

Bill No. SB 1198

Barcode 104000

CHAMBER ACTION

Senate

House

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

Comm: FAV
03/29/2007 11:43 AM

.
. .
. .
. .
. .
. .

The Committee on Communications and Public Utilities (Bennett) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 365.171, Florida Statutes, is amended to read:

365.171 Emergency communications ~~telephone~~ number E911 state plan. ~~"911."~~

(1) SHORT TITLE.--This section may be ~~shall be known~~ ~~and~~ cited as the "Florida Emergency Communications Number E911 State Plan Telephone Act."

(2) LEGISLATIVE INTENT.--It is the intent of the Legislature that the communications number "911" be the designated emergency communications number. A public safety agency may not advertise or otherwise promote the use of any communications number for emergency response services other than "911." It is further the intent of the Legislature to ~~establish and implement and continually update~~ a cohesive

Bill No. SB 1198

Barcode 104000

1 statewide emergency communications ~~telephone~~ number "E911"
 2 "~~911~~" plan for enhanced 911 services which will provide
 3 citizens with rapid direct access to public safety agencies by
 4 accessing ~~dialing the telephone number~~ "911" with the
 5 objective of reducing the response time to situations
 6 requiring law enforcement, fire, medical, rescue, and other
 7 emergency services.

8 (3) DEFINITIONS.--As used in this section, the term:

9 (a) "Office" means the Florida Enterprise Information
 10 Technology Services Office or other office within the
 11 Department of Management Services, as designated by the
 12 secretary of the department ~~State Technology Office.~~

13 (b) "Local government" means any city, county, or
 14 political subdivision of the state and its agencies.

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

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

24 (4) STATE PLAN.--The office shall develop, maintain,
 25 and implement appropriate modifications for a statewide
 26 emergency communications E911 ~~telephone number "911"~~ system
 27 plan. The plan shall provide for:

28 (a) The ~~establishment of the~~ public agency emergency
 29 ~~telephone~~ communications requirements for each entity of local
 30 government in the state.

31 (b) A system to meet specific local government

Bill No. SB 1198

Barcode 104000

1 requirements. Such system shall include law enforcement,
2 firefighting, and emergency medical services and may include
3 other emergency services such as poison control, suicide
4 prevention, and emergency management services.

5 (c) Identification of the mutual aid agreements
6 necessary to obtain an effective E911 "911" system.

7 (d) A funding provision that identifies ~~which shall~~
8 ~~identify~~ the cost necessary to implement the E911 "911"
9 system.

10 ~~(e) A firm implementation schedule which shall include~~
11 ~~the installation of the "911" system in a local community~~
12 ~~within 24 months after the designated agency of the local~~
13 ~~government gives a firm order to the telephone utility for a~~
14 ~~"911" system.~~

15
16 The office shall be responsible for the implementation and
17 coordination of such plan. The office shall adopt any
18 necessary rules and schedules related to public agencies for
19 implementing and coordinating the ~~such~~ plan, pursuant to
20 chapter 120. ~~The public agency designated in the plan shall~~
21 ~~order such system within 6 months after publication date of~~
22 ~~the plan if the public agency is in receipt of funds~~
23 ~~appropriated by the Legislature for the implementation and~~
24 ~~maintenance of the "911" system. Any jurisdiction which has~~
25 ~~utilized local funding as of July 1, 1976, to begin the~~
26 ~~implementation of the state plan as set forth in this section~~
27 ~~shall be eligible for at least a partial reimbursement of its~~
28 ~~direct cost when, and if, state funds are available for such~~
29 ~~reimbursement.~~

30 (5) SYSTEM DIRECTOR.--The secretary of the department
31 ~~director of the office~~ or his or her designee is designated as

Bill No. SB 1198

Barcode 104000

1 the director of the statewide emergency communications
 2 ~~telephone~~ number E911 ~~"911"~~ system and, for the purpose of
 3 carrying out the provisions of this section, is authorized to
 4 coordinate the activities of the system with state, county,
 5 local, and private agencies. The director is authorized to
 6 employ no fewer ~~not less~~ than five persons, three of whom
 7 shall ~~will~~ be at the professional level, one at the
 8 secretarial level, and one to fill a fiscal position, for the
 9 purpose of carrying out the provisions of this section. The
 10 director in implementing the system shall consult, cooperate,
 11 and coordinate with local law enforcement agencies.

12 (6) REGIONAL SYSTEMS.--~~Nothing in~~ This section does
 13 not ~~shall be construed to~~ prohibit or discourage the formation
 14 of multijurisdictional or regional systems; and any system
 15 established pursuant to this section may include the
 16 jurisdiction, or any portion thereof, of more than one public
 17 agency. It is the intent of the Legislature that E911 service
 18 be available throughout the state. Expenditure by counties of
 19 the E911 fee authorized and imposed under s. 365.172 should
 20 support this intent to the greatest extent feasible within the
 21 context of local service needs and fiscal capability. This
 22 section does not prohibit two or more counties from
 23 establishing a combined emergency E911 communications service
 24 by an interlocal agreement and using the fees authorized and
 25 imposed by s. 365.172 for such combined E911 service.

26 (7) TELECOMMUNICATIONS ~~TELEPHONE~~ INDUSTRY
 27 COORDINATION.--The office shall coordinate with the Florida
 28 Public Service Commission which shall encourage the Florida
 29 telecommunications ~~telephone~~ industry to activate facility
 30 modification plans for a timely E911 ~~"911"~~ implementation.

31 (8) COIN TELEPHONES.--The Florida Public Service

Bill No. SB 1198

Barcode 104000

1 Commission shall establish rules to be followed by the
 2 telecommunications companies ~~telephone utilities~~ in this state
 3 designed toward encouraging the provision of coin-free dialing
 4 of "911" calls wherever economically practicable and in the
 5 public interest.

6 (9) SYSTEM APPROVAL.--No emergency communications
 7 ~~telephone~~ number E911 "911" system shall be established and no
 8 present system shall be expanded without prior approval of the
 9 office.

10 (10) COMPLIANCE.--All public agencies shall assist the
 11 office in their efforts to carry out the intent of this
 12 section, and such agencies shall comply with the developed
 13 plan.

14 ~~(11) EXISTING EMERGENCY TELEPHONE SERVICE.--Any~~
 15 ~~emergency telephone number established by any local government~~
 16 ~~or state agency prior to July 1, 1974, using a number other~~
 17 ~~than "911" shall be changed to "911" on the same~~
 18 ~~implementation schedule provided in paragraph (4)(e).~~

19 ~~(11)(12)~~ FEDERAL ASSISTANCE.--The secretary of the
 20 department ~~office~~ or his or her designee may apply for and
 21 accept federal funding assistance in the development and
 22 implementation of a statewide emergency communications
 23 ~~telephone~~ number E911 "911" system.

24 ~~(13) "911" FEE.--~~

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

Bill No. SB 1198

Barcode 104000

1 ~~said payment shall be as follows:~~

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

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

18 3. ~~Any county that currently has an operational "911"~~
19 ~~system or that is actively pursuing the implementation of a~~
20 ~~"911" system shall establish a fund to be used exclusively for~~
21 ~~receipt and expenditure of "911" fee revenues collected~~
22 ~~pursuant to this section. All fees placed in said fund, and~~
23 ~~any interest accrued thereupon, shall be used solely for "911"~~
24 ~~costs described in subparagraph 6. The money collected and~~
25 ~~interest earned in this fund shall be appropriated for "911"~~
26 ~~purposes by the county commissioners and incorporated into the~~
27 ~~annual county budget. Such fund shall be included within the~~
28 ~~financial audit performed in accordance with s. 218.39. A~~
29 ~~report of the audit shall be forwarded to the office within 60~~
30 ~~days of its completion. A county may carry forward on an~~
31 ~~annual basis unspent moneys in the fund for expenditures~~

Bill No. SB 1198

Barcode 104000

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

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

30 ~~5. The county subscribing to "911" service shall~~
31 ~~remain liable to the telephone company for any "911" service,~~

Bill No. SB 1198

Barcode 104000

1 ~~equipment, operation, or maintenance charge owed by the county~~
2 ~~to the telephone company.~~

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

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

Bill No. SB 1198

Barcode 104000

1 ~~associated expenses for a county to employ a full-time~~
2 ~~equivalent "911" coordinator position and a full-time~~
3 ~~equivalent staff assistant position per county for the portion~~
4 ~~of their time spent administrating the "911" system; training~~
5 ~~costs for PSAP call takers in the proper methods and~~
6 ~~techniques used in taking and transferring "911" calls; and~~
7 ~~expenses required to develop and maintain all information (ALI~~
8 ~~and ANI databases and other information source repositories)~~
9 ~~necessary to properly inform call takers as to location~~
10 ~~address, type of emergency, and other information directly~~
11 ~~relevant to the "911" call-taking and transferring function.~~
12 ~~No wireless telephone service provider shall be required to~~
13 ~~participate in any pilot project or to otherwise implement a~~
14 ~~nonemergency "311" system or similar nonemergency system. The~~
15 ~~"911" fee revenues shall not be used to pay for any item not~~
16 ~~listed, including, but not limited to, any capital or~~
17 ~~operational costs for emergency responses which occur after~~
18 ~~the call transfer to the responding public safety entity and~~
19 ~~the costs for constructing buildings, leasing buildings,~~
20 ~~maintaining buildings, or renovating buildings, except for~~
21 ~~those building modifications necessary to maintain the~~
22 ~~security and environmental integrity of the PSAP and "911"~~
23 ~~equipment rooms.~~

24 ~~7. It is the goal of the Legislature that enhanced~~
25 ~~"911" service be available throughout the state. Expenditure~~
26 ~~by counties of the "911" fees authorized by this section~~
27 ~~should support this goal to the greatest extent feasible~~
28 ~~within the context of local service needs and fiscal~~
29 ~~capability. Nothing in this section shall be construed to~~
30 ~~prohibit two or more counties from establishing a combined~~
31 ~~emergency "911" telephone service by interlocal agreement and~~

Bill No. SB 1198

Barcode 104000

1 ~~utilizing the "911" fees authorized by this section for such~~
2 ~~combined "911" service.~~

3 ~~(b) If a county elects to obtain approval of a "911"~~
4 ~~fee by referendum, it shall arrange to place a question on the~~
5 ~~ballot at the next regular or special election to be held~~
6 ~~within the county, substantially as follows:~~

7
8 ~~.... I am in favor of the "911" emergency telephone~~
9 ~~system fee.~~

10 ~~.... I am against the "911" emergency telephone system~~
11 ~~fee.~~

12
13 ~~If a majority of the electors voting on the question approve~~
14 ~~the fee, it may be imposed by the county.~~

15 ~~(c) Any county imposing a "911" fee in accordance with~~
16 ~~the provisions of this subsection shall allow the telephone~~
17 ~~company to retain as an administrative fee an amount equal to~~
18 ~~1 percent of the total "911" fee collected by the telephone~~
19 ~~company.~~

20 ~~(14) INDEMNIFICATION AND LIMITATION OF LIABILITY.--All~~
21 ~~local governments are authorized to undertake to indemnify the~~
22 ~~telephone company against liability in accordance with the~~
23 ~~telephone company's lawfully filed tariffs. Regardless of any~~
24 ~~indemnification agreement, a telephone company or commercial~~
25 ~~mobile radio service provider as defined in s. 364.02 shall~~
26 ~~not be liable for damages resulting from or in connection with~~
27 ~~"911" service or identification of the telephone number,~~
28 ~~address, or name associated with any person accessing "911"~~
29 ~~service, unless the telephone company or commercial radio~~
30 ~~service provider acted with malicious purpose or in a manner~~
31 ~~exhibiting wanton and willful disregard of human rights,~~

Bill No. SB 1198

Barcode 104000

1 ~~safety, or property in providing such services.~~

2 (12)(15) CONFIDENTIALITY OF RECORDS.--Any record,
3 recording, or information, or portions thereof, obtained by a
4 public agency or a public safety agency for the purpose of
5 providing services in an emergency and which reveals the name,
6 address, telephone number, or personal information about, or
7 information which may identify any person requesting emergency
8 service or reporting an emergency by accessing an emergency
9 communications E911 ~~telephone number "911"~~ system is
10 confidential and exempt from the provisions of s. 119.07(1)
11 and s. 24(a), Art. I of the State Constitution, except that
12 such record or information may be disclosed to a public safety
13 agency. The exemption applies only to the name, address,
14 telephone number or personal information about, or information
15 which may identify any person requesting emergency services or
16 reporting an emergency while such information is in the
17 custody of the public agency or public safety agency providing
18 emergency services. A telecommunications ~~telephone~~ company or
19 commercial mobile radio service provider shall not be liable
20 for damages to any person resulting from or in connection with
21 such telephone company's or commercial mobile radio service
22 provider's provision of any lawful assistance to any
23 investigative or law enforcement officer of the State of
24 Florida or political subdivisions thereof, of the United
25 States, or of any other state or political subdivision
26 thereof, in connection with any lawful investigation or other
27 law enforcement activity by such law enforcement officer
28 unless the telecommunications ~~telephone~~ company or commercial
29 mobile radio service provider acted in a wanton and willful
30 manner.

31 (16) ~~FALSE "911" CALLS.--Whoever accesses the number~~

Bill No. SB 1198

Barcode 104000

1 ~~"911" for the purpose of making a false alarm or complaint or~~
 2 ~~reporting false information which could result in the~~
 3 ~~emergency response of any public safety agency is guilty of a~~
 4 ~~misdemeanor of the first degree, punishable as provided in s.~~
 5 ~~775.082 or s. 775.083.~~

6 Section 2. Section 365.172, Florida Statutes, is
 7 amended to read:

8 365.172 ~~Wireless~~ Emergency communications telephone
 9 number "E911."--

10 (1) SHORT TITLE.--This section may be cited as the
 11 "~~Wireless~~ Emergency Communications Number E911 Act."

12 (2) ~~FINDINGS, PURPOSE, AND~~ LEGISLATIVE INTENT.--~~The~~
 13 ~~Legislature finds and declares that:~~

14 (a) ~~The mobile nature of wireless communications~~
 15 ~~service creates complexities for providing 911 emergency~~
 16 ~~services.~~

17 (b) ~~Wireless telephone service providers are required~~
 18 ~~by the Federal Communications Commission to provide wireless~~
 19 ~~enhanced 911 (E911) service in the form of automatic location~~
 20 ~~identification and automatic number identification pursuant to~~
 21 ~~the terms and conditions set forth in an order issued by the~~
 22 ~~Federal Communications Commission.~~

23 (c) ~~Wireless telephone service providers and counties~~
 24 ~~that operate 911 and E911 systems require adequate funding to~~
 25 ~~recover the costs of designing, purchasing, installing,~~
 26 ~~testing, and operating enhanced facilities, systems, and~~
 27 ~~services necessary to comply with the requirements for E911~~
 28 ~~services mandated by the Federal Communications Commission and~~
 29 ~~to maximize the availability of E911 services throughout this~~
 30 ~~state.~~

31 (d) ~~The revenues generated by the E911 fee imposed~~

Bill No. SB 1198

Barcode 104000

1 ~~under this section are required to fund the efforts of the~~
 2 ~~counties, the Wireless 911 Board under the State Technology~~
 3 ~~Office, and commercial mobile radio service providers to~~
 4 ~~improve the public health, safety, and welfare and serve a~~
 5 ~~public purpose by providing emergency telephone assistance~~
 6 ~~through wireless communications.~~

7 ~~(e) It is necessary and beneficial to levy a fee on~~
 8 ~~wireless services and to create the Wireless 911 Board to~~
 9 ~~administer fee proceeds as provided in this section.~~

10 ~~(f) It is the intent of the Legislature to:~~

11 ~~(a)1. Establish and implement a comprehensive~~
 12 ~~statewide emergency telecommunications ~~telephone~~ number system~~
 13 ~~that will provide users of voice communications services~~
 14 ~~within the state ~~wireless telephone users~~ with rapid direct~~
 15 ~~access to public safety agencies by accessing ~~dialing~~ the~~
 16 ~~telephone number "911."~~

17 ~~(b)2. Provide funds to counties ~~local governments~~ to~~
 18 ~~pay certain costs associated with their E911 or ~~the cost of~~~~
 19 ~~installing and operating wireless 911 systems, ~~to contract for~~~~
 20 ~~E911 services, and to reimburse wireless telephone service~~
 21 ~~providers for costs incurred to provide 911 or E911 ~~enhanced~~~~
 22 ~~911 services.~~

23 ~~(c)3. Levy a reasonable fee on users of voice~~
 24 ~~communications services, unless otherwise provided in this~~
 25 ~~section, ~~subscribers of wireless telephone service~~ to~~
 26 ~~accomplish these purposes.~~

27 ~~(d) Provide for an E911 board to administer the fee,~~
 28 ~~with oversight by the office, in a manner that is~~
 29 ~~competitively and technologically neutral as to all voice~~
 30 ~~communications services providers.~~

31 ~~(e) Ensure that the fee established is used~~

Bill No. SB 1198

Barcode 104000

1 exclusively for recovery by wireless providers and by counties
 2 of the costs associated with developing and maintaining E911
 3 systems and networks in a manner that is competitively and
 4 technologically neutral as to all voice communications
 5 services providers.

6
 7 It is further the intent of the Legislature that the fee
 8 authorized or imposed by this section not necessarily provide
 9 the total funding required for establishing or providing E911
 10 service.

11 (3) DEFINITIONS.--Only as used in this section and ss.
 12 365.171, 365.173, and 365.174, the term:

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

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

20 (b) "Authorized expenditures" means expenditures of
 21 the fee, as specified in subsection (9).

22 (c) "Automatic location identification" means the
 23 capability of the E911 service which enables the automatic
 24 display of information that defines the approximate geographic
 25 location of the wireless telephone, or the location of the
 26 address of the wireline telephone, used to place a 911 call.

27 (d) "Automatic number identification" means the
 28 capability of the E911 service which enables the automatic
 29 display of the ~~10-digit~~ service number used to place a 911
 30 call.

31 (e) "Board" or E911 Board means the board of directors

Bill No. SB 1198

Barcode 104000

1 of the E911 ~~wireless 911~~ Board established in subsection (5).

2 (f) "Building permit review" means a review for
3 compliance with building construction standards adopted by the
4 local government under chapter 553 and does not include a
5 review for compliance with land development regulations.

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

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

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

28 (j) "Existing structure" means a structure that exists
29 at the time an application for permission to place antennae on
30 a structure is filed with a local government. The term
31 includes any structure that can structurally support the

Bill No. SB 1198

Barcode 104000

1 attachment of antennae in compliance with applicable codes.

2 (k) "Fee" means the E911 fee authorized and imposed
3 under subsection (8).

4 (l) "Fund" means the ~~Wireless~~ Emergency Communications
5 Number E911 Telephone System Fund established in s. 365.173
6 and maintained under this section for the purpose of
7 recovering the costs associated with providing 911 service or
8 E911 service, including the costs of implementing the order.
9 The fund shall be segregated into wireless and nonwireless
10 categories.

11 (m) "Historic building, structure, site, object, or
12 district" means any building, structure, site, object, or
13 district that has been officially designated as a historic
14 building, historic structure, historic site, historic object,
15 or historic district through a federal, state, or local
16 designation program.

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

25 (o) "Local exchange carrier" means a "competitive
26 local exchange telecommunications company" or a "local
27 exchange telecommunications company" as defined in s. 364.02.

28 (p) "Local government" means any municipality, county,
29 or political subdivision or agency of a municipality, county,
30 or political subdivision.

31 ~~(q) "Medium county" means any county that has a~~

Bill No. SB 1198

Barcode 104000

1 ~~population of 75,000 or more but less than 750,000.~~

2 ~~(g)(r)~~ "Mobile telephone number" or "MTN" means the
3 telephone number assigned to a wireless telephone at the time
4 of initial activation.

5 (r) "Nonwireless category" means the revenues to the
6 fund received from voice communications services providers
7 other than wireless providers.

8 (s) "Office" means the Florida Enterprise Information
9 Technology Services Office or other office within the
10 Department of Management Services, as designated by the
11 secretary of the department ~~State Technology Office.~~

12 (t) "Order" means:

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

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

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

22 c. Order No. FCC DA 98-2323 adopted on November 13,
23 1998.

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

25 2. Orders and rules subsequently adopted by the
26 Federal Communications Commission relating to the provision of
27 ~~wireless~~ 911 services, including Order Number FCC-05-116,
28 adopted May 19, 2005.

29 (u) "Prepaid calling arrangements" has the same
30 meaning as defined in s. 212.05(1)(e) ~~wireless telephone~~
31 ~~service" means wireless telephone service that is activated in~~

Bill No. SB 1198

Barcode 104000

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

8 ~~(v) "Provider" or "wireless provider" means a person~~
 9 ~~or entity who provides service and either:~~

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

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

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

22 ~~(x)(y)~~ "Rural county" means any county that has a
 23 population of fewer than 75,000.

24 ~~(y)~~ "Service identifier" means the service number,
 25 access line, or other unique subscriber identifier assigned to
 26 a subscriber and established by the Federal Communications
 27 Commission for purposes of routing calls whereby the
 28 subscriber has access to the E911 system.

29 ~~(z) "Service" means "commercial mobile radio service"~~
 30 ~~as provided under ss. 3(27) and 332(d) of the Federal~~
 31 ~~Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,~~

Bill No. SB 1198

Barcode 104000

1 ~~and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.~~
 2 ~~103-66, August 10, 1993, 107 Stat. 312. The term "service"~~
 3 ~~includes the term "wireless" and service provided by any~~
 4 ~~wireless real-time two-way wire communication device,~~
 5 ~~including radio-telephone communications used in cellular~~
 6 ~~telephone service; personal communications service; or the~~
 7 ~~functional or competitive equivalent of a radio-telephone~~
 8 ~~communications line used in cellular telephone service, a~~
 9 ~~personal communications service, or a network radio access~~
 10 ~~line. The term does not include wireless providers that offer~~
 11 ~~mainly dispatch service in a more localized, noncellular~~
 12 ~~configuration; providers offering only data, one-way, or~~
 13 ~~stored-voice services on an interconnected basis; providers of~~
 14 ~~air-to-ground services; or public coast stations.~~

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

17 ~~(bb) "Sufficient positive balance" means a dollar~~
 18 ~~amount greater than or equal to the monthly wireless surcharge~~
 19 ~~amount.~~

20 ~~(z)(cc) "Tower" means any structure designed primarily~~
 21 ~~to support a wireless provider's antennae.~~

22 ~~(aa) "Voice communications services" means two-way~~
 23 ~~voice service, through the use of any technology, which~~
 24 ~~actually provides access to E911 services. The term includes~~
 25 ~~voice-over-Internet-protocol service. For the purposes of this~~
 26 ~~section, the term "voice-over-Internet-protocol service" or~~
 27 ~~"VoIP service" means interconnected VoIP services having the~~
 28 ~~following characteristics:~~

29 ~~1. The service enables real-time, two-way voice~~
 30 ~~communications;~~

31 ~~2. The service requires a broadband connection from~~

Bill No. SB 1198

Barcode 104000

1 the user's locations;

2 3. The service requires IP-compatible customer
3 premises equipment; and

4 4. The service offering allows users generally to
5 receive calls that originate on the public switched telephone
6 network and to terminate calls on the public switched
7 telephone network.

8 (bb) "Voice communications services provider" or
9 "provider" means any person or entity providing voice
10 communications services, except that the term does not include
11 any person or entity that resells voice communications service
12 and was assessed the fee by its resale supplier.

13 (cc) "Wireless 911 system" or "wireless 911 service"
14 means an emergency telephone system or service that provides a
15 subscriber with the ability to reach an answering point by
16 dialing the digits "911."

17 (dd) "Wireless category" means the revenues to the
18 fund received from a wireless provider.

19 (ee)~~(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 (ff) "Wireless provider" means a person who provides
27 wireless service and:

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

31 (gg) "Wireless service" means "commercial mobile radio

Bill No. SB 1198

Barcode 104000

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

16 ~~(cc) "Wireless 911 system" or "wireless 911 service"~~
 17 ~~means an emergency telephone system or service that provides a~~
 18 ~~subscriber with the ability to reach an answering point by~~
 19 ~~dialing the digits "911." A wireless 911 system is~~
 20 ~~complementary to a wired 911 system as provided for in s.~~
 21 ~~365.171.~~

22 (4) POWERS AND DUTIES OF THE OFFICE.--The office shall
 23 oversee the administration of the fee authorized and imposed
 24 on subscribers of voice communications services ~~statewide E911~~
 25 ~~service~~ under subsection (8).

26 (5) THE E911 ~~WIRELESS 911~~ BOARD.--

27 (a) The E911 ~~Wireless 911~~ Board is established to
 28 administer, with oversight by the office, the fee imposed
 29 under subsection (8), including receiving revenues derived
 30 from the fee; distributing portions of the ~~such~~ revenues to
 31 wireless providers, counties, and the office; accounting for

Bill No. SB 1198

Barcode 104000

1 receipts, distributions, and income derived by the funds
2 maintained in the fund; and providing annual reports to the
3 Governor and the Legislature for submission by the office on
4 amounts collected and expended, the purposes for which
5 expenditures have been made, and the status of ~~wireless~~ E911
6 service in this state. In order to advise and assist the
7 office in carrying out the purposes of this section, the
8 board, which shall have the power of a body corporate, has
9 ~~shall have~~ the powers enumerated in subsection (6).

10 (b) The board shall consist of nine ~~seven~~ members, one
11 of whom must be the system director designated under s.
12 365.171(5), or his or her designee, who shall serve as the
13 chair of the board. The remaining eight ~~six~~ members of the
14 board shall be appointed by the Governor and must be composed
15 of four ~~three~~ county 911 coordinators, consisting of a
16 representative from a rural county, a representative from a
17 medium county, a representative from a large county, and an
18 at-large representative recommended by the Florida Association
19 of Counties in consultation with the county 911 coordinators;
20 two local exchange carrier members, one of which must be the
21 local exchange carrier having the greatest number of access
22 lines in the state; and two ~~three~~ members from the wireless
23 telecommunications industry recommended by the Florida
24 Telecommunications Industry Association in consultation with
25 the wireless telecommunications industry. In recommending
26 members from the wireless telecommunications industry,
27 consideration must be given to wireless providers who are not
28 affiliated with local exchange carriers. Not more than one
29 member may be appointed to represent any single provider on
30 the board.

31 (c) The system director, designated under s.

Bill No. SB 1198

Barcode 104000

1 365.171(5), or his or her designee, must be a permanent member
 2 of the board. Each of the remaining eight ~~six~~ members of the
 3 board shall be appointed to a 4-year term and may not be
 4 appointed to more than two successive terms. However, for the
 5 purpose of staggering terms, two of the original board members
 6 shall be appointed to terms of 4 years, two shall be appointed
 7 to terms of 3 years, and four ~~two~~ shall be appointed to terms
 8 of 2 years, as designated by the Governor. A vacancy on the
 9 board shall be filled in the same manner as the original
 10 appointment.

11 (d) The first vacancy in a wireless provider
 12 representative position occurring after July 1, 2007, must be
 13 filled by appointment of a local exchange company
 14 representative. Until the appointment is made, there shall be
 15 only one local exchange company representative serving on the
 16 board, notwithstanding any other provision to the contrary.

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

18 (a) The board shall:

- 19 1. Administer the E911 fee.
- 20 2. Implement, maintain, and oversee the fund.
- 21 3. Review and oversee the disbursement of the revenues
- 22 deposited into the fund as provided in s. 365.173.

23 a. The board may establish a schedule for implementing
 24 wireless E911 service by service area, and prioritize
 25 disbursements of revenues from the fund to providers and rural
 26 counties as provided in s. 365.173(2)(c) ~~s. 365.173(2)(b)~~ and
 27 ~~(f)(c)~~ pursuant to the schedule, in order to implement
 28 E911 services in the most efficient and cost-effective manner.

29 b. Revenues in the wireless category ~~collected and~~
 30 ~~deposited into the fund for distribution as provided in s.~~
 31 ~~365.173(2)(b), but~~ which have not been disbursed because sworn

Bill No. SB 1198

Barcode 104000

1 invoices as required by s. 365.173(2)(c) ~~s. 365.173(2)(b)~~ have
2 not been submitted to the board, may be used ~~utilized~~ by the
3 board as needed to provide grants to ~~rural counties and loans~~
4 ~~to medium counties that are not eligible to receive grants~~
5 under s. 365.173(2)(f) for the purpose of upgrading E911
6 systems. The counties must use the funds only for capital
7 expenditures directly attributable to establishing and
8 provisioning E911 services, which may include next-generation
9 deployment. ~~Grants provided to rural counties would be in~~
10 ~~addition to disbursements provided under s. 365.173(2)(c).~~
11 ~~Loans provided to medium counties shall be based on county~~
12 ~~hardship criteria as determined and approved by the board.~~
13 ~~Revenues utilized for this purpose shall be fully repaid to~~
14 ~~the fund in a manner and under a timeframe as determined and~~
15 ~~approved by the board.~~ The board shall take all actions within
16 its authority to ensure that county recipients of such grants
17 use ~~and loans utilize~~ these funds only for the purpose under
18 which they have been provided and may take any actions within
19 its authority to secure county repayment of grant ~~and loan~~
20 revenues upon determination that the funds were not used
21 ~~utilized~~ for the purpose under which they were provided.

22 c. The board shall reimburse all costs of a wireless
23 provider before taking any action to transfer additional
24 funds.

25 d. After taking the action required in this
26 subparagraph, the board may review and, with all members
27 participating in the vote, adjust the percentage allocations
28 or adjust the amount of the fee, or both, under paragraph
29 (8)(h), and, if the board determines that the revenues in the
30 wireless category exceed the amount needed to reimburse
31 wireless providers for the cost to implement E911 services,

Bill No. SB 1198

Barcode 104000

1 the board may transfer revenue to the counties from the
 2 existing funds within the wireless category. The board shall
 3 disburse the funds equitably to all counties using a timeframe
 4 and distribution methodology established by the board.

5 e. By September 1, 2007, the board shall authorize the
 6 transfer of up to \$15 million to the county category of the
 7 fund from existing money within the wireless category of the
 8 fund established under s. 365.173(1). The money shall be
 9 disbursed equitably to all of the counties using a timeframe
 10 and distribution methodology established by the board before
 11 September 1, 2007. All funds used from the carryforward must
 12 be returned to the fund from the actual remittance by each
 13 nonwireless category.

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

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

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

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

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

31 5. Meet monthly in the most efficient and

Bill No. SB 1198

Barcode 104000

1 cost-effective manner, including telephonically when
 2 practical, for the business to be conducted, to review and
 3 approve or reject, in whole or in part, applications submitted
 4 by wireless providers for recovery of moneys deposited into
 5 the wireless category, and to authorize the transfer of, and
 6 distribute, the fee allocation to the counties fund.

7 6. Hire and retain employees, which may include an
 8 independent executive director who shall possess experience in
 9 the area of telecommunications and emergency 911 issues, for
 10 the purposes of performing the technical and administrative
 11 functions for the board.

12 7. Make and enter into contracts, pursuant to chapter
 13 287, and execute other instruments necessary or convenient for
 14 the exercise of the powers and functions of the board.

15 ~~8. Take all necessary and reasonable steps by July 1,~~
 16 ~~2000, to secure appropriate information and reports from~~
 17 ~~providers and otherwise perform all of the functions that~~
 18 ~~would be performed by an independent accounting firm prior to~~
 19 ~~completing the request for proposals process under subsection~~
 20 ~~(7).~~

21 ~~8.9.~~ Sue and be sued, and appear and defend in all
 22 actions and proceedings, in its corporate name to the same
 23 extent as a natural person.

24 ~~9.10.~~ Adopt, use, and alter a common corporate seal.

25 ~~10.11.~~ Elect or appoint the officers and agents that
 26 are required by the affairs of the board.

27 ~~11.12.~~ The board may adopt rules under ss. 120.536(1)
 28 and 120.54 to implement this section and ss. 365.173 and
 29 365.174.

30 ~~12.13.~~ Provide coordination, support, and technical
 31 assistance to counties to promote the deployment of advanced

Bill No. SB 1198

Barcode 104000

1 911 and E911 systems in the state.

2 ~~13.14.~~ Provide coordination and support for
3 educational opportunities related to E911 ~~911~~ issues for the
4 E911 ~~911~~ community in this state.

5 ~~14.15.~~ Act as an advocate for issues related to E911
6 ~~911~~ system functions, features, and operations to improve the
7 delivery of E911 ~~911~~ services to the residents of and visitors
8 to this state.

9 ~~15.16.~~ Coordinate input from this state at national
10 forums and associations, to ensure that policies related to
11 E911 ~~911~~ systems and services are consistent with the policies
12 of the E911 ~~911~~ community in this state.

13 ~~16.17.~~ Work cooperatively with the system director
14 established in s. 365.171(5) to enhance the state of E911 ~~911~~
15 services in this state and to provide unified leadership for
16 all E911 ~~911~~ issues through planning and coordination.

17 ~~17.18.~~ Do all acts and things necessary or convenient
18 to carry out the powers granted in this section in a manner
19 that is competitively and technologically neutral as to all
20 voice communications services providers, including, but not
21 limited to, consideration of emerging technology and related
22 cost savings, while taking into account embedded costs in
23 current systems.

24 ~~18.19.~~ Have the authority to secure the services of an
25 independent, private attorney via invitation to bid, request
26 for proposals, invitation to negotiate, or professional
27 contracts for legal services already established at the
28 Division of Purchasing of the Department of Management
29 Services.

30 (b) Board members shall serve without compensation;
31 however, members are entitled to per diem and travel expenses

Bill No. SB 1198

Barcode 104000

1 as provided in s. 112.061.

2 (c) By February 28 of each year, the board shall
 3 prepare a report for submission by the office to the Governor,
 4 the President of the Senate, and the Speaker of the House of
 5 Representatives which addresses for the immediately preceding
 6 calendar year: ~~reflects, for the immediately preceding~~
 7 ~~calendar year, the quarterly and annual receipts and~~
 8 ~~disbursements of moneys in the fund, the purposes for which~~
 9 ~~disbursements of moneys from the fund have been made, and the~~
 10 ~~availability and status of implementation of E911 service in~~
 11 ~~this state.~~

12 (d) ~~By February 28, 2001, the board shall undertake~~
 13 ~~and complete a study for submission by the office to the~~
 14 ~~Governor, the President of the Senate, and the Speaker of the~~
 15 ~~House of Representatives which addresses:~~

16 1. The annual receipts, including the total amount of
 17 ~~E911~~ fee revenues collected by each provider, the total
 18 disbursements of money in the fund, including the amount of
 19 fund-reimbursed expenses incurred by each wireless provider to
 20 comply with the order, and the amount of moneys on deposit in
 21 the fund, ~~all as of December 1, 2000.~~

22 2. Whether the amount of the ~~E911~~ fee and the
 23 allocation percentages set forth in s. 365.173 have been or
 24 should be adjusted to comply with the requirements of the
 25 order or other provisions of this chapter, and the reasons for
 26 making or not making, if so, a recommended adjustment to the
 27 ~~E911~~ fee.

28 3. Any other issues related to providing ~~wireless~~ E911
 29 services.

30 4. The status of E911 services in this state.

31 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING

Bill No. SB 1198

Barcode 104000

1 FIRM.--

2 (a) The board shall issue a request for proposals as
3 provided in chapter 287 for the purpose of retaining an
4 independent accounting firm. The independent accounting firm
5 shall perform all material administrative and accounting tasks
6 and functions required for administering the ~~E911~~ fee. The
7 request for proposals must include, but need not be limited
8 to:

9 1. A description of the scope and general requirements
10 of the services requested.

11 2. A description of the specific accounting and
12 reporting services required for administering the fund,
13 including processing checks and distributing funds as directed
14 by the board under s. 365.173.

15 3. A description of information to be provided by the
16 proposer, including the proposer's background and
17 qualifications and the proposed cost of the services to be
18 provided.

19 (b) The board shall establish a committee to review
20 requests for proposals which must include the statewide E911
21 ~~911~~ system director designated under s. 365.171(5), or his or
22 her designee, and two members of the board, one of whom is a
23 county 911 coordinator and one of whom represents a voice
24 communications services provider ~~the wireless~~
25 ~~telecommunications industry~~. The review committee shall review
26 the proposals received by the board and recommend an
27 independent accounting firm to the board for final selection.
28 By agreeing to serve on the review committee, each member of
29 the review committee shall verify that he or she does not have
30 any interest or employment, directly or indirectly, with
31 potential proposers which conflicts in any manner or degree

Bill No. SB 1198

Barcode 104000

1 with his or her performance on the committee.

2 (c) After July 1, 2004, the board may secure the
3 services of an independent accounting firm via invitation to
4 bid, request for proposals, invitation to negotiate, or
5 professional contracts already established at the Division of
6 Purchasing, Department of Management Services, for certified
7 public accounting firms, or the board may hire and retain
8 professional accounting staff to accomplish these functions.

9 (8) ~~WIRELESS~~ E911 FEE.--

10 (a) Each voice communications services ~~home service~~
11 provider shall collect the ~~a~~ monthly fee described in this
12 subsection imposed on each customer whose place of primary use
13 is within this state. Each provider, as part of its monthly
14 billing process, shall bill the fee as follows. The fee shall
15 not be assessed on any pay telephone in the state.

16 1. Each local exchange carrier shall bill the fee to
17 the local exchange subscribers on a service-identifier basis,
18 up to a maximum of 25 access lines per account bill rendered.

19 2. Except in the case of prepaid wireless service,
20 each wireless provider shall bill the fee to a subscriber on a
21 per-service-identifier basis for service identifiers whose
22 primary place of use is within this state. Before July 1,
23 2009, the fee shall not be assessed on or collected from a
24 provider with respect to an end user's service if that end
25 user's service is a prepaid calling arrangement that is
26 subject to s. 212.05(1)(e).

27 a. The board shall conduct a study to determine
28 whether it is feasible to collect E911 fees from the sale of
29 prepaid wireless service. If, based on the findings of the
30 study, the board determines that a fee should not be collected
31 from the sale of prepaid wireless service, it shall report its

Bill No. SB 1198

Barcode 104000

1 findings and recommendation to the Governor, the President of
 2 the Senate, and the Speaker of the House of Representatives by
 3 December 31, 2008. If the board determines that a fee should
 4 be collected from the sale of prepaid wireless service, the
 5 board shall collect the fee beginning July 1, 2009.

6 b. For purposes of this section, the term:

7 (I) "Prepaid wireless service" means the right to
 8 access telecommunications services that must be paid for in
 9 advance and is sold in predetermined units or dollars enabling
 10 the originator to make calls such that the number of units or
 11 dollars declines with use in a known amount.

12 (II) "Prepaid wireless service providers" includes
 13 those persons who sell prepaid wireless service regardless of
 14 its form, either as a retailer or reseller.

15 c. The study must include an evaluation of methods by
 16 which E911 fees may be collected from end users and purchasers
 17 of prepaid wireless service on an equitable, efficient,
 18 competitively neutral, and nondiscriminatory basis and must
 19 consider whether the collection of fees on prepaid wireless
 20 service would constitute an efficient use of public funds
 21 given the technological and practical considerations of
 22 collecting the fee based on the varying methodologies prepaid
 23 wireless service providers and their agents use in marketing
 24 prepaid wireless service.

25 d. The study must include a review and evaluation of
 26 the collection of E911 fees on prepaid wireless service at the
 27 point of sale within the state. This evaluation must be
 28 consistent with the collection principles of end user charges
 29 such as those in s. 212.05(1)(e).

30 e. No later than 90 days after this section becomes
 31 law, the board shall require all prepaid wireless service

Bill No. SB 1198

Barcode 104000

1 providers, including resellers, to provide the board with
 2 information that the board determines is necessary to
 3 discharge its duties under this section, including information
 4 necessary for its recommendation, such as total retail and
 5 reseller prepaid wireless service sales.

6 f. All subscriber information provided by a prepaid
 7 wireless service provider in response to a request from the
 8 board while conducting this study is subject to s. 365.174.

9 g. The study shall be conducted by an entity competent
 10 and knowledgeable in matters of state taxation policy if the
 11 board does not possess that expertise. The study must be paid
 12 from the moneys distributed to the board for administrative
 13 purposes under s. 365.173(2)(e) but may not exceed \$250,000.

14 3. All voice communications services providers not
 15 addressed under subparagraphs 1. and 2. shall bill the fee on
 16 a per-service-identifier basis for service identifiers whose
 17 primary place of use is within the state up to a maximum of 25
 18 service identifiers for each account bill rendered.

19
 20 The provider may list the fee as a separate entry on each
 21 bill, in which case the fee must be identified as a fee for
 22 E911 services. A provider shall remit the fee to the board
 23 only if the fee is paid by the subscriber. If a provider
 24 receives a partial payment for a monthly bill from a
 25 subscriber, the amount received shall first be applied to the
 26 payment due the provider for providing voice communications
 27 service.

28 (b) A provider is not obligated to take any legal
 29 action to enforce collection of the fees for which any
 30 subscriber is billed. A county subscribing to 911 service
 31 remains liable to the provider delivering the 911 service or

Bill No. SB 1198

Barcode 104000

1 equipment for any 911 service, equipment, operation, or
2 maintenance charge owed by the county to the provider.

3 (c) For purposes of this section, the state and local
4 governments are not subscribers customers.

5 (d) Each provider may retain 1 percent of the amount
6 of the fees collected as reimbursement for the administrative
7 costs incurred by the provider to bill, collect, and remit the
8 fee. The remainder shall be delivered to the board and
9 deposited by the board into the fund. The board shall
10 distribute the remainder pursuant to s. 365.173.

11 (e) Effective September 1, 2007, voice communications
12 services providers billing the fee to subscribers shall
13 deliver revenues from the fee to the board within 60 days
14 after the end of the month in which the fee was billed,
15 together with a monthly report of the number of service
16 identifiers in each county. Each wireless provider and other
17 applicable provider identified in subparagraph (a)3. shall
18 report the number of service identifiers for subscribers whose
19 place of primary use is in each county. All provider
20 subscriber information provided to the board is subject to s.
21 365.174. If a provider chooses to remit any fee amounts to the
22 board before they are paid by the subscribers, a provider may
23 apply to the board for a refund of, or may take a credit for,
24 any such fees remitted to the board which are not collected by
25 the provider within 6 months following the month in which the
26 fees are charged off for federal income tax purposes as bad
27 debt.

28 (f) The rate of the fee shall be set by the board
29 after considering the factors set forth in paragraphs (h) and
30 (i), but may not exceed ~~shall be~~ 50 cents per month per each
31 service identifier number, beginning August 1, 1999. The fee

Bill No. SB 1198

Barcode 104000

1 shall apply uniformly and be imposed throughout the state,
 2 except for those counties that, before July 1, 2007, had
 3 adopted an ordinance or resolution establishing a fee less
 4 than 50 cents per month per access line. In those counties,
 5 the ordinance-established fee shall apply until changed by the
 6 board but not before August 31, 2008. On or after September 1,
 7 2008, the board may adjust the level of the fee for all such
 8 counties to the uniform statewide fee level.

9 (g) It is the intent of the Legislature that all
 10 revenue from the fee be used as specified in s.
 11 365.173(2)(a)-(h).

12 (h) No later than November 1, 2007, the board may
 13 adjust the allocation percentages for distribution of the fund
 14 as provided in s. 365.173. When setting the percentages and
 15 contemplating any adjustments to the fee, the board shall
 16 consider the following:

17 1. The revenues currently allocated for wireless
 18 service provider costs for implementing E911 service and
 19 projected costs for implementing E911 service, including
 20 recurring costs for Phase I and Phase II and the effect of new
 21 technologies;

22 2. The appropriate level of funding needed to fund the
 23 rural grant program provided for in s. 365.173(2)(g); and

24 3. The need to fund statewide, regional, and county
 25 programs or initiatives to assist counties that are not
 26 eligible to receive funds under s. 365.173(2)(g) with systems
 27 that would reduce their overall costs.

28 ~~(b) The fee is established to ensure full recovery for~~
 29 ~~providers and for counties, over a reasonable period, of the~~
 30 ~~costs associated with developing and maintaining an E911~~
 31 ~~system on a technologically and competitively neutral basis.~~

Bill No. SB 1198

Barcode 104000

1 ~~(i)(c)~~ ~~After July 1, 2001,~~ The board may adjust the
2 allocation percentages or adjust ~~provided in s. 365.173 or~~
3 ~~reduce~~ the amount of the fee, or both, if necessary to ensure
4 full cost recovery or prevent overrecovery of costs incurred
5 in the provision of E911 service, including costs incurred or
6 projected to be incurred to comply with the order. Any new
7 allocation percentages or reduced or increased fee may not be
8 adjusted for 1 year. The fee may not exceed 50 cents per month
9 per each service identifier number. The board-established fee,
10 and any board-adjustment of the fee, shall be uniform
11 throughout the state, except for the counties identified in
12 paragraph (f). No less than 90 days before the effective date
13 of any adjustment to the fee, the board shall provide written
14 notice of the adjusted fee amount and effective date to each
15 voice communications services provider from which the board is
16 then receiving the fee.

17 ~~(j)(d)~~ State and local taxes do not apply to the fee.

18 ~~(k)(e)~~ A local government may not levy the fee or any
19 additional fee on ~~wireless~~ providers or subscribers for the
20 provision of E911 service.

21 (l) For purposes of this section, the definitions
22 contained in s. 202.11 and the provisions of s. 202.155 apply
23 in the same manner and to the same extent as the definitions
24 and provisions apply to the taxes levied under chapter 202 on
25 mobile communications services.

26 (9) AUTHORIZED EXPENDITURES OF E911 FEE.--

27 (a) For purposes of this section, E911 service
28 includes the functions of database management, call taking,
29 location verification, and call transfer.

30 (b) All costs directly attributable to the
31 establishment or provision of E911 service and contracting for

Bill No. SB 1198

Barcode 104000

1 E911 services are eligible for expenditure of moneys derived
2 from imposition of the fee authorized by this section. These
3 costs include the acquisition, implementation, and maintenance
4 of Public Safety Answering Point (PSAP) equipment and E911
5 service features, as defined in the Public Service
6 Commission's lawfully approved 911 and E911 and related
7 tariffs or the acquisition, installation, and maintenance of
8 other E911 equipment, including call answering equipment, call
9 transfer equipment, ANI controllers, ALI controllers, ANI
10 displays, ALI displays, station instruments, E911
11 telecommunications systems, visual call information and
12 storage devices, recording equipment, telephone devices and
13 other equipment for the hearing impaired used in the E911
14 system, PSAP backup power systems, consoles, automatic call
15 distributors, and interfaces, including hardware and software,
16 for computer-aided dispatch (CAD) systems, integrated CAD
17 systems for that portion of the systems used for E911 call
18 taking, network clocks, salary and associated expenses for
19 E911 call takers for that portion of their time spent taking
20 and transferring E911 calls, salary and associated expenses
21 for a county to employ a full-time equivalent E911 coordinator
22 position and a full-time equivalent mapping or geographical
23 data position and a staff assistant position per county for
24 the portion of their time spent administrating the E911
25 system, training costs for PSAP call takers, supervisors, and
26 managers in the proper methods and techniques used in taking
27 and transferring E911 calls, costs to train and educate PSAP
28 employees regarding E911 service or E911 equipment, and
29 expenses required to develop and maintain all information,
30 including ALI and ANI databases and other information source
31 repositories, necessary to properly inform calltakers as to

Bill No. SB 1198

Barcode 104000

1 location address, type of emergency, and other information
 2 directly relevant to the E911 call-taking and transferring
 3 function. Moneys derived from the fee may also be used for
 4 next-generation E911 network services, next-generation E911
 5 database services, next-generation E911 equipment, and
 6 wireless E911 routing systems.

7 (c) The moneys may not be used to pay for any item not
 8 listed in this subsection, including, but not limited to, any
 9 capital or operational costs for emergency responses which
 10 occur after the call transfer to the responding public safety
 11 entity and the costs for constructing, leasing, maintaining,
 12 or renovating buildings, except for those building
 13 modifications necessary to maintain the security and
 14 environmental integrity of the PSAP and E911 equipment rooms.

15 (10) LIABILITY OF COUNTIES.--A county subscribing to
 16 911 service remains liable to the local exchange carrier for
 17 any 911 service, equipment, operation, or maintenance charge
 18 owed by the county to the local exchange carrier. As used in
 19 this subsection, the term "local exchange carrier" means a
 20 local exchange telecommunications service provider of 911
 21 service or equipment to any county within its certificated
 22 area.

23 (11) INDEMNIFICATION AND LIMITATION OF
 24 LIABILITY.--Local governments are authorized to undertake to
 25 indemnify local exchange carriers against liability in
 26 accordance with the lawfully filed tariffs of the company.
 27 Notwithstanding an indemnification agreement, a voice
 28 communications services provider is not liable for damages
 29 resulting from or in connection with 911 or E911 service, of
 30 for identification of the telephone number, or address, or
 31 name associated with any person accessing 911 or E911 service,

Bill No. SB 1198

Barcode 104000

1 unless the voice communications services provider acted with
2 malicious purpose or in a manner exhibiting wanton and willful
3 disregard of the rights, safety, or property of a person when
4 providing such services. A voice communications services
5 provider is not liable for damages to any person resulting
6 from or in connection with the provider's provision of any
7 lawful assistance to any investigative or law enforcement
8 officer of the United States, this state, or a political
9 subdivision thereof, or of any other state or political
10 subdivision thereof, in connection with any lawful
11 investigation or other law enforcement activity by such law
12 enforcement officer.

13 ~~(9) MANAGEMENT OF FUNDS.--~~

14 ~~(a) Each provider, as a part of its monthly billing~~
15 ~~process, shall collect the fee imposed under subsection (8).~~
16 ~~The provider may list the fee as a separate entry on each~~
17 ~~bill, in which case the fee must be identified as a fee for~~
18 ~~911 services. A provider shall remit the fee only if the fee~~
19 ~~is paid by the subscriber. If a provider receives a partial~~
20 ~~payment for a monthly bill from a subscriber, the amount~~
21 ~~received shall first be applied to the payment due the~~
22 ~~provider for the provision of telecommunications service.~~

23 ~~(b) In the case of prepaid wireless telephone service,~~
24 ~~the monthly wireless 911 surcharge imposed by subsection (8)~~
25 ~~shall be remitted based upon each prepaid wireless telephone~~
26 ~~associated with this state, for each wireless service customer~~
27 ~~that has a sufficient positive balance as of the last day of~~
28 ~~each month. The surcharge shall be remitted in any manner~~
29 ~~consistent with the wireless provider's existing operating or~~
30 ~~technological abilities, such as customer address, location~~
31 ~~associated with the MTN, or reasonable allocation method based~~

Bill No. SB 1198

Barcode 104000

1 ~~upon other comparable relevant data. The surcharge amount or~~
 2 ~~an equivalent number of minutes may be reduced from the~~
 3 ~~prepaid subscriber's account since a direct billing may not be~~
 4 ~~possible. However, collection of the wireless 911 surcharge in~~
 5 ~~the manner of a reduction of value or minutes from the prepaid~~
 6 ~~subscriber's account does not constitute a reduction in the~~
 7 ~~sales price for purposes of taxes that are collected at the~~
 8 ~~point of sale.~~

9 ~~(c) A provider is not obligated to take any legal~~
 10 ~~action to enforce collection of the fees for which any~~
 11 ~~subscriber is billed. The provider shall provide to the board~~
 12 ~~each quarter a list of the names, addresses, and service~~
 13 ~~numbers of all subscribers who have indicated to the provider~~
 14 ~~their refusal to pay the fee.~~

15 ~~(d) Each provider may retain 1 percent of the amount~~
 16 ~~of the fees collected as reimbursement for the administrative~~
 17 ~~costs incurred by the provider to bill, collect, and remit the~~
 18 ~~fee. The remainder shall be delivered to the board and~~
 19 ~~deposited in the fund. The board shall distribute the~~
 20 ~~remainder pursuant to s. 365.173.~~

21 ~~(e) Each provider shall deliver revenues from the fee~~
 22 ~~to the board within 60 days after the end of the month in~~
 23 ~~which the fee was billed, together with a monthly report of~~
 24 ~~the number of wireless customers whose place of primary use is~~
 25 ~~in each county. A provider may apply to the board for a refund~~
 26 ~~of, or may take a credit for, any fees remitted to the board~~
 27 ~~which are not collected by the provider within 6 months~~
 28 ~~following the month in which the fees are charged off for~~
 29 ~~federal income tax purposes as bad debt. The board may waive~~
 30 ~~the requirement that the fees and number of customers whose~~
 31 ~~place of primary use is in each county be submitted to the~~

Bill No. SB 1198

Barcode 104000

1 ~~board each month and authorize a provider to submit the fees~~
2 ~~and number of customers quarterly if the provider demonstrates~~
3 ~~that such waiver is necessary and justified.~~

4 ~~(f) For purposes of this section, the definitions~~
5 ~~contained in s. 202.11 and the provisions of s. 202.155 apply~~
6 ~~in the same manner and to the same extent as such definitions~~
7 ~~and provisions apply to the taxes levied pursuant to chapter~~
8 ~~202 on mobile communications services.~~

9 ~~(g) As used in this subsection, the term "provider"~~
10 ~~includes any person or entity that resells wireless service~~
11 ~~and was not assessed the fee by its resale supplier.~~

12 ~~(10) PROVISION OF SERVICES.--In accordance with the~~
13 ~~order, a provider is not required to provide E911 service~~
14 ~~until:~~

15 ~~(a) The provider receives a request in writing for~~
16 ~~such service from the county 911 coordinator and the affected~~
17 ~~answering point is capable of receiving and using the data~~
18 ~~elements associated with the service.~~

19 ~~(b) Funds are available under s. 365.173(2)(b).~~

20 ~~(c) The local exchange carrier is able to support the~~
21 ~~E911 system.~~

22 ~~(d) The service area has been scheduled for~~
23 ~~implementation of E911 service by the board pursuant to~~
24 ~~subparagraph (6)(a)3. If a county's 911 coordinator requests~~
25 ~~E911 service from a provider, the coordinator shall also~~
26 ~~request E911 service from all other providers in the area in a~~
27 ~~nondiscriminatory and fair manner.~~

28 ~~(12)(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~~

Bill No. SB 1198

Barcode 104000

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 s. 286.011 or
7 s. 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 among wireless providers is encouraged
24 by the state.

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

Bill No. SB 1198

Barcode 104000

1 collocation that are more restrictive than those in effect at
 2 the time of the initial antennae placement approval, to any
 3 other portion of the land development regulations, or to
 4 public hearing review. This sub-subparagraph shall not
 5 preclude a public hearing for any appeal of the decision on
 6 the collocation application.

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

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

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

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

Bill No. SB 1198

Barcode 104000

1 administrative review for compliance with this subparagraph.
2 Such collocations are not subject to any portion of the local
3 government's land development regulations not addressed
4 herein, or to public hearing review. This sub-subparagraph
5 shall not preclude a public hearing for any appeal of the
6 decision on the collocation application.

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

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

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

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

Bill No. SB 1198

Barcode 104000

1 applicable, applied to the structure supporting the antennae.

2 c. Regulations, restrictions, conditions, or permits
3 of the local government, acting in its regulatory capacity,
4 that limit the number of collocations or require review
5 processes inconsistent with this subsection shall not apply to
6 collocations addressed in this subparagraph.

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

31 2. If a collocation does not meet the requirements of

Bill No. SB 1198

Barcode 104000

1 subparagraph 1., the local government may review the
 2 application under the local government's regulations,
 3 including, but not limited to, land development regulations,
 4 applicable to the placement of initial antennae and their
 5 accompanying equipment enclosure and ancillary facilities.

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

10 4. The owner of the existing tower on which the
 11 proposed antennae are to be collocated shall remain
 12 responsible for compliance with any applicable condition or
 13 requirement of a permit or agreement, or any applicable
 14 condition or requirement of the land development regulations
 15 to which the existing tower had to comply at the time the
 16 tower was permitted, including any aesthetic requirements,
 17 provided the condition or requirement is not inconsistent with
 18 this paragraph.

19 5. An existing tower, including a nonconforming tower,
 20 may be structurally modified in order to permit collocation or
 21 may be replaced through no more than administrative review and
 22 building permit review, and is not subject to public hearing
 23 review, if the overall height of the tower is not increased
 24 and, if a replacement, the replacement tower is a monopole
 25 tower or, if the existing tower is a camouflaged tower, the
 26 replacement tower is a like-camouflaged tower. This
 27 subparagraph shall not preclude a public hearing for any
 28 appeal of the decision on the application.

29 (b)1. A local government's land development and
 30 construction regulations for wireless communications
 31 facilities and the local government's review of an application

Bill No. SB 1198

Barcode 104000

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

31 2. Any setback or distance separation required of a

Bill No. SB 1198

Barcode 104000

1 tower may not exceed the minimum distance necessary, as
2 determined by the local government, to satisfy the structural
3 safety or aesthetic concerns that are to be protected by the
4 setback or distance separation.

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

22 4. A local government may impose a reasonable fee on
23 applications to place, construct, or modify a wireless
24 communications facility only if a similar fee is imposed on
25 applicants seeking other similar types of zoning, land use, or
26 building permit review. A local government may impose fees for
27 the review of applications for wireless communications
28 facilities by consultants or experts who conduct code
29 compliance review for the local government but any fee is
30 limited to specifically identified reasonable expenses
31 incurred in the review. A local government may impose

Bill No. SB 1198

Barcode 104000

1 reasonable surety requirements to ensure the removal of
2 wireless communications facilities that are no longer being
3 used.

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

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

24 (d)1. A local government shall grant or deny each
25 properly completed application for a collocation under
26 subparagraph (a)1. based on the application's compliance with
27 the local government's applicable regulations, as provided for
28 in subparagraph (a)1. and consistent with this subsection, and
29 within the normal timeframe for a similar building permit
30 review but in no case later than 45 business days after the
31 date the application is determined to be properly completed in

Bill No. SB 1198

Barcode 104000

1 accordance with this paragraph.

2 2. A local government shall grant or deny each
3 properly completed application for any other wireless
4 communications facility based on the application's compliance
5 with the local government's applicable regulations, including
6 but not limited to land development regulations, consistent
7 with this subsection and within the normal timeframe for a
8 similar type review but in no case later than 90 business days
9 after the date the application is determined to be properly
10 completed in accordance with this paragraph.

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

Bill No. SB 1198

Barcode 104000

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

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

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

Bill No. SB 1198

Barcode 104000

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

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

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

Bill No. SB 1198

Barcode 104000

1 to adopt rules for the terms and conditions and granting of
2 any such leases.

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

11 ~~(13)(12)~~ MISUSE OF ~~WIRELESS~~ 911 OR E911 SYSTEM;
12 PENALTY.--911 and E911 service must be used solely for
13 emergency communications by the public. Any person who
14 accesses the number 911 for the purpose of making a false
15 alarm or complaint or reporting false information that could
16 result in the emergency response of any public safety agency;
17 any person who knowingly uses or attempts to use such service
18 for a purpose other than obtaining public safety assistance;
19 or any person who knowingly uses or attempts to use such
20 service in an effort to avoid any charge for service, commits
21 a misdemeanor of the first degree, punishable as provided in
22 s. 775.082 or s. 775.083. After being convicted of
23 unauthorized use of such service four times, a person who
24 continues to engage in such unauthorized use commits a felony
25 of the third degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084. In addition, if the value of the
27 service or the service charge obtained in a manner prohibited
28 by this subsection exceeds \$100, the person committing the
29 offense commits a felony of the third degree, punishable as
30 provided in s. 775.082, s. 775.083, or s. 775.084.

31 ~~(14)(13)~~ STATE LAW NOT PREEMPTED.--This section and

Bill No. SB 1198

Barcode 104000

1 ss. 365.173 and 365.174 do not alter any state law that
2 otherwise regulates voice communications services providers of
3 ~~telecommunications service.~~

4 Section 3. This act shall take effect upon becoming a
5 law.

6

7

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

9 And the title is amended as follows:

10 Delete everything before the enacting clause

11

12 and insert:

13

A bill to be entitled

14

An act relating to emergency communications

15

systems; amending s. 365.171, F.S.;

16

redesignating the Florida Emergency Telephone

17

Act as the "Florida Emergency Communications

18

Number E911 State Plan Act"; providing

19

legislative intent; redefining the term

20

"office" to provide for designation of the

21

Florida Enterprise Information Technology

22

Services Office or another office by the

23

Secretary of Management Services; revising the

24

duties of the office regarding the state E911

25

system plan; revising provisions for content of

26

the plan; designating the secretary as the

27

director of the statewide emergency

28

communications number E911 system; directing

29

the Public Service Commission to adopt rules

30

relating to coin-free 911 calls to be followed

31

by the telecommunications industry; requiring

Bill No. SB 1198

Barcode 104000

1 approval of the office for establishing or
2 expanding an emergency communications number
3 E911 system; removing a provision for existing
4 emergency telephone service; authorizing the
5 secretary of the department to apply for and
6 accept federal funding assistance; removing
7 provisions relating to imposition and
8 collection of the 911 fee and to the
9 indemnification of local telephone companies;
10 removing a penalty for reporting false
11 information that may result in an emergency
12 response; amending s. 365.172, F.S.;
13 redesignating the Wireless Emergency
14 Communications Act as the "Emergency
15 Communications Number E911 Act"; providing
16 legislative intent; revising definitions;
17 providing for administration of the fees
18 collected; redesignating the Wireless 911 Board
19 as the E911 Board; revising membership, powers,
20 duties, and responsibilities of the board;
21 redesignating the Wireless E911 Fee as the E911
22 Fee; requiring a study relating to collecting
23 the fee on the sale of prepaid wireless
24 service; revising provisions for use of revenue
25 collected; providing for certain disbursements;
26 providing for rates and collection from
27 consumers of voice communication services;
28 providing for the authorized use of the fees
29 collected; providing for indemnification and
30 limitation of liability for local exchange
31 carriers; providing penalties for the misuse of

Bill No. SB 1198

Barcode 104000

1 the E911 system; providing an effective date.

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