

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 under provisions for the wireless
21 E911 monthly fee; revising timeframe to reduce
22 the amount of the fee or for reallocation of
23 moneys collected for the fee; providing
24 legislative intent regarding the emergency
25 wireless telephone system; providing standards
26 for local governments to follow when regulating
27 the placement, construction, or modification of
28 a wireless communications facility; directing
29 local governments to grant or deny properly
30 completed applications within specified time
31 periods; providing criteria and procedures for

1 local approval of an application by a provider
2 of wireless communications services;
3 authorizing the local government to impose an
4 application fee; directing local governments to
5 notify a provider in writing of the
6 deficiencies in an application; directing local
7 governments to notify a provider in writing
8 whether the resubmission of information
9 properly completes the application; authorizing
10 local governments to continue requesting
11 information until the application deficiencies
12 are cured; providing for a limited review by a
13 local government of an accessory wireless
14 communications facility; prohibiting local
15 governments from imposing certain restrictions
16 on wireless communications facilities;
17 providing that an action brought by a person
18 adversely affected by a decision of a local
19 government relating to a wireless
20 communications facility shall be considered on
21 an expedited basis; removing certain complaint
22 procedures; amending s. 365.173, F.S. ;
23 directing how a county may use funds derived
24 from the E911 fee; requiring the board of
25 county commissioners to appropriate the funds
26 to the proper uses; removing the requirement
27 that the Auditor General annually audit the
28 E911 fund; amending s. 337.401, F.S. ; revising
29 provisions relating to use of right-of-way for
30 utilities subject to regulation to remove
31

1 certain application provisions; providing an
2 effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Subsection (2) of section 11.45, Florida
7 Statutes, is amended to read:

8 11.45 Definitions; duties; authorities; reports;
9 rules.--

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

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

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

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

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

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

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

29 (g) At least every 2 years, conduct operational audits
30 of the accounts and records of state agencies and
31 universities. In connection with these audits, the Auditor

1 General shall give appropriate consideration to reports issued
2 by state agencies' inspectors general or universities'
3 inspectors general and the resolution of findings therein.

4 (h) At least every 2 years, conduct a performance
5 audit of the local government financial reporting system,
6 which, for the purpose of this chapter, means any statutory
7 provisions related to local government financial reporting.
8 The purpose of such an audit is to determine the accuracy,
9 efficiency, and effectiveness of the reporting system in
10 achieving its goals and to make recommendations to the local
11 governments, the Governor, and the Legislature as to how the
12 reporting system can be improved and how program costs can be
13 reduced. The Auditor General shall determine the scope of such
14 audits. The local government financial reporting system should
15 provide for the timely, accurate, uniform, and cost-effective
16 accumulation of financial and other information that can be
17 used by the members of the Legislature and other appropriate
18 officials to accomplish the following goals:

- 19 1. Enhance citizen participation in local government;
20 2. Improve the financial condition of local
21 governments;
22 3. Provide essential government services in an
23 efficient and effective manner; and
24 4. Improve decisionmaking on the part of the
25 Legislature, state agencies, and local government officials on
26 matters relating to local government.

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

30 (j) Once every 3 years, conduct financial audits of
31 the accounts and records of all district school boards in

1 counties with populations of 125,000 or more, according to the
2 most recent federal decennial statewide census.

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

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

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

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

28 364.02 Definitions.--As used in this chapter:

29 (13) "Telecommunications company" includes every
30 corporation, partnership, and person and their lessees,
31 trustees, or receivers appointed by any court whatsoever, and

1 every political subdivision in the state, offering two-way
 2 telecommunications service to the public for hire within this
 3 state by the use of a telecommunications facility. The term
 4 "telecommunications company" does not include:

5 (a) An entity which provides a telecommunications
 6 facility exclusively to a certificated telecommunications
 7 company;

8 (b) An entity which provides a telecommunications
 9 facility exclusively to a company which is excluded from the
 10 definition of a telecommunications company under this
 11 subsection;

12 (c) A commercial mobile radio service provider;

13 (d) A facsimile transmission service;

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

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

18 (g) An intrastate interexchange telecommunications
 19 company.

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

1 or other intercarrier compensation to the local exchange
2 telecommunications company or the competitive local exchange
3 telecommunications company for the origination and termination
4 of interexchange telecommunications service, and shall reduce
5 its intrastate long distance toll rates in accordance with s.
6 364.163(2).

7 Section 3. Paragraph (a) of subsection (13) of section
8 365.171, Florida Statutes, is amended to read:

9 365.171 Emergency telephone number "911."--

10 (13) "911" FEE.--

11 (a) Following approval by referendum as set forth in
12 paragraph (b), or following approval by a majority vote of its
13 board of county commissioners, a county may impose a "911" fee
14 to be paid by the local exchange subscribers within its
15 boundaries served by the "911" service. Proceeds from the
16 "911" fee shall be used only for "911" expenditures as set
17 forth in subparagraph 6. The manner of imposing and collecting
18 said payment shall be as follows:

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

29 2. Fees collected by the telephone company pursuant to
30 subparagraph 1. shall be returned to the county, less the
31 costs of administration retained pursuant to paragraph (c).

1 The county shall provide a minimum of 90 days' written notice
2 to the telephone company prior to the collection of any "911"
3 fees.

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

1 of revenue for improvements, replacements, or expansions of
2 its "911" system. A county may increase its fee for purposes
3 authorized in this section. However, in no case shall the fee
4 exceed 50 cents per month per line. All current "911" fees
5 shall be reported to the office within 30 days of the start of
6 each county's fiscal period. Any fee adjustment made by a
7 county shall be reported to the office. A county shall give
8 the telephone company a 90-day written notice of such fee
9 adjustment.

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

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

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

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

1 for expenditure of moneys derived from imposition of the "911"
2 fee authorized by this section: the acquisition,
3 implementation, and maintenance of Public Safety Answering
4 Point (PSAP) equipment and "911" service features, as defined
5 in the Florida Public Service Commission's lawfully approved
6 "911" and related tariffs and/or the acquisition,
7 installation, and maintenance of other "911" equipment,
8 including call answering equipment, call transfer equipment,
9 ANI controllers, ALI controllers, ANI displays, ALI displays,
10 station instruments, "911" telecommunications systems,
11 teleprinters, logging recorders, instant playback recorders,
12 telephone devices for the deaf (TDD) used in the "911" system,
13 PSAP backup power systems, consoles, automatic call
14 distributors, and interfaces (hardware and software) for
15 computer-aided dispatch (CAD) systems; salary and associated
16 expenses for "911" call takers for that portion of their time
17 spent taking and transferring "911" calls; salary and
18 associated expenses for a county to employ a full-time
19 equivalent "911" coordinator position and a full-time
20 equivalent staff assistant position per county for the portion
21 of their time spent administrating the "911" system; training
22 costs for PSAP call takers in the proper methods and
23 techniques used in taking and transferring "911" calls; and
24 expenses required to develop and maintain all information (ALI
25 and ANI databases and other information source repositories)
26 necessary to properly inform call takers as to location
27 address, type of emergency, and other information directly
28 relevant to the "911" call-taking and transferring function;
29 ~~and, in a county defined in s. 125.011(1), such expenses~~
30 ~~related to a nonemergency "311" system, or similar~~
31 ~~nonemergency system, which improves the overall efficiency of~~

1 ~~an existing "911" system or reduces "911" emergency response~~
2 ~~time for a 2 year pilot project that ends June 30, 2003.~~
3 ~~However,~~ No wireless telephone service provider shall be
4 required to participate in any ~~this~~ pilot project or to
5 otherwise implement a nonemergency "311" system or similar
6 nonemergency system. The "911" fee revenues shall not be used
7 to pay for any item not listed, including, but not limited to,
8 any capital or operational costs for emergency responses which
9 occur after the call transfer to the responding public safety
10 entity and the costs for constructing buildings, leasing
11 buildings, maintaining buildings, or renovating buildings,
12 except for those building modifications necessary to maintain
13 the security and environmental integrity of the PSAP and "911"
14 equipment rooms.

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

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

28 365.172 Wireless emergency telephone number "E911."--

29 (3) DEFINITIONS.--Only as used in this section and ss.
30 365.173 and 365.174, the term:

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1 (a) "Active prepaid wireless telephone" means a
2 prepaid wireless telephone that has been used by the customer
3 during the month to complete a telephone call for which the
4 customer's card or balance was decremented.

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

8 (c) "Automatic location identification" means the
9 capability of the E911 service which enables the automatic
10 display of information that defines the approximate geographic
11 location of the wireless telephone used to place a 911 call.

12 (d) "Automatic number identification" means the
13 capability of the E911 service which enables the automatic
14 display of the 10-digit service number used to place a 911
15 call.

16 (e) "Board" means the board of directors of the
17 Wireless 911 Board.

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

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

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

30

31

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

4 ~~(i)(g)~~ "E911" is the designation for a wireless
5 enhanced 911 system or wireless enhanced 911 service that is
6 an emergency telephone system or service that provides a
7 subscriber with wireless 911 service and, in addition, directs
8 911 calls to appropriate public safety answering points by
9 selective routing based on the geographical location from
10 which the call originated, or as otherwise provided in the
11 state plan under s. 365.171, and that provides for automatic
12 number identification and automatic location-identification
13 features in accordance with the requirements of the order.

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

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

21 ~~(l)(i)~~ "Fund" means the Wireless Emergency Telephone
22 System Fund established in s. 365.173 and maintained under
23 this section for the purpose of recovering the costs
24 associated with providing 911 service or E911 service,
25 including the costs of implementing the order.

26 (m) "Historic building, structure, site, object, or
27 district" means any building, structure, site, object, or
28 district that has been officially designated as a historic
29 building, historic structure, historic site, historic object,
30 or historic district through a federal, state, or local
31 designation program.

1 (n) "Land development regulations" means any ordinance
2 enacted by a local government for the regulation of any aspect
3 of development, including an ordinance governing zoning,
4 subdivisions, landscaping, tree protection, or signs, the
5 local government's comprehensive plan, or any other ordinance
6 concerning any aspect of the development of land. The term
7 does not include any building construction standard adopted
8 under and in compliance with chapter 553.

9 (o)(j) "Local exchange carrier" means a "competitive
10 local exchange telecommunications company" or a "local
11 exchange telecommunications company" as defined in s. 364.02.

12 (p)(k) "Local government" means any municipality,
13 county, or political subdivision or agency of a municipality,
14 county, or political subdivision.

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

17 (r)(l) "Mobile telephone number" or "MTN" means the
18 telephone number assigned to a wireless telephone at the time
19 of initial activation.

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

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

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

24 a. Order adopted on June 12, 1996, with an effective
25 date of October 1, 1996, the amendments to s. 20.03 and the
26 creation of s. 20.18 of Title 47 of the Code of Federal
27 Regulations adopted by the Federal Communications Commission
28 pursuant to such order.

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

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1 c. Order No. FCC DA 98-2323 adopted on November 13,
2 1998.

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

4 2. Orders and rules subsequently adopted by the
5 Federal Communications Commission relating to the provision of
6 wireless 911 services.

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

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

- 18 1. Is subject to the requirements of the order; or
19 2. Elects to provide wireless 911 service or E911
20 service in this state.

21 ~~(w)~~~~(p)~~ "Public agency" means the state and any
22 municipality, county, municipal corporation, or other
23 governmental entity, public district, or public authority
24 located in whole or in part within this state which provides,
25 or has authority to provide, firefighting, law enforcement,
26 ambulance, medical, or other emergency services.

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

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

1 ~~(z)(s)~~ "Service" means "commercial mobile radio
2 service" as provided under ss. 3(27) and 332(d) of the Federal
3 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,
4 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.
5 103-66, August 10, 1993, 107 Stat. 312. The term "service"
6 includes the term "wireless" and service provided by any
7 wireless real-time two-way wire communication device,
8 including radio-telephone communications used in cellular
9 telephone service; personal communications service; or the
10 functional or competitive equivalent of a radio-telephone
11 communications line used in cellular telephone service, a
12 personal communications service, or a network radio access
13 line. The term does not include wireless providers that offer
14 mainly dispatch service in a more localized, noncellular
15 configuration; providers offering only data, one-way, or
16 stored-voice services on an interconnected basis; providers of
17 air-to-ground services; or public coast stations.

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

20 ~~(bb)(u)~~ "Sufficient positive balance" means a dollar
21 amount greater than or equal to the monthly wireless surcharge
22 amount.

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

25 (dd) "Wireless communications facility" means any
26 equipment or facility used to provide service and may include,
27 but is not limited to, antennae, towers, equipment enclosures,
28 cabling, antenna brackets, and other such equipment. Placing a
29 wireless communications facility on an existing structure does
30 not cause the existing structure to become a wireless
31 communications facility.

1 ~~(ee)(v)~~ "Wireless 911 system" or "wireless 911
2 service" means an emergency telephone system or service that
3 provides a subscriber with the ability to reach an answering
4 point by dialing the digits "911." A wireless 911 system is
5 complementary to a wired 911 system as provided for in s.
6 365.171.

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

8 (a) The board shall:

9 1. Administer the E911 fee.

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

11 3. Review and oversee the disbursement of the revenues
12 deposited into the fund as provided in s. 365.173. The board
13 may establish a schedule for implementing wireless E911
14 service by service area, and prioritize disbursements of
15 revenues from the fund to providers and rural counties as
16 provided in s. 365.173(2)(b) and (c) pursuant to the schedule,
17 in order to implement E911 services in the most efficient and
18 cost-effective manner. Revenues collected and deposited into
19 the fund for distribution as provided in s. 365.173(2)(b), but
20 which have not been disbursed because sworn invoices as
21 required by 365.173(2)(b) have not been submitted to the
22 board, may be utilized by the board as needed to provide
23 grants to rural counties and loans to medium counties for the
24 purpose of upgrading E911 systems. Grants provided to rural
25 counties would be in addition to disbursements provided under
26 s. 365.173(2)(c). Loans provided to medium counties shall be
27 based on county hardship criteria as determined and approved
28 by the board. Revenues utilized for this purpose shall be
29 fully repaid to the fund in a manner and under a timeframe as
30 determined and approved by the board. The board shall take all
31 actions within its authority to ensure that county recipients

1 of such grants and loans utilize these funds only for the
2 purpose under which they have been provided and may take any
3 actions within its authority to secure county repayment of
4 grant and loan revenues upon determination that the funds were
5 not utilized for the purpose under which they were provided.

6 4. Review documentation submitted by providers which
7 reflects current and projected funds derived from the E911
8 fee, and the expenses incurred and expected to be incurred, in
9 order to comply with the E911 service requirements contained
10 in the order for the purposes of:

11 a. Ensuring that providers receive fair and equitable
12 distributions of funds from the fund.

13 b. Ensuring that providers are not provided
14 disbursements from the fund which exceed the costs of
15 providing E911 service, including the costs of complying with
16 the order.

17 c. Ascertaining the projected costs of compliance with
18 the requirements of the order and projected collections of the
19 E911 fee.

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

22 5. Review and approve or reject, in whole or in part,
23 applications submitted by providers for recovery of moneys
24 deposited into the fund.

25 6. Hire and retain employees, which may include an
26 independent executive director who shall possess experience in
27 the area of telecommunications and emergency 911 issues, for
28 the purposes of performing the technical and administrative
29 functions for the board.

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1 7. Make and enter into contracts, pursuant to chapter
2 287, and execute other instruments necessary or convenient for
3 the exercise of the powers and functions of the board.

4 8. Take all necessary and reasonable steps by July 1,
5 2000, to secure appropriate information and reports from
6 providers and otherwise perform all of the functions that
7 would be performed by an independent accounting firm prior to
8 completing the request-for-proposals process under subsection
9 (7).

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

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

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

16 12. The board may adopt rules under ss. 120.536(1) and
17 120.54 to implement this section and ss. 365.173 and 365.174.

18 13. Provide coordination, support, and technical
19 assistance to counties to promote the deployment of advanced
20 911 and E911 systems in the state.

21 14. Provide coordination and support for educational
22 opportunities related to 911 issues for the 911 community in
23 this state.

24 15. Act as an advocate for issues related to 911
25 system functions, features, and operations to improve the
26 delivery of 911 services to the residents of and visitors to
27 this state.

28 16. Coordinate input from this state at national
29 forums and associations, to ensure that policies related to
30 911 systems and services are consistent with the policies of
31 the 911 community in this state.

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

5 18. Do all acts and things necessary or convenient to
6 carry out the powers granted in this section, including but
7 not limited to, consideration of emerging technology and
8 related cost savings.

9 19. Have the authority to secure the services of an
10 independent, private attorney via invitation to bid, request
11 for proposals, invitation to negotiate, or professional
12 contracts for legal services already established at the
13 Division of Purchasing of the Department of Management
14 Services.

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

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

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

31

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

5 2. Whether the amount of the E911 fee and the
6 allocation percentages set forth in s. 365.173 should be
7 adjusted to comply with the requirements of the order, and, if
8 so, a recommended adjustment to the E911 fee.

9 3. Any other issues related to providing wireless E911
10 services.

11 (8) WIRELESS E911 FEE.--

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

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

28 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--To
29 balance the public need for reliable E911 services through
30 reliable wireless systems and the public interest served by
31 governmental zoning and land development regulations and

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

23 (a) Collocation ~~Colocation~~ among wireless telephone
24 ~~service providers is encouraged by the state. To further~~
25 ~~facilitate agreements among providers for colocation of their~~
26 ~~facilities, any antennae and related equipment to service the~~
27 ~~antennae that is being colocated on an existing above ground~~
28 ~~structure is not subject to land development regulation~~
29 ~~pursuant to s. 163.3202, provided the height of the existing~~
30 ~~structure is not increased. However, construction of the~~
31 ~~antennae and related equipment is subject to local building~~

1 ~~regulations and any existing permits or agreements for such~~
2 ~~property, buildings, or structures.~~

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

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

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

24 (III) The collocation consists of antennae, equipment
25 enclosures, and ancillary facilities that are of a design and
26 configuration consistent with all applicable regulations,
27 restrictions, or conditions, if any, applied to the initial
28 antennae placed on the tower and to its accompanying equipment
29 enclosures and ancillary facilities and, if applicable,
30 applied to the tower supporting the antennae. Such regulations
31 may include the design and aesthetic requirements, but not

1 procedural requirements, other than those authorized by this
2 section, of the local government's land development
3 regulations in effect at the time the initial antennae
4 placement was approved.

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

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

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

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

1 land development regulations in effect at the time of the
2 collocation application; and

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

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

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

1 more than a cumulative amount of 400 square feet or 50 percent
2 of the original compound size, whichever is greater, shall,
3 however, require no more than administrative review for
4 compliance with the local government's regulations, including,
5 but not limited to, land development regulations review, and
6 building-permit review, with no public hearing review. This
7 sub-subparagraph shall not preclude a public hearing for any
8 appeal of the decision on the collocation application.

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

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

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

29 5. An existing tower, including a nonconforming tower,
30 may be structurally modified in order to permit collocation or
31 may be replaced through no more than administrative review and

1 building-permit review, and is not subject to public hearing
2 review, if the overall height of the tower is not increased
3 and, if a replacement, the replacement tower is a monopole
4 tower or, if the existing tower is a camouflaged tower, the
5 replacement tower is a like-camouflaged tower. This
6 subparagraph shall not preclude a public hearing for any
7 appeal of the decision on the application.

8 (b)1. A local government's land development and
9 construction regulations for wireless communications
10 facilities and the local government's review of an application
11 for the placement, construction, or modification of a wireless
12 communications facility shall only address land development or
13 zoning issues. In such local government regulations or review,
14 the local government may not require information on or
15 evaluate a wireless provider's business decisions about its
16 service, customer demand for its service, or quality of its
17 service to or from a particular area or site, unless the
18 wireless provider voluntarily offers this information to the
19 local government. In such local government regulations or
20 review, a local government may not require information on or
21 evaluate the wireless provider's designed service unless the
22 information or materials are directly related to an identified
23 land development or zoning issue or unless the wireless
24 provider voluntarily offers the information. Information or
25 materials directly related to an identified land development
26 or zoning issue may include, but are not limited to, evidence
27 that no existing structure can reasonably be used for the
28 antennae placement instead of the construction of a new tower,
29 that residential areas cannot be served from outside the
30 residential area, as addressed in subparagraph 3., or that the
31 proposed height of a new tower or initial antennae placement

1 or a proposed height increase of a modified tower, replacement
2 tower, or collocation is necessary to provide the provider's
3 designed service. Nothing in this paragraph shall limit the
4 local government from reviewing any applicable land
5 development or zoning issue addressed in its adopted
6 regulations that do not conflict with this section, including,
7 but not limited to, aesthetics, landscaping, land use based
8 location priorities, structural design, and setbacks.

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

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

31

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

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

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

1 Communications Commission to provide information as to a
2 wireless provider's compliance with federal regulations, as
3 authorized by federal law.

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

22 2. A local government shall grant or deny each a
23 properly completed application for any other wireless
24 communications facility based on the application's compliance
25 with the local government's applicable regulations, including
26 but not limited to land development regulations, consistent
27 with this subsection and within the normal timeframe for a
28 similar type review but in no case later than a permit for the
29 siting of a new wireless tower or antenna on property,
30 buildings, or structures within the local government's
31 jurisdiction within 90 business days after the date the

1 ~~properly completed~~ application is determined to be properly
2 completed in accordance with this paragraph initially
3 ~~submitted in accordance with the applicable local government~~
4 ~~application procedures, provided that such permit complies~~
5 ~~with applicable federal regulations and applicable local~~
6 ~~zoning or land development regulations, including any~~
7 ~~aesthetic requirements. Local building regulations shall~~
8 ~~apply.~~

9 3.a. An application is deemed submitted or resubmitted
10 on the date the application is received by the local
11 government. If the local government does not ~~shall~~ notify the
12 permit applicant in writing that the application is not
13 completed in compliance with the local government's
14 regulations within 20 business days after the date the
15 application is initially submitted or additional information
16 resubmitted, ~~as to whether~~ the application is deemed, for
17 administrative purposes only, to be properly completed and ~~has~~
18 ~~been~~ properly submitted. However, the ~~such~~ determination shall
19 not be deemed as an approval of the application. If the
20 application is not completed in compliance with the local
21 government's regulations, the local government shall so notify
22 the applicant in writing and the ~~Such~~ notification must ~~shall~~
23 indicate with specificity any deficiencies in the required
24 documents or deficiencies in the content of the required
25 documents which, if cured, ~~shall~~ make the application properly
26 completed. Upon resubmission of information to cure the stated
27 deficiencies, the local government shall notify the applicant,
28 in writing, within the normal timeframes of review, but in no
29 case longer than 20 business days after the additional
30 information is submitted, of any remaining deficiencies that
31 must be cured. Deficiencies in document type or content not

1 specified by the local government do not make the application
 2 incomplete. Notwithstanding this sub-subparagraph, if a
 3 specified deficiency is not properly cured when the applicant
 4 resubmits its application to comply with the notice of
 5 deficiencies, the local government may continue to request the
 6 information until such time as the specified deficiency is
 7 cured. The local government may establish reasonable
 8 timeframes within which the required information to cure the
 9 application deficiency is to be provided or the application
 10 will be considered withdrawn or closed.

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

29 c. To be effective, a waiver of the timeframes set
 30 forth in this paragraph ~~herein~~ must be voluntarily agreed to
 31 by the applicant and the local government. A local government

1 may request, but not require, a waiver of the timeframes by
2 the applicant ~~an entity seeking a permit~~, except that, with
3 respect to a specific application ~~permit~~, a one-time waiver
4 may be required in the case of a declared local, state, or
5 federal emergency that directly affects the administration of
6 all permitting activities of the local government.

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

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

25 ~~(f)(e)~~ Any other ~~provision of~~ law to the contrary
26 notwithstanding, the Department of Management Services shall
27 negotiate, in the name of the state, leases for wireless
28 communications facilities that provide access to state
29 government-owned property not acquired for transportation
30 purposes, and the Department of Transportation shall
31 negotiate, in the name of the state, leases for wireless

1 | communications facilities that provide access to property
2 | acquired for state rights-of-way. On property acquired for
3 | transportation purposes, leases shall be granted in accordance
4 | with s. 337.251. On other state government-owned property,
5 | leases shall be granted on a space available, first-come,
6 | first-served basis. Payments required by state government
7 | under a lease must be reasonable and must reflect the market
8 | rate for the use of the state government-owned property. The
9 | Department of Management Services and the Department of
10 | Transportation are authorized to adopt rules for the terms and
11 | conditions and granting of any such leases.

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

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

1 ~~approach between the ability of providers to locate wireless~~
2 ~~facilities necessary to comply with federal Phase II E911~~
3 ~~requirements using the carrier's own network and the desire of~~
4 ~~counties and municipalities to zone and regulate land uses to~~
5 ~~achieve public welfare goals. If a subcommittee is~~
6 ~~established, it shall include representatives from the Florida~~
7 ~~Telecommunications Industry Association, the Florida~~
8 ~~Association of Counties, and the Florida League of Cities. The~~
9 ~~subcommittee shall be charged with developing recommendations~~
10 ~~for the board and any specifically identified municipality or~~
11 ~~county to consider regarding actions to be taken for~~
12 ~~compliance for federal Phase II E911 requirements. In the~~
13 ~~annual report due to the Governor and the Legislature by~~
14 ~~February 28, 2004, the board shall include any recommendations~~
15 ~~developed by the subcommittee to address compliance with~~
16 ~~federal Phase II E911 requirements.~~

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

19 365.173 Wireless Emergency Telephone System Fund.--

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

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

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

29 2. Costs to comply with the requirements for E911
30 service contained in the order and any future rules related to
31 the order.

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

17 (b) Fifty-four percent of the moneys shall be
18 distributed in response to sworn invoices submitted to the
19 board by providers to reimburse such providers for the actual
20 costs incurred to provide 911 or E911 service, including the
21 costs of complying with the order. Such costs include costs
22 and expenses incurred by providers to design, purchase, lease,
23 program, install, test, upgrade, operate, and maintain all
24 necessary data, hardware, and software required to provide
25 E911 service. Up to 2 percent of the funds allocated to
26 providers shall be retained by the board to be applied to
27 costs and expenses incurred for the purposes of managing,
28 administering, and overseeing the receipts and disbursements
29 from the fund and other activities as defined in s.
30 365.172(6). Any funds retained for such purposes in a calendar
31 year which are not applied to such costs and expenses by March

1 31 of the following year shall be distributed to providers
2 pursuant to this paragraph. ~~Beginning in state fiscal year~~
3 ~~2000-2001~~, Each provider shall submit to the board, by August
4 1 of each year, a detailed estimate of the capital and
5 operating expenses for which it anticipates that it will seek
6 reimbursement under this paragraph during the ensuing state
7 fiscal year. By September 15 of each year, the board shall
8 submit to the Legislature its legislative budget request for
9 funds to be allocated to providers under this paragraph during
10 the ensuing state fiscal year. The budget request shall be
11 based on the information submitted by the providers and
12 estimated surcharge revenues. Distributions of moneys in the
13 fund by the board to providers must be fair and
14 nondiscriminatory. If the total amount of moneys requested by
15 providers pursuant to invoices submitted to the board and
16 approved for payment exceeds the amount in the fund in any
17 month, providers that have invoices approved for payment shall
18 receive a pro rata share of moneys in the fund and the balance
19 of the payments shall be carried over to the following month
20 or months until all of the approved payments are made. The
21 board may adopt rules necessary to address the manner in which
22 pro rata distributions are made when the total amount of funds
23 requested by providers pursuant to invoices submitted to the
24 board exceeds the total amount of moneys on deposit in the
25 fund.

26 (c) Two percent of the moneys shall be used to make
27 monthly distributions to rural counties for the purpose of
28 providing facilities and network and service enhancements and
29 assistance for the 911 or E911 systems operated by rural
30 counties and for the provision of reimbursable loans and
31

1 grants by the office to rural counties for upgrading 911
2 systems.

3
4 The Legislature recognizes that the wireless E911 fee
5 authorized under s. 365.172 will not necessarily provide the
6 total funding required for establishing or providing the 911
7 service. It is the intent of the Legislature that all revenue
8 from the fee be used as specified in s. 365.171(13)(a)6.

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

14 Section 6. Paragraph (a) of subsection (3) of section
15 337.401, Florida Statutes, is amended to read:

16 337.401 Use of right-of-way for utilities subject to
17 regulation; permit; fees.--

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

1 placing or maintaining communications facilities in its roads
2 or rights-of-way must be generally applicable to all providers
3 of communications services and, notwithstanding any other law,
4 may not require a provider of communications services, except
5 as otherwise provided in subparagraph 2., to apply for or
6 enter into an individual license, franchise, or other
7 agreement with the municipality or county as a condition of
8 placing or maintaining communications facilities in its roads
9 or rights-of-way. In addition to other reasonable rules or
10 regulations that a municipality or county may adopt relating
11 to the placement or maintenance of communications facilities
12 in its roads or rights-of-way under this subsection, a
13 municipality or county may require a provider of
14 communications services that places or seeks to place
15 facilities in its roads or rights-of-way to register with the
16 municipality or county and to provide the name of the
17 registrant; the name, address, and telephone number of a
18 contact person for the registrant; the number of the
19 registrant's current certificate of authorization issued by
20 the Florida Public Service Commission or the Federal
21 Communications Commission; and proof of insurance or
22 self-insuring status adequate to defend and cover claims.

23 ~~Nothing in this subparagraph is intended to limit or expand~~
24 ~~any existing zoning or land use authority of a municipality or~~
25 ~~county; however, no such zoning or land use authority may~~
26 ~~require an individual license, franchise, or other agreement~~
27 ~~as prohibited by this subparagraph.~~

28 2. Notwithstanding the provisions of subparagraph 1.,
29 a municipality or county may, as provided by 47 U.S.C. s. 541,
30 award one or more franchises within its jurisdiction for the
31 provision of cable service, and a provider of cable service

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

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

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