 opportunities related to 911 issues for the 911 community in  
16 this state.

17           15. Act as an advocate for issues related to 911  
18 system functions, features, and operations to improve the  
19 delivery of 911 services to the residents of and visitors to  
20 this state.

21           16. Coordinate input from this state at national  
22 forums and associations, to ensure that policies related to  
23 911 systems and services are consistent with the policies of  
24 the 911 community in this state.

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

29           18. Do all acts and things necessary or convenient to  
30 carry out the powers granted in this section, including but  
31

1 not limited to, consideration of emerging technology and  
2 related cost savings.

3 19. Have the authority to secure the services of an  
4 independent, private attorney via invitation to bid, request  
5 for proposals, invitation to negotiate, or professional  
6 contracts for legal services already established at the  
7 Division of Purchasing of the Department of Management  
8 Services.

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

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

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

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

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

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

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

5 (8) WIRELESS E911 FEE.--

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

13 (c) After July 1, 2001, the board may adjust the  
14 allocation percentages provided in s. 365.173 or reduce the  
15 amount of the fee, or both, if necessary to ensure full cost  
16 recovery or prevent overrecovery of costs incurred in the  
17 provision of E911 service, including costs incurred or  
18 projected to be incurred to comply with the order. Any new  
19 allocation percentages or reduced fee may not be adjusted for  
20 1 year ~~2 years~~. The fee may not exceed 50 cents per month per  
21 each service number.

22 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--To  
23 balance the public need for reliable E911 services through  
24 reliable wireless systems and the public interest served by  
25 governmental zoning and land development regulations and  
26 notwithstanding any other law or local ordinance to the  
27 contrary, the following standards shall apply to a local  
28 government's actions, as a regulatory body, in the regulation  
29 of the placement, construction, or modification of a wireless  
30 communications facility. For the purposes of this subsection  
31 only, "local government" shall mean any municipality or county

1 and any agency of a municipality or county only. The term  
2 "local government" does not, however, include any airport, as  
3 defined by s. 330.27(2), even if it is owned or controlled by  
4 or through a municipality, county, or agency of a municipality  
5 or county. Further, notwithstanding anything in this section  
6 to the contrary, this subsection does not apply to or control  
7 a local government's actions as a property or structure owner  
8 in the use of any property or structure owned by such entity  
9 for the placement, construction, or modification of wireless  
10 communications facilities. In the use of property or  
11 structures owned by the local government, however, a local  
12 government may not use its regulatory authority so as to avoid  
13 compliance with, or in a manner that does not advance, the  
14 provisions of this subsection.+

15 (a) Collocation ~~Colocation~~ among wireless telephone  
16 ~~service~~ providers is encouraged by the state. ~~To further~~  
17 ~~facilitate agreements among providers for colocation of their~~  
18 ~~facilities, any antennae and related equipment to service the~~  
19 ~~antennae that is being colocated on an existing above ground~~  
20 ~~structure is not subject to land development regulation~~  
21 ~~pursuant to s. 163.3202, provided the height of the existing~~  
22 ~~structure is not increased. However, construction of the~~  
23 ~~antennae and related equipment is subject to local building~~  
24 ~~regulations and any existing permits or agreements for such~~  
25 ~~property, buildings, or structures.~~

26 1.a. Collocations on towers, including nonconforming  
27 towers, that meet the requirements in sub-sub-subparagraphs  
28 (I), (II), and (III), are subject to only building-permit  
29 review which may include a review for compliance with this  
30 subparagraph. Such collocations are not subject to any design  
31 or placement requirements of the local government's land

1 development regulations in effect at the time of the  
2 collocation that are more restrictive than those in effect at  
3 the time of the initial antennae placement approval, to any  
4 other portion of the land development regulations, or to  
5 public hearing or public input review.

6 (I) The collocation does not increase the height of  
7 the tower to which the antennae are to be attached, measured  
8 to the highest point of any part of the tower or any existing  
9 antenna attached to the tower;

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

14 (III) The collocation consists of antennae, equipment  
15 enclosures, and ancillary facilities that are of a design and  
16 configuration consistent with all applicable regulations,  
17 restrictions, or conditions, if any, applied to the initial  
18 antennae placed on the tower and to its accompanying equipment  
19 enclosures and ancillary facilities and, if applicable,  
20 applied to the tower supporting the antennae. Such regulations  
21 may include the design and aesthetic requirements, but not  
22 procedural requirements, other than those authorized by this  
23 section, of the local government's land development  
24 regulations in effect at the time the initial antennae  
25 placement was approved.

26 b. Except for a historic building, structure, site,  
27 object, or district, or a tower included in sub-subparagraph  
28 a., collocations on all other existing structures that meet  
29 the requirements in sub-sub-subparagraphs (I)-(IV) shall be  
30 subject to no more than building-permit review, and an  
31 administrative review for compliance with this subparagraph.

1 Such collocations are not subject to any portion of the local  
2 government's land development regulations not addressed  
3 herein, or to public hearing or public input review.

4 (I) The collocation does not increase the height of  
5 the existing structure to which the antennae are to be  
6 attached, measured to the highest point of any part of the  
7 structure or any existing antenna attached to the structure;

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

12 (III) The collocation consists of antennae, equipment  
13 enclosures, and ancillary facilities that are of a design and  
14 configuration consistent with any applicable structural or  
15 aesthetic design requirements and any requirements for  
16 location on the structure, but not prohibitions or  
17 restrictions on the placement of additional collocations on  
18 the existing structure or procedural requirements, other than  
19 those authorized by this section, of the local government's  
20 land development regulations in effect at the time of the  
21 collocation application; and

22 (IV) The collocation consists of antennae, equipment  
23 enclosures, and ancillary facilities that are of a design and  
24 configuration consistent with all applicable restrictions or  
25 conditions, if any, that do not conflict with  
26 sub-sub-subparagraph (III) and were applied to the initial  
27 antennae placed on the structure and to its accompanying  
28 equipment enclosures and ancillary facilities and, if  
29 applicable, applied to the structure supporting the antennae.

30 c. Regulations, restrictions, conditions, or permits  
31 of the local government, acting in its regulatory capacity,



1 that limit the number of collocations or require review  
2 processes inconsistent with this subsection shall not apply to  
3 collocations addressed in this subparagraph.

4 d. If only a portion of the collocation does not meet  
5 the requirements of this subparagraph, such as an increase in  
6 the height of the proposed antennae over the existing  
7 structure height or a proposal to expand the ground space  
8 approved in the site plan for the equipment enclosure, where  
9 all other portions of the collocation meet the requirements of  
10 this subparagraph, that portion of the collocation only may be  
11 reviewed under the local government's regulations applicable  
12 to an initial placement of that portion of the facility,  
13 including, but not limited to, its land development  
14 regulations, and within the review timeframes of subparagraph  
15 (d)2., and the rest of the collocation shall be reviewed in  
16 accordance with this subparagraph. A collocation proposal  
17 under this subparagraph that increases the ground space area,  
18 otherwise known as the compound, approved in the original site  
19 plan for equipment enclosures and ancillary facilities by no  
20 more than a cumulative amount of 400 square feet or 50 percent  
21 of the original compound size, whichever is greater, shall,  
22 however, require no more than administrative review for  
23 compliance with the local government's regulations, including,  
24 but not limited to, land development regulations review, and  
25 building-permit review, with no public hearing or public input  
26 review.

27 2. If a collocation does not meet the requirements of  
28 subparagraph 1., the local government may review the  
29 application under the local government's regulations,  
30 including, but not limited to, land development regulations,  
31

1 applicable to the placement of an initial antennae and its  
2 accompanying equipment enclosure and ancillary facilities.

3 3. If a collocation meets the requirements of  
4 subparagraph 1., the collocation shall not be considered a  
5 modification to an existing structure or an impermissible  
6 modification of a nonconforming structure.

7 4. ~~The Nothing herein shall relieve the permit~~holder  
8 ~~for or~~ owner of the existing tower on which the proposed  
9 antennae are to be collocated shall remain responsible for  
10 ~~structure of~~ compliance with any applicable condition or  
11 requirement of a permit, or agreement, or any applicable  
12 condition or requirement of the land development regulations  
13 ~~regulation~~ to which the existing tower had to comply at the  
14 time the tower was permitted, including any aesthetic  
15 requirements, provided the condition or requirement is not  
16 inconsistent with this paragraph ~~or law~~.

17 5. An existing tower, including a nonconforming tower,  
18 may be structurally modified in order to permit collocation or  
19 may be replaced through no more than administrative review,  
20 with no public hearing or public input review, and  
21 building-permit review if the overall height of the tower is  
22 not increased and, if a replacement, the replacement tower is  
23 a monopole tower or, if the existing tower is a camouflaged  
24 tower, the replacement tower is a like-camouflaged tower.

25 (b)1. A local government's land development and  
26 construction regulations for wireless communications  
27 facilities and the local government's review of an application  
28 for the placement, construction, or modification of a wireless  
29 communications facility shall only address land development or  
30 zoning issues. In such local government regulations or review,  
31 the local government may not require information on or

1 evaluate a wireless provider's business decisions about its  
2 service, customer demand for its service, or quality of its  
3 service to or from a particular area or site, unless the  
4 wireless provider voluntarily offers this information to the  
5 local government. In such local government regulations or  
6 review, a local government may not require information on or  
7 evaluate the wireless provider's designed service unless the  
8 information or materials are directly related to an identified  
9 land development or zoning issue or unless the wireless  
10 provider voluntarily offers the information. Information or  
11 materials directly related to an identified land development  
12 or zoning issue may include, but are not limited to, evidence  
13 that no existing structure can reasonably be used for the  
14 antennae placement instead of the construction of a new tower,  
15 that residential areas cannot be served from outside the  
16 residential area, as addressed in subparagraph 3., or that the  
17 proposed height of a new tower or initial antennae placement  
18 or a proposed height increase of a modified tower, replacement  
19 tower, or collocation is necessary to provide the provider's  
20 designed service. Nothing in this paragraph shall limit the  
21 local government from reviewing any applicable land  
22 development or zoning issue addressed in its adopted  
23 regulations that do not conflict with this section, including,  
24 but not limited to, aesthetics, landscaping, land use based  
25 location priorities, structural design, and setbacks.

26 2. Any setback or distance separation required of a  
27 tower may not exceed the minimum distance necessary, as  
28 determined by the local government, to satisfy the structural  
29 safety or aesthetic concerns that are to be protected by the  
30 setback or distance separation.

31

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

18           4. A local government may impose a reasonable fee on  
19 applications to place, construct, or modify a wireless  
20 communications facility only if a similar fee is imposed on  
21 applicants seeking other similar types of zoning, land use, or  
22 building-permit review. A local government may impose fees for  
23 the review of applications for wireless communications  
24 facilities by consultants or experts who conduct code  
25 compliance review for the local government but any fee is  
26 limited to specifically identified reasonable expenses  
27 incurred in the review. A local government may impose  
28 reasonable surety requirements to ensure the removal of  
29 wireless communications facilities that are no longer being  
30 used.

31

1           5. A local government may impose design requirements,  
2 such as requirements for designing towers to support  
3 collocation or aesthetic requirements, except as otherwise  
4 limited in this section, but shall not impose or require  
5 information on compliance with building code type standards  
6 for the construction or modification of wireless  
7 communications facilities beyond those adopted by the local  
8 government under chapter 553 and that apply to all similar  
9 types of construction.

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

22           ~~(d)(e)~~1. A local government shall grant or deny each a  
23 properly completed application for a collocation permit,  
24 ~~including permits under subparagraph (11)(a)1. paragraph (a),~~  
25 ~~for the collocation of a wireless communications facility on~~  
26 ~~property, buildings, or structures within the local~~  
27 ~~government's jurisdiction within the normal timeframe for a~~  
28 similar building-permit review but in no case later than 45  
29 business days after the date the properly completed  
30 application is determined to be properly completed in  
31 accordance with this paragraph initially submitted in

1 ~~accordance with the applicable local government application~~  
2 ~~procedures, provided that such permit complies with applicable~~  
3 ~~federal regulations and applicable local zoning or land~~  
4 ~~development regulations, including any aesthetic requirements.~~  
5 ~~Local building regulations shall apply.~~

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

21         3.a. An application is deemed submitted or resubmitted  
22 on the date the application is received by the local  
23 government. If the local government does not shall notify the  
24 ~~permit applicant in writing that the application is not~~  
25 completed in compliance with the local government's  
26 regulations within 20 business days after the date the  
27 application is initially submitted or additional information  
28 resubmitted, as to whether the application is deemed, for  
29 administrative purposes only, to be properly completed and ~~has~~  
30 ~~been~~ properly submitted. However, the such determination shall  
31 not be deemed as an approval of the application. If the

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

23       b. If the local government fails to grant or deny a  
24 properly completed application for a wireless communications  
25 facility permit ~~which has been properly submitted~~ within the  
26 timeframes set forth in this paragraph, the application permit  
27 shall be deemed automatically approved and the applicant  
28 ~~provider~~ may proceed with placement of the ~~such~~ facilities  
29 without interference or penalty. The timeframes specified in  
30 subparagraph ~~subparagraphs 1. and 2.~~ may ~~shall~~ be extended  
31 only to the extent that the application permit has not been

1 granted or denied because the local government's procedures  
2 generally applicable to all other similar types of  
3 applications ~~permits~~, require action by the governing body and  
4 such action has not taken place within the timeframes  
5 specified in subparagraph ~~subparagraphs 1. and 2.~~ Under such  
6 circumstances, the local government must act to either grant  
7 or deny the application ~~permit~~ at its next regularly scheduled  
8 meeting or, otherwise, the application is ~~permit shall be~~  
9 deemed to be automatically approved.

10 c. To be effective, a waiver of the timeframes set  
11 forth in this paragraph ~~herein~~ must be voluntarily agreed to  
12 by the applicant and the local government. A local government  
13 may request, but not require, a waiver of the timeframes by  
14 the applicant ~~an entity seeking a permit~~, except that, with  
15 respect to a specific application ~~permit~~, a one-time waiver  
16 may be required in the case of a declared local, state, or  
17 federal emergency that directly affects the administration of  
18 all permitting activities of the local government.

19 ~~(d) Any additional wireless communications facilities,~~  
20 ~~such as communication cables, adjacent accessory structures,~~  
21 ~~or adjacent accessory equipment used in the provision of~~  
22 ~~cellular, enhanced specialized mobile radio, or personal~~  
23 ~~communications services, required within the existing secured~~  
24 ~~equipment compound within the existing site shall be deemed a~~  
25 ~~permitted use or activity. Local building and land development~~  
26 ~~regulations, including any aesthetic requirements, shall~~  
27 ~~apply.~~

28 (e) The replacement of or modification to a wireless  
29 communications facility, except a tower, that results in a  
30 wireless communications facility not readily discernibly  
31 different in size, type, and appearance when viewed from



1 ground level from surrounding properties, and the replacement  
2 or modification of equipment that is not visible from  
3 surrounding properties, all as reasonably determined by the  
4 local government, are subject to no more than applicable  
5 building-permit review.

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

24 (g) If any person adversely affected by any action or  
25 failure to act or regulation or requirement of a local  
26 government in the review or regulation of the wireless  
27 communication facilities files an appeal or brings an  
28 appropriate action in a court or venue of competent  
29 jurisdiction, following the exhaustion of all administrative  
30 remedies, the matter shall be considered on an expedited  
31 basis.

1           ~~(f) Any wireless telephone service provider may report~~  
2 ~~to the board no later than September 1, 2003, the specific~~  
3 ~~locations or general areas within a county or municipality~~  
4 ~~where the provider has experienced unreasonable delay to~~  
5 ~~locate wireless telecommunications facilities necessary to~~  
6 ~~provide the needed coverage for compliance with federal Phase~~  
7 ~~II E911 requirements using its own network. The provider shall~~  
8 ~~also provide this information to the specifically identified~~  
9 ~~county or municipality no later than September 1, 2003. Unless~~  
10 ~~the board receives no report that unreasonable delays have~~  
11 ~~occurred, the board shall, no later than September 30, 2003,~~  
12 ~~establish a subcommittee responsible for developing a balanced~~  
13 ~~approach between the ability of providers to locate wireless~~  
14 ~~facilities necessary to comply with federal Phase II E911~~  
15 ~~requirements using the carrier's own network and the desire of~~  
16 ~~counties and municipalities to zone and regulate land uses to~~  
17 ~~achieve public welfare goals. If a subcommittee is~~  
18 ~~established, it shall include representatives from the Florida~~  
19 ~~Telecommunications Industry Association, the Florida~~  
20 ~~Association of Counties, and the Florida League of Cities. The~~  
21 ~~subcommittee shall be charged with developing recommendations~~  
22 ~~for the board and any specifically identified municipality or~~  
23 ~~county to consider regarding actions to be taken for~~  
24 ~~compliance for federal Phase II E911 requirements. In the~~  
25 ~~annual report due to the Governor and the Legislature by~~  
26 ~~February 28, 2004, the board shall include any recommendations~~  
27 ~~developed by the subcommittee to address compliance with~~  
28 ~~federal Phase II E911 requirements.~~

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

31           365.173 Wireless Emergency Telephone System Fund.--

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

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

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

10           2. Costs to comply with the requirements for E911  
11 service contained in the order and any future rules related to  
12 the order.

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

29           (b) Fifty-four percent of the moneys shall be  
30 distributed in response to sworn invoices submitted to the  
31 board by providers to reimburse such providers for the actual

1 | costs incurred to provide 911 or E911 service, including the  
2 | costs of complying with the order. Such costs include costs  
3 | and expenses incurred by providers to design, purchase, lease,  
4 | program, install, test, upgrade, operate, and maintain all  
5 | necessary data, hardware, and software required to provide  
6 | E911 service. Up to 2 percent of the funds allocated to  
7 | providers shall be retained by the board to be applied to  
8 | costs and expenses incurred for the purposes of managing,  
9 | administering, and overseeing the receipts and disbursements  
10 | from the fund and other activities as defined in s.  
11 | 365.172(6). Any funds retained for such purposes in a calendar  
12 | year which are not applied to such costs and expenses by March  
13 | 31 of the following year shall be distributed to providers  
14 | pursuant to this paragraph. ~~Beginning in state fiscal year~~  
15 | ~~2000-2001~~, Each provider shall submit to the board, by August  
16 | 1 of each year, a detailed estimate of the capital and  
17 | operating expenses for which it anticipates that it will seek  
18 | reimbursement under this paragraph during the ensuing state  
19 | fiscal year. By September 15 of each year, the board shall  
20 | submit to the Legislature its legislative budget request for  
21 | funds to be allocated to providers under this paragraph during  
22 | the ensuing state fiscal year. The budget request shall be  
23 | based on the information submitted by the providers and  
24 | estimated surcharge revenues. Distributions of moneys in the  
25 | fund by the board to providers must be fair and  
26 | nondiscriminatory. If the total amount of moneys requested by  
27 | providers pursuant to invoices submitted to the board and  
28 | approved for payment exceeds the amount in the fund in any  
29 | month, providers that have invoices approved for payment shall  
30 | receive a pro rata share of moneys in the fund and the balance  
31 | of the payments shall be carried over to the following month

1 or months until all of the approved payments are made. The  
2 board may adopt rules necessary to address the manner in which  
3 pro rata distributions are made when the total amount of funds  
4 requested by providers pursuant to invoices submitted to the  
5 board exceeds the total amount of moneys on deposit in the  
6 fund.

7 (c) Two percent of the moneys shall be used to make  
8 monthly distributions to rural counties for the purpose of  
9 providing facilities and network and service enhancements and  
10 assistance for the 911 or E911 systems operated by rural  
11 counties and for the provision of reimbursable loans and  
12 grants by the office to rural counties for upgrading 911  
13 systems.

14  
15 The Legislature recognizes that the wireless E911 fee  
16 authorized under s. 365.172 will not necessarily provide the  
17 total funding required for establishing or providing the 911  
18 service. It is the intent of the Legislature that all revenue  
19 from the fee be used as specified in s. 365.171(13)(a)6.

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

25 Section 6. Paragraph (a) of subsection (3) of section  
26 337.401, Florida Statutes, is amended to read:

27 337.401 Use of right-of-way for utilities subject to  
28 regulation; permit; fees.--

29 (3)(a)1. Because of the unique circumstances  
30 applicable to providers of communications services, including,  
31 but not limited to, the circumstances described in paragraph

1 (e) and the fact that federal and state law require the  
2 nondiscriminatory treatment of providers of telecommunications  
3 services, and because of the desire to promote competition  
4 among providers of communications services, it is the intent  
5 of the Legislature that municipalities and counties treat  
6 providers of communications services in a nondiscriminatory  
7 and competitively neutral manner when imposing rules or  
8 regulations governing the placement or maintenance of  
9 communications facilities in the public roads or  
10 rights-of-way. Rules or regulations imposed by a municipality  
11 or county relating to providers of communications services  
12 placing or maintaining communications facilities in its roads  
13 or rights-of-way must be generally applicable to all providers  
14 of communications services and, notwithstanding any other law,  
15 may not require a provider of communications services, except  
16 as otherwise provided in subparagraph 2., to apply for or  
17 enter into an individual license, franchise, or other  
18 agreement with the municipality or county as a condition of  
19 placing or maintaining communications facilities in its roads  
20 or rights-of-way. In addition to other reasonable rules or  
21 regulations that a municipality or county may adopt relating  
22 to the placement or maintenance of communications facilities  
23 in its roads or rights-of-way under this subsection, a  
24 municipality or county may require a provider of  
25 communications services that places or seeks to place  
26 facilities in its roads or rights-of-way to register with the  
27 municipality or county and to provide the name of the  
28 registrant; the name, address, and telephone number of a  
29 contact person for the registrant; the number of the  
30 registrant's current certificate of authorization issued by  
31 the Florida Public Service Commission or the Federal

1 | Communications Commission; and proof of insurance or  
2 | self-insuring status adequate to defend and cover claims.  
3 | ~~Nothing in this subparagraph is intended to limit or expand~~  
4 | ~~any existing zoning or land use authority of a municipality or~~  
5 | ~~county; however, no such zoning or land use authority may~~  
6 | ~~require an individual license, franchise, or other agreement~~  
7 | ~~as prohibited by this subparagraph.~~

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

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

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31 |

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3   SB 620

4   The Committee Substitute for Senate Bill 620 makes the  
5   following changes:

6   -Adds definitions, deletes definition, and limits application  
7   of definitions.

8   -Authorizes the Wireless E911 Board to utilize revenues from  
9   the Wireless Providers Trust Fund to provide grants to rural  
10   counties and loans to medium counties to upgrade their E911  
11   systems and requires full repayment of the funds in a manner  
12   and timeframe as approved by the Board.

13   -Excludes airports from the definition of "local government"  
14   for the purposes of local government siting of wireless  
15   facilities.

16   -Provides for three types of collocations and provides  
17   different criteria and standards of review for each.

18   -Authorizes local governments to impose a reasonable surety  
19   requirement on wireless providers to ensure the removal of  
20   wireless communications facilities that are no longer being  
21   used.

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