



1 an emergency response; amending s. 365.172,  
2 F.S.; redesignating the Wireless Emergency  
3 Communications Act as the "Emergency  
4 Communications Number E911 Act"; providing  
5 legislative intent; revising definitions;  
6 providing for administration of the fees  
7 collected; redesignating the Wireless 911 Board  
8 as the E911 Board; revising membership, powers,  
9 duties, and responsibilities of the board;  
10 redesignating the Wireless E911 Fee as the E911  
11 Fee; requiring a study relating to collecting  
12 the fee on the sale of prepaid wireless  
13 service; revising provisions for use of revenue  
14 collected; providing for certain disbursements;  
15 providing for rates and collection from  
16 consumers of voice communication services;  
17 providing for the authorized use of the fees  
18 collected; providing for indemnification and  
19 limitation of liability for local exchange  
20 carriers; providing penalties for the misuse of  
21 the E911 system; authorizing additional  
22 positions and providing an appropriation;  
23 providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Section 365.171, Florida Statutes, is  
28 amended to read:

29 365.171 Emergency communications ~~telephone~~ number E911  
30 state plan. ~~"911."~~  
31

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

4           (2) LEGISLATIVE INTENT.--It is the intent of the  
5 Legislature that the communications number "911" be the  
6 designated emergency communications number. A public safety  
7 agency may not advertise or otherwise promote the use of any  
8 communications number for emergency response services other  
9 than "911." It is further the intent of the Legislature to  
10 ~~establish and~~ implement and continually update a cohesive  
11 statewide emergency communications telephone number "E911"  
12 ~~"911"~~ plan for enhanced 911 services which will provide  
13 citizens with rapid direct access to public safety agencies by  
14 accessing ~~dialing the telephone number~~ "911" with the  
15 objective of reducing the response time to situations  
16 requiring law enforcement, fire, medical, rescue, and other  
17 emergency services.

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

19           (a) "Office" means the Florida Enterprise Information  
20 Technology Services Office or other office within the  
21 Department of Management Services, as designated by the  
22 secretary of the department ~~State Technology Office.~~

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

25           (c) "Public agency" means the state and any city,  
26 county, city and county, municipal corporation, chartered  
27 organization, public district, or public authority located in  
28 whole or in part within this state which provides, or has  
29 authority to provide, firefighting, law enforcement,  
30 ambulance, medical, or other emergency services.

31

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

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

8 (a) The ~~establishment of the~~ public agency emergency  
9 ~~telephone~~ communications requirements for each entity of local  
10 government in the state.

11 (b) A system to meet specific local government  
12 requirements. Such system shall include law enforcement,  
13 firefighting, and emergency medical services and may include  
14 other emergency services such as poison control, suicide  
15 prevention, and emergency management services.

16 (c) Identification of the mutual aid agreements  
17 necessary to obtain an effective E911 ~~"911"~~ system.

18 (d) A funding provision that identifies ~~which shall~~  
19 ~~identify~~ the cost necessary to implement the E911 ~~"911"~~  
20 system.

21 ~~(e) A firm implementation schedule which shall include~~  
22 ~~the installation of the "911" system in a local community~~  
23 ~~within 24 months after the designated agency of the local~~  
24 ~~government gives a firm order to the telephone utility for a~~  
25 ~~"911" system.~~

26  
27 The office shall be responsible for the implementation and  
28 coordination of such plan. The office shall adopt any  
29 necessary rules and schedules related to public agencies for  
30 implementing and coordinating the ~~such~~ plan, pursuant to  
31 chapter 120. ~~The public agency designated in the plan shall~~

1 ~~order such system within 6 months after publication date of~~  
2 ~~the plan if the public agency is in receipt of funds~~  
3 ~~appropriated by the Legislature for the implementation and~~  
4 ~~maintenance of the "911" system. Any jurisdiction which has~~  
5 ~~utilized local funding as of July 1, 1976, to begin the~~  
6 ~~implementation of the state plan as set forth in this section~~  
7 ~~shall be eligible for at least a partial reimbursement of its~~  
8 ~~direct cost when, and if, state funds are available for such~~  
9 ~~reimbursement.~~

10 (5) SYSTEM DIRECTOR.--The secretary of the department  
11 ~~director of the office~~ or his or her designee is designated as  
12 the director of the statewide emergency communications  
13 ~~telephone~~ number E911"911" system and, for the purpose of  
14 carrying out the provisions of this section, is authorized to  
15 coordinate the activities of the system with state, county,  
16 local, and private agencies. ~~The director is authorized to~~  
17 ~~employ not less than five persons, three of whom will be at~~  
18 ~~the professional level, one at the secretarial level, and one~~  
19 ~~to fill a fiscal position, for the purpose of carrying out the~~  
20 ~~provisions of this section.~~ The director in implementing the  
21 system shall consult, cooperate, and coordinate with local law  
22 enforcement agencies.

23 (6) REGIONAL SYSTEMS.--~~Nothing in~~ This section does  
24 not ~~shall be construed to~~ prohibit or discourage the formation  
25 of multijurisdictional or regional systems; and any system  
26 established pursuant to this section may include the  
27 jurisdiction, or any portion thereof, of more than one public  
28 agency. It is the intent of the Legislature that E911 service  
29 be available throughout the state. Expenditure by counties of  
30 the E911 fee authorized and imposed under s. 365.172 should  
31 support this intent to the greatest extent feasible within the

1 context of local service needs and fiscal capability. This  
2 section does not prohibit two or more counties from  
3 establishing a combined emergency E911 communications service  
4 by an interlocal agreement and using the fees authorized and  
5 imposed by s. 365.172 for such combined E911 service.

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

11 (8) COIN TELEPHONES.--The Florida Public Service  
12 Commission shall establish rules to be followed by the  
13 telecommunications companies ~~telephone utilities~~ in this state  
14 designed toward encouraging the provision of coin-free dialing  
15 of "911" calls wherever economically practicable and in the  
16 public interest.

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

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

25 ~~(11) EXISTING EMERGENCY TELEPHONE SERVICE. Any~~  
26 ~~emergency telephone number established by any local government~~  
27 ~~or state agency prior to July 1, 1974, using a number other~~  
28 ~~than "911" shall be changed to "911" on the same~~  
29 ~~implementation schedule provided in paragraph (4)(c).~~

30 ~~(11)(12)~~ FEDERAL ASSISTANCE.--The secretary of the  
31 department ~~office~~ or his or her designee may apply for and

1 accept federal funding assistance in the development and  
2 implementation of a statewide emergency communications  
3 telephone number E911"911" system.

4 ~~(13) "911" FEE.~~

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

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

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

29 ~~3. Any county that currently has an operational "911"~~  
30 ~~system or that is actively pursuing the implementation of a~~  
31 ~~"911" system shall establish a fund to be used exclusively for~~

1 ~~receipt and expenditure of "911" fee revenues collected~~  
2 ~~pursuant to this section. All fees placed in said fund, and~~  
3 ~~any interest accrued thereupon, shall be used solely for "911"~~  
4 ~~costs described in subparagraph 6. The money collected and~~  
5 ~~interest earned in this fund shall be appropriated for "911"~~  
6 ~~purposes by the county commissioners and incorporated into the~~  
7 ~~annual county budget. Such fund shall be included within the~~  
8 ~~financial audit performed in accordance with s. 218.39. A~~  
9 ~~report of the audit shall be forwarded to the office within 60~~  
10 ~~days of its completion. A county may carry forward on an~~  
11 ~~annual basis unspent moneys in the fund for expenditures~~  
12 ~~allowed by this section, or it may reduce its fee. However, in~~  
13 ~~no event shall a county carry forward more than 10 percent of~~  
14 ~~the "911" fee billed for the prior year. The amount of moneys~~  
15 ~~carried forward each year may be accumulated in order to allow~~  
16 ~~for capital improvements described in this subsection. The~~  
17 ~~carryover shall be documented by resolution of the board of~~  
18 ~~county commissioners expressing the purpose of the carryover~~  
19 ~~or by an adopted capital improvement program identifying~~  
20 ~~projected expansion or replacement expenditures for "911"~~  
21 ~~equipment and service features, or both. In no event shall the~~  
22 ~~"911" fee carryover surplus moneys be used for any purpose~~  
23 ~~other than for the "911" equipment, service features, and~~  
24 ~~installation charges authorized in subparagraph 6. Nothing in~~  
25 ~~this section shall prohibit a county from using other sources~~  
26 ~~of revenue for improvements, replacements, or expansions of~~  
27 ~~its "911" system. A county may increase its fee for purposes~~  
28 ~~authorized in this section. However, in no case shall the fee~~  
29 ~~exceed 50 cents per month per line. All current "911" fees~~  
30 ~~shall be reported to the office within 30 days of the start of~~  
31 ~~each county's fiscal period. Any fee adjustment made by a~~



1 ~~county shall be reported to the office. A county shall give~~  
2 ~~the telephone company a 90 day written notice of such fee~~  
3 ~~adjustment.~~

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

10 ~~5. The county subscribing to "911" service shall~~  
11 ~~remain liable to the telephone company for any "911" service,~~  
12 ~~equipment, operation, or maintenance charge owed by the county~~  
13 ~~to the telephone company.~~

14  
15 ~~As used in this paragraph, "telephone company" means an~~  
16 ~~exchange telephone service provider of "911" service or~~  
17 ~~equipment to any county within its certificated area.~~

18 ~~6. It is the intent of the Legislature that the "911"~~  
19 ~~fee authorized by this section to be imposed by counties will~~  
20 ~~not necessarily provide the total funding required for~~  
21 ~~establishing or providing the "911" service. For purposes of~~  
22 ~~this section, "911" service includes the functions of database~~  
23 ~~management, call taking, location verification, and call~~  
24 ~~transfer. The following costs directly attributable to the~~  
25 ~~establishment and/or provision of "911" service are eligible~~  
26 ~~for expenditure of moneys derived from imposition of the "911"~~  
27 ~~fee authorized by this section: the acquisition,~~  
28 ~~implementation, and maintenance of Public Safety Answering~~  
29 ~~Point (PSAP) equipment and "911" service features, as defined~~  
30 ~~in the Florida Public Service Commission's lawfully approved~~  
31 ~~"911" and related tariffs and/or the acquisition,~~

1 ~~installation, and maintenance of other "911" equipment,~~  
2 ~~including call answering equipment, call transfer equipment,~~  
3 ~~ANI controllers, ALI controllers, ANI displays, ALI displays,~~  
4 ~~station instruments, "911" telecommunications systems,~~  
5 ~~teleprinters, logging recorders, instant playback recorders,~~  
6 ~~telephone devices for the deaf (TDD) used in the "911" system,~~  
7 ~~PSAP backup power systems, consoles, automatic call~~  
8 ~~distributors, and interfaces (hardware and software) for~~  
9 ~~computer aided dispatch (CAD) systems; salary and associated~~  
10 ~~expenses for "911" call takers for that portion of their time~~  
11 ~~spent taking and transferring "911" calls; salary and~~  
12 ~~associated expenses for a county to employ a full time~~  
13 ~~equivalent "911" coordinator position and a full time~~  
14 ~~equivalent staff assistant position per county for the portion~~  
15 ~~of their time spent administrating the "911" system; training~~  
16 ~~costs for PSAP call takers in the proper methods and~~  
17 ~~techniques used in taking and transferring "911" calls; and~~  
18 ~~expenses required to develop and maintain all information (ALI~~  
19 ~~and ANI databases and other information source repositories)~~  
20 ~~necessary to properly inform call takers as to location~~  
21 ~~address, type of emergency, and other information directly~~  
22 ~~relevant to the "911" call taking and transferring function.~~  
23 ~~No wireless telephone service provider shall be required to~~  
24 ~~participate in any pilot project or to otherwise implement a~~  
25 ~~nonemergency "311" system or similar nonemergency system. The~~  
26 ~~"911" fee revenues shall not be used to pay for any item not~~  
27 ~~listed, including, but not limited to, any capital or~~  
28 ~~operational costs for emergency responses which occur after~~  
29 ~~the call transfer to the responding public safety entity and~~  
30 ~~the costs for constructing buildings, leasing buildings,~~  
31 ~~maintaining buildings, or renovating buildings, except for~~

1 ~~those building modifications necessary to maintain the~~  
2 ~~security and environmental integrity of the PSAP and "911"~~  
3 ~~equipment rooms.~~

4         ~~7. It is the goal of the Legislature that enhanced~~  
5 ~~"911" service be available throughout the state. Expenditure~~  
6 ~~by counties of the "911" fees authorized by this section~~  
7 ~~should support this goal to the greatest extent feasible~~  
8 ~~within the context of local service needs and fiscal~~  
9 ~~capability. Nothing in this section shall be construed to~~  
10 ~~prohibit two or more counties from establishing a combined~~  
11 ~~emergency "911" telephone service by interlocal agreement and~~  
12 ~~utilizing the "911" fees authorized by this section for such~~  
13 ~~combined "911" service.~~

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

18  
19             ~~.... I am in favor of the "911" emergency telephone~~  
20 ~~system fee.~~

21             ~~.... I am against the "911" emergency telephone system~~  
22 ~~fee.~~

23  
24 ~~If a majority of the electors voting on the question approve~~  
25 ~~the fee, it may be imposed by the county.~~

26         ~~(c) Any county imposing a "911" fee in accordance with~~  
27 ~~the provisions of this subsection shall allow the telephone~~  
28 ~~company to retain as an administrative fee an amount equal to~~  
29 ~~1 percent of the total "911" fee collected by the telephone~~  
30 ~~company.~~

31

1           ~~(14) INDEMNIFICATION AND LIMITATION OF LIABILITY. All~~  
2 ~~local governments are authorized to undertake to indemnify the~~  
3 ~~telephone company against liability in accordance with the~~  
4 ~~telephone company's lawfully filed tariffs. Regardless of any~~  
5 ~~indemnification agreement, a telephone company or commercial~~  
6 ~~mobile radio service provider as defined in s. 364.02 shall~~  
7 ~~not be liable for damages resulting from or in connection with~~  
8 ~~"911" service or identification of the telephone number,~~  
9 ~~address, or name associated with any person accessing "911"~~  
10 ~~service, unless the telephone company or commercial radio~~  
11 ~~service provider acted with malicious purpose or in a manner~~  
12 ~~exhibiting wanton and willful disregard of human rights,~~  
13 ~~safety, or property in providing such services.~~

14           ~~(12)(15)~~ CONFIDENTIALITY OF RECORDS.--Any record,  
15 recording, or information, or portions thereof, obtained by a  
16 public agency or a public safety agency for the purpose of  
17 providing services in an emergency and which reveals the name,  
18 address, telephone number, or personal information about, or  
19 information which may identify any person requesting emergency  
20 service or reporting an emergency by accessing an emergency  
21 communications E911 ~~telephone number "911"~~ system is  
22 confidential and exempt from the provisions of s. 119.07(1)  
23 and s. 24(a), Art. I of the State Constitution, except that  
24 such record or information may be disclosed to a public safety  
25 agency. The exemption applies only to the name, address,  
26 telephone number or personal information about, or information  
27 which may identify any person requesting emergency services or  
28 reporting an emergency while such information is in the  
29 custody of the public agency or public safety agency providing  
30 emergency services. A telecommunications ~~telephone~~ company or  
31 commercial mobile radio service provider shall not be liable

1 | for damages to any person resulting from or in connection with  
2 | such telephone company's or commercial mobile radio service  
3 | provider's provision of any lawful assistance to any  
4 | investigative or law enforcement officer of the State of  
5 | Florida or political subdivisions thereof, of the United  
6 | States, or of any other state or political subdivision  
7 | thereof, in connection with any lawful investigation or other  
8 | law enforcement activity by such law enforcement officer  
9 | unless the telecommunications ~~telephone~~ company or commercial  
10 | mobile radio service provider acted in a wanton and willful  
11 | manner.

12 |         ~~(16) FALSE "911" CALLS. Whoever accesses the number~~  
13 | ~~"911" for the purpose of making a false alarm or complaint or~~  
14 | ~~reporting false information which could result in the~~  
15 | ~~emergency response of any public safety agency is guilty of a~~  
16 | ~~misdemeanor of the first degree, punishable as provided in s.~~  
17 | ~~775.082 or s. 775.083.~~

18 |         Section 2. Section 365.172, Florida Statutes, is  
19 | amended to read:

20 |         365.172 ~~Wireless~~ Emergency communications ~~telephone~~  
21 | number "E911."--

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

24 |         (2) ~~FINDINGS, PURPOSE, AND LEGISLATIVE INTENT.--The~~  
25 | ~~Legislature finds and declares that:~~

26 |         ~~(a) The mobile nature of wireless communications~~  
27 | ~~service creates complexities for providing 911 emergency~~  
28 | ~~services.~~

29 |         ~~(b) Wireless telephone service providers are required~~  
30 | ~~by the Federal Communications Commission to provide wireless~~  
31 | ~~enhanced 911 (E911) service in the form of automatic location~~

1 ~~identification and automatic number identification pursuant to~~  
2 ~~the terms and conditions set forth in an order issued by the~~  
3 ~~Federal Communications Commission.~~

4 ~~(c) Wireless telephone service providers and counties~~  
5 ~~that operate 911 and E911 systems require adequate funding to~~  
6 ~~recover the costs of designing, purchasing, installing,~~  
7 ~~testing, and operating enhanced facilities, systems, and~~  
8 ~~services necessary to comply with the requirements for E911~~  
9 ~~services mandated by the Federal Communications Commission and~~  
10 ~~to maximize the availability of E911 services throughout this~~  
11 ~~state.~~

12 ~~(d) The revenues generated by the E911 fee imposed~~  
13 ~~under this section are required to fund the efforts of the~~  
14 ~~counties, the Wireless 911 Board under the State Technology~~  
15 ~~Office, and commercial mobile radio service providers to~~  
16 ~~improve the public health, safety, and welfare and serve a~~  
17 ~~public purpose by providing emergency telephone assistance~~  
18 ~~through wireless communications.~~

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

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

23 ~~(a)1.~~ Establish and implement a comprehensive  
24 statewide emergency telecommunications ~~telephone~~ number system  
25 that will provide users of voice communications services  
26 within the state ~~wireless telephone users~~ with rapid direct  
27 access to public safety agencies by accessing dialing the  
28 telephone number "911."

29 ~~(b)2.~~ Provide funds to counties ~~local governments~~ to  
30 pay certain costs associated with their E911 or the cost of  
31 installing and operating wireless 911 systems, to contract for

1 E911 services, and to reimburse wireless telephone service  
2 providers for costs incurred to provide 911 or E911 enhanced  
3 911 services.

4 (c)3- Levy a reasonable fee on users of voice  
5 communications services, unless otherwise provided in this  
6 section, subscribers of wireless telephone service to  
7 accomplish these purposes.

8 (d) Provide for an E911 board to administer the fee,  
9 with oversight by the office, in a manner that is  
10 competitively and technologically neutral as to all voice  
11 communications services providers.

12 (e) Ensure that the fee established is used  
13 exclusively for recovery by wireless providers and by counties  
14 of the costs associated with developing and maintaining E911  
15 systems and networks in a manner that is competitively and  
16 technologically neutral as to all voice communications  
17 services providers.

18  
19 It is further the intent of the Legislature that the fee  
20 authorized or imposed by this section not necessarily provide  
21 the total funding required for establishing or providing E911  
22 service.

23 (3) DEFINITIONS.--Only as used in this section and ss.  
24 365.171, 365.173, and 365.174, the term:

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

29 (a)(b) "Answering point" means the public safety  
30 agency that receives incoming 911 calls and dispatches  
31 appropriate public safety agencies to respond to the calls.

1           **(b) "Authorized expenditures" means expenditures of**  
2 **the fee, as specified in subsection (9).**

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

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

12           (e) "Board" **or E911 Board** means the board of directors  
13 of the **E911 Wireless-911 Board established in subsection (5).**

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

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

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

28           (i) "E911" is the designation for **an** ~~a wireless~~  
29 enhanced 911 system or ~~wireless~~ enhanced 911 service that is  
30 an emergency telephone system or service that provides a  
31 subscriber with ~~wireless~~ 911 service and, in addition, directs



1 | 911 calls to appropriate public safety answering points by  
2 | selective routing based on the geographical location from  
3 | which the call originated, or as otherwise provided in the  
4 | state plan under s. 365.171, and that provides for automatic  
5 | number identification and automatic location-identification  
6 | features. E911 service provided by a wireless provider means  
7 | E911 as defined in the order in accordance with the  
8 | requirements of the order.

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

14 |         (k) "Fee" means the E911 fee authorized and imposed  
15 | under subsection (8).

16 |         (l) "Fund" means the ~~Wireless~~ Emergency Communications  
17 | Number E911 Telephone System Fund established in s. 365.173  
18 | and maintained under this section for the purpose of  
19 | recovering the costs associated with providing 911 service or  
20 | E911 service, including the costs of implementing the order.  
21 | The fund shall be segregated into wireless and nonwireless  
22 | categories.

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

29 |         (n) "Land development regulations" means any ordinance  
30 | enacted by a local government for the regulation of any aspect  
31 | of development, including an ordinance governing zoning,

1 subdivisions, landscaping, tree protection, or signs, the  
2 local government's comprehensive plan, or any other ordinance  
3 concerning any aspect of the development of land. The term  
4 does not include any building construction standard adopted  
5 under and in compliance with chapter 553.

6 (o) "Local exchange carrier" means a "competitive  
7 local exchange telecommunications company" or a "local  
8 exchange telecommunications company" as defined in s. 364.02.

9 (p) "Local government" means any municipality, county,  
10 or political subdivision or agency of a municipality, county,  
11 or political subdivision.

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

14 ~~(q)(r)~~ "Mobile telephone number" or "MTN" means the  
15 telephone number assigned to a wireless telephone at the time  
16 of initial activation.

17 (r) "Nonwireless category" means the revenues to the  
18 fund received from voice communications services providers  
19 other than wireless providers.

20 (s) "Office" means the Florida Enterprise Information  
21 Technology Services Office or other office within the  
22 Department of Management Services, as designated by the  
23 secretary of the department ~~State Technology Office.~~

24 (t) "Order" means:

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

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

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

3           c. Order No. FCC DA 98-2323 adopted on November 13,  
4 1998.

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

6           2. Orders and rules subsequently adopted by the  
7 Federal Communications Commission relating to the provision of  
8 ~~wireless~~ 911 services, including Order Number FCC-05-116,  
9 adopted May 19, 2005.

10           (u) "Prepaid calling arrangements" has the same  
11 meaning as defined in s. 212.05(1)(e) wireless telephone  
12 ~~service" means wireless telephone service that is activated in~~  
13 ~~advance by payment for a finite dollar amount of service or~~  
14 ~~for a finite set of minutes that terminate either upon use by~~  
15 ~~a customer and delivery by the wireless provider of an~~  
16 ~~agreed upon amount of service corresponding to the total~~  
17 ~~dollar amount paid in advance or within a certain period of~~  
18 ~~time following the initial purchase or activation, unless~~  
19 ~~additional payments are made.~~

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

22           1. ~~Is subject to the requirements of the order; or~~

23           2. ~~Elects to provide wireless 911 service or E911~~  
24 ~~service in this state.~~

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

31

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

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

6           (y) "Service identifier" means the service number,  
7 access line, or other unique subscriber identifier assigned to  
8 a subscriber and established by the Federal Communications  
9 Commission for purposes of routing calls whereby the  
10 subscriber has access to the E911 system.

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

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

30  
31

1           ~~(bb) "Sufficient positive balance" means a dollar~~  
2 ~~amount greater than or equal to the monthly wireless surcharge~~  
3 ~~amount.~~

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

6           ~~(aa) "Voice communications services" means two-way~~  
7 ~~voice service, through the use of any technology, which~~  
8 ~~actually provides access to E911 services, and includes~~  
9 ~~communications services, as defined in s. 202.11, which~~  
10 ~~actually provide access to E911 services and which are~~  
11 ~~required to be included in the provision of E911 services~~  
12 ~~pursuant to orders and rules adopted by the Federal~~  
13 ~~Communications Commission. The term includes~~  
14 ~~voice-over-Internet-protocol service. For the purposes of this~~  
15 ~~section, the term "voice-over-Internet-protocol service" or~~  
16 ~~"VoIP service" means interconnected VoIP services having the~~  
17 ~~following characteristics:~~

18           ~~1. The service enables real-time, two-way voice~~  
19 ~~communications;~~

20           ~~2. The service requires a broadband connection from~~  
21 ~~the user's locations;~~

22           ~~3. The service requires IP-compatible customer~~  
23 ~~premises equipment; and~~

24           ~~4. The service offering allows users generally to~~  
25 ~~receive calls that originate on the public switched telephone~~  
26 ~~network and to terminate calls on the public switched~~  
27 ~~telephone network.~~

28           ~~(bb) "Voice communications services provider" or~~  
29 ~~"provider" means any person or entity providing voice~~  
30 ~~communications services, except that the term does not include~~  
31

1 any person or entity that resells voice communications service  
2 and was assessed the fee by its resale supplier.

3 (cc) "Wireless 911 system" or "wireless 911 service"  
4 means an emergency telephone system or service that provides a  
5 subscriber with the ability to reach an answering point by  
6 accessing the digits "911."

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

9 (ee)~~(dd)~~ "Wireless communications facility" means any  
10 equipment or facility used to provide service and may include,  
11 but is not limited to, antennae, towers, equipment enclosures,  
12 cabling, antenna brackets, and other such equipment. Placing a  
13 wireless communications facility on an existing structure does  
14 not cause the existing structure to become a wireless  
15 communications facility.

16 (ff) "Wireless provider" means a person who provides  
17 wireless service and:

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

21 (gg) "Wireless service" means "commercial mobile radio  
22 service" as provided under ss. 3(27) and 332(d) of the Federal  
23 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,  
24 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.  
25 103-66, August 10, 1993, 107 Stat. 312. The term includes  
26 service provided by any wireless real-time two-way wire  
27 communication device, including radio-telephone communications  
28 used in cellular telephone service; personal communications  
29 service; or the functional or competitive equivalent of a  
30 radio-telephone communications line used in cellular telephone  
31 service, a personal communications service, or a network radio

1 access line. The term does not include wireless providers that  
2 offer mainly dispatch service in a more localized, noncellular  
3 configuration; providers offering only data, one-way, or  
4 stored-voice services on an interconnected basis; providers of  
5 air-to-ground services; or public coast stations.

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

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

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

17 (a) The E911 ~~Wireless 911~~ Board is established to  
18 administer, with oversight by the office, the fee imposed  
19 under subsection (8), including receiving revenues derived  
20 from the fee; distributing portions of the ~~such~~ revenues to  
21 wireless providers, counties, and the office; accounting for  
22 receipts, distributions, and income derived by the funds  
23 maintained in the fund; and providing annual reports to the  
24 Governor and the Legislature for submission by the office on  
25 amounts collected and expended, the purposes for which  
26 expenditures have been made, and the status of ~~wireless~~ E911  
27 service in this state. In order to advise and assist the  
28 office in carrying out the purposes of this section, the  
29 board, which shall have the power of a body corporate, has  
30 ~~shall have~~ the powers enumerated in subsection (6).

1           (b) The board shall consist of nine ~~seven~~ members, one  
2 of whom must be the system director designated under s.  
3 365.171(5), or his or her designee, who shall serve as the  
4 chair of the board. The remaining eight ~~six~~ members of the  
5 board shall be appointed by the Governor and must be composed  
6 of four ~~three~~ county 911 coordinators, consisting of a  
7 representative from a rural county, a representative from a  
8 medium county, a representative from a large county, and an  
9 at-large representative recommended by the Florida Association  
10 of Counties in consultation with the county 911 coordinators;  
11 two local exchange carrier members, one of which must be the  
12 local exchange carrier having the greatest number of access  
13 lines in the state; and two ~~three~~ members from the wireless  
14 telecommunications industry recommended by the Florida  
15 Telecommunications Industry Association in consultation with  
16 the wireless telecommunications industry. In recommending  
17 members from the wireless telecommunications industry,  
18 consideration must be given to wireless providers who are not  
19 affiliated with local exchange carriers. Not more than one  
20 member may be appointed to represent any single provider on  
21 the board.

22           (c) The system director, designated under s.  
23 365.171(5), or his or her designee, must be a permanent member  
24 of the board. Each of the remaining eight ~~six~~ members of the  
25 board shall be appointed to a 4-year term and may not be  
26 appointed to more than two successive terms. However, for the  
27 purpose of staggering terms, two of the original board members  
28 shall be appointed to terms of 4 years, two shall be appointed  
29 to terms of 3 years, and four ~~two~~ shall be appointed to terms  
30 of 2 years, as designated by the Governor. A vacancy on the  
31



1 board shall be filled in the same manner as the original  
2 appointment.

3 (d) The first vacancy in a wireless provider  
4 representative position occurring after July 1, 2007, must be  
5 filled by appointment of a local exchange company  
6 representative. Until the appointment is made, there shall be  
7 only one local exchange company representative serving on the  
8 board, notwithstanding any other provision to the contrary.

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

10 (a) The board shall:

- 11 1. Administer the E911 fee.  
12 2. Implement, maintain, and oversee the fund.  
13 3. Review and oversee the disbursement of the revenues  
14 deposited into the fund as provided in s. 365.173.

15 a. The board may establish a schedule for implementing  
16 wireless E911 service by service area, and prioritize  
17 disbursements of revenues from the fund to providers and rural  
18 counties as provided in s. 365.173(2)(c) ~~s. 365.173(2)(b)~~ and  
19 ~~(f)(e)~~ pursuant to the schedule, in order to implement E911  
20 services in the most efficient and cost-effective manner.

21 b. Revenues in the wireless category collected and  
22 ~~deposited into the fund for distribution as provided in s.~~  
23 ~~365.173(2)(b), but~~ which have not been disbursed because sworn  
24 invoices as required by s. 365.173(2)(c) ~~s. 365.173(2)(b)~~ have  
25 not been submitted to the board, may be used ~~utilized~~ by the  
26 board as needed to provide grants to ~~rural counties and loans~~  
27 ~~to medium~~ counties that are not eligible to receive grants  
28 under s. 365.173(2)(f) for the purpose of upgrading E911  
29 systems. The counties must use the funds only for capital  
30 expenditures directly attributable to establishing and  
31 provisioning E911 services, which may include next-generation

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

14 c. The board shall reimburse all costs of a wireless  
15 provider before taking any action to transfer additional  
16 funds.

17 d. After taking the action required in this  
18 subparagraph, the board may review and, with all members  
19 participating in the vote, adjust the percentage allocations  
20 or adjust the amount of the fee, or both, under paragraph  
21 (8)(h), and, if the board determines that the revenues in the  
22 wireless category exceed the amount needed to reimburse  
23 wireless providers for the cost to implement E911 services,  
24 the board may transfer revenue to the counties from the  
25 existing funds within the wireless category. The board shall  
26 disburse the funds equitably to all counties using a timeframe  
27 and distribution methodology established by the board.

28 e. By September 1, 2007, the board shall authorize the  
29 transfer of up to \$15 million to the county category of the  
30 fund from existing money within the wireless category of the  
31 fund established under s. 365.173(1). The money shall be

1 disbursed equitably to all of the counties using a timeframe  
2 and distribution methodology established by the board before  
3 September 1, 2007, in order to prevent a loss to the counties  
4 in the ordinary and expected time value of money caused by any  
5 timing delay in remittance to the counties of wireline fees  
6 caused by the one-time transfer of collecting wireline fees by  
7 the counties to the board. All funds used from the  
8 carryforward must be returned to the fund from the actual  
9 remittance by the nonwireless category.

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

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

17 b. Ensuring that wireless providers are not provided  
18 disbursements from the fund which exceed the costs of  
19 providing E911 service, including the costs of complying with  
20 the order.

21 c. Ascertaining the projected costs of compliance with  
22 the requirements of the order and projected collections of the  
23 ~~E911~~ fee.

24 d. Implementing changes to the allocation percentages  
25 or adjusting ~~reducing~~ the ~~E911~~ fee under paragraph (8)(i)  
26 ~~(8)(c)~~.

27 5. Meet monthly in the most efficient and  
28 cost-effective manner, including telephonically when  
29 practical, for the business to be conducted, to review and  
30 approve or reject, in whole or in part, applications submitted  
31 by wireless providers for recovery of moneys deposited into

1 | the wireless category, and to authorize the transfer of, and  
2 | distribute, the fee allocation to the counties fund.

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

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

11 |         ~~8. Take all necessary and reasonable steps by July 1,~~  
12 | ~~2000, to secure appropriate information and reports from~~  
13 | ~~providers and otherwise perform all of the functions that~~  
14 | ~~would be performed by an independent accounting firm prior to~~  
15 | ~~completing the request for proposals process under subsection~~  
16 | ~~(7).~~

17 |         ~~8.9.~~ Sue and be sued, and appear and defend in all  
18 | actions and proceedings, in its corporate name to the same  
19 | extent as a natural person.

20 |         ~~9.10.~~ Adopt, use, and alter a common corporate seal.

21 |         ~~10.11.~~ Elect or appoint the officers and agents that  
22 | are required by the affairs of the board.

23 |         ~~11.12.~~ The board may adopt rules under ss. 120.536(1)  
24 | and 120.54 to implement this section and ss. 365.173 and  
25 | 365.174.

26 |         ~~12.13.~~ Provide coordination, support, and technical  
27 | assistance to counties to promote the deployment of advanced  
28 | 911 and E911 systems in the state.

29 |         ~~13.14.~~ Provide coordination and support for  
30 | educational opportunities related to E911 ~~911~~ issues for the  
31 | E911 ~~911~~ community in this state.

1           ~~14.15.~~ Act as an advocate for issues related to E911  
2 ~~911~~ system functions, features, and operations to improve the  
3 delivery of E911 ~~911~~ services to the residents of and visitors  
4 to this state.

5           ~~15.16.~~ Coordinate input from this state at national  
6 forums and associations, to ensure that policies related to  
7 E911 ~~911~~ systems and services are consistent with the policies  
8 of the E911 ~~911~~ community in this state.

9           ~~16.17.~~ Work cooperatively with the system director  
10 established in s. 365.171(5) to enhance the state of E911 ~~911~~  
11 services in this state and to provide unified leadership for  
12 all E911 ~~911~~ issues through planning and coordination.

13           ~~17.18.~~ Do all acts and things necessary or convenient  
14 to carry out the powers granted in this section in a manner  
15 that is competitively and technologically neutral as to all  
16 voice communications services providers, including, but not  
17 limited to, consideration of emerging technology and related  
18 cost savings, while taking into account embedded costs in  
19 current systems.

20           ~~18.19.~~ Have the authority to secure the services of an  
21 independent, private attorney via invitation to bid, request  
22 for proposals, invitation to negotiate, or professional  
23 contracts for legal services already established at the  
24 Division of Purchasing of the Department of Management  
25 Services.

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

29           (c) By February 28 of each year, the board shall  
30 prepare a report for submission by the office to the Governor,  
31 the President of the Senate, and the Speaker of the House of

1 Representatives which addresses for the immediately preceding  
2 calendar year: ~~reflects, for the immediately preceding~~  
3 ~~calendar year, the quarterly and annual receipts and~~  
4 ~~disbursements of moneys in the fund, the purposes for which~~  
5 ~~disbursements of moneys from the fund have been made, and the~~  
6 ~~availability and status of implementation of E911 service in~~  
7 ~~this state.~~

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

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

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

24 3. Any other issues related to providing ~~wireless~~ E911  
25 services.

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

27 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING  
28 FIRM.--

29 (a) The board shall issue a request for proposals as  
30 provided in chapter 287 for the purpose of retaining an  
31 independent accounting firm. The independent accounting firm

1 shall perform all material administrative and accounting tasks  
2 and functions required for administering the ~~E911~~ fee. The  
3 request for proposals must include, but need not be limited  
4 to:

5           1. A description of the scope and general requirements  
6 of the services requested.

7           2. A description of the specific accounting and  
8 reporting services required for administering the fund,  
9 including processing checks and distributing funds as directed  
10 by the board under s. 365.173.

11           3. A description of information to be provided by the  
12 proposer, including the proposer's background and  
13 qualifications and the proposed cost of the services to be  
14 provided.

15           (b) The board shall establish a committee to review  
16 requests for proposals which must include the statewide ~~E911~~  
17 ~~911~~ system director designated under s. 365.171(5), or his or  
18 her designee, and two members of the board, one of whom is a  
19 county 911 coordinator and one of whom represents a voice  
20 communications services provider ~~the wireless~~  
21 ~~telecommunications industry~~. The review committee shall review  
22 the proposals received by the board and recommend an  
23 independent accounting firm to the board for final selection.  
24 By agreeing to serve on the review committee, each member of  
25 the review committee shall verify that he or she does not have  
26 any interest or employment, directly or indirectly, with  
27 potential proposers which conflicts in any manner or degree  
28 with his or her performance on the committee.

29           (c) After July 1, 2004, the board may secure the  
30 services of an independent accounting firm via invitation to  
31 bid, request for proposals, invitation to negotiate, or

1 professional contracts already established at the Division of  
2 Purchasing, Department of Management Services, for certified  
3 public accounting firms, or the board may hire and retain  
4 professional accounting staff to accomplish these functions.

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

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

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

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

23 a. The board shall conduct a study to determine  
24 whether it is feasible to collect E911 fees from the sale of  
25 prepaid wireless service. If, based on the findings of the  
26 study, the board determines that a fee should not be collected  
27 from the sale of prepaid wireless service, it shall report its  
28 findings and recommendation to the Governor, the President of  
29 the Senate, and the Speaker of the House of Representatives by  
30 December 31, 2008. If the board determines that a fee should  
31



1 be collected from the sale of prepaid wireless service, the  
2 board shall collect the fee beginning July 1, 2009.

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

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

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

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

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

27 e. No later than 90 days after this section becomes  
28 law, the board shall require all prepaid wireless service  
29 providers, including resellers, to provide the board with  
30 information that the board determines is necessary to  
31 discharge its duties under this section, including information

1 necessary for its recommendation, such as total retail and  
2 reseller prepaid wireless service sales.

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

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

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

16  
17 The provider may list the fee as a separate entry on each  
18 bill, in which case the fee must be identified as a fee for  
19 E911 services. A provider shall remit the fee to the board  
20 only if the fee is paid by the subscriber. If a provider  
21 receives a partial payment for a monthly bill from a  
22 subscriber, the amount received shall first be applied to the  
23 payment due the provider for providing voice communications  
24 service.

25 (b) A provider is not obligated to take any legal  
26 action to enforce collection of the fees for which any  
27 subscriber is billed. A county subscribing to 911 service  
28 remains liable to the provider delivering the 911 service or  
29 equipment for any 911 service, equipment, operation, or  
30 maintenance charge owed by the county to the provider.

31

1           (c) For purposes of this section, the state and local  
2 governments are not subscribers ~~customers~~.

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

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

26           (f) The rate of the fee shall be set by the board  
27 after considering the factors set forth in paragraphs (h) and  
28 (i), but may not exceed ~~shall be~~ 50 cents per month per each  
29 service identifier number, beginning August 1, 1999. The fee  
30 shall apply uniformly and be imposed throughout the state,  
31 except for those counties that, before July 1, 2007, had

1 adopted an ordinance or resolution establishing a fee less  
2 than 50 cents per month per access line. In those counties the  
3 fee established by ordinance may be changed only to the  
4 uniform statewide rate no sooner than 30 days after  
5 notification is made by the county's board of county  
6 commissioners to the board.

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

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

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

20 2. The appropriate level of funding needed to fund the  
21 rural grant program provided for in s. 365.173(2)(f); and

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

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

30 ~~(i)(c) After July 1, 2001, The board may adjust the~~  
31 ~~allocation percentages or adjust provided in s. 365.173 or~~

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

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

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

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

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

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

28 (b) All costs directly attributable to the  
29 establishment or provision of E911 service and contracting for  
30 E911 services are eligible for expenditure of moneys derived  
31 from imposition of the fee authorized by this section. These

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

1 function. Moneys derived from the fee may also be used for  
2 next-generation E911 network services, next-generation E911  
3 database services, next-generation E911 equipment, and  
4 wireless E911 routing systems.

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

13 (10) LIABILITY OF COUNTIES.--A county subscribing to  
14 911 service remains liable to the local exchange carrier for  
15 any 911 service, equipment, operation, or maintenance charge  
16 owed by the county to the local exchange carrier. As used in  
17 this subsection, the term "local exchange carrier" means a  
18 local exchange telecommunications service provider of 911  
19 service or equipment to any county within its certificated  
20 area.

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

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

11 ~~(9) MANAGEMENT OF FUNDS.—~~

12 ~~(a) Each provider, as a part of its monthly billing~~  
13 ~~process, shall collect the fee imposed under subsection (8).~~  
14 ~~The provider may list the fee as a separate entry on each~~  
15 ~~bill, in which case the fee must be identified as a fee for~~  
16 ~~E911 services. A provider shall remit the fee only if the fee~~  
17 ~~is paid by the subscriber. If a provider receives a partial~~  
18 ~~payment for a monthly bill from a subscriber, the amount~~  
19 ~~received shall first be applied to the payment due the~~  
20 ~~provider for the provision of telecommunications service.~~

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



1 ~~prepaid subscriber's account since a direct billing may not be~~  
2 ~~possible. However, collection of the wireless 911 surcharge in~~  
3 ~~the manner of a reduction of value or minutes from the prepaid~~  
4 ~~subscriber's account does not constitute a reduction in the~~  
5 ~~sales price for purposes of taxes that are collected at the~~  
6 ~~point of sale.~~

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

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

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

1 ~~and number of customers quarterly if the provider demonstrates~~  
2 ~~that such waiver is necessary and justified.~~

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

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

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

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

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

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

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

27 ~~(12)(11) FACILITATING E911 SERVICE IMPLEMENTATION.--To~~  
28 ~~balance the public need for reliable E911 services through~~  
29 ~~reliable wireless systems and the public interest served by~~  
30 ~~governmental zoning and land development regulations and~~  
31 ~~notwithstanding any other law or local ordinance to the~~

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

22 |         (a) Collocation among wireless providers is encouraged  
23 | by the state.

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

1 | the time of the initial antennae placement approval, to any  
2 | other portion of the land development regulations, or to  
3 | public hearing review. This sub-subparagraph shall not  
4 | preclude a public hearing for any appeal of the decision on  
5 | the collocation application.

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

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

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

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

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

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

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

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

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

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

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

30           2. If a collocation does not meet the requirements of  
31 subparagraph 1., the local government may review the

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

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

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

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

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

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

30 |           2. Any setback or distance separation required of a  
31 | tower may not exceed the minimum distance necessary, as



1 | determined by the local government, to satisfy the structural  
2 | safety or aesthetic concerns that are to be protected by the  
3 | setback or distance separation.

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

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

1 | wireless communications facilities that are no longer being  
2 | used.

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

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

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

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

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

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

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

28       c. To be effective, a waiver of the timeframes set  
29 forth in this paragraph must be voluntarily agreed to by the  
30 applicant and the local government. A local government may  
31 request, but not require, a waiver of the timeframes by the

1 applicant, except that, with respect to a specific  
2 application, a one-time waiver may be required in the case of  
3 a declared local, state, or federal emergency that directly  
4 affects the administration of all permitting activities of the  
5 local government.

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

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

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;7  
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.  
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1           ~~(14)~~~~(13)~~ STATE LAW NOT PREEMPTED.--This section and  
2 ss. 365.173 and 365.174 do not alter any state law that  
3 otherwise regulates voice communications services providers of  
4 ~~telecommunications service~~.

5           Section 3. Two and one-half full-time equivalent  
6 positions are authorized with an associated salary rate of  
7 \$151,278, and the sum of \$561,834 in recurring funds is  
8 appropriated for the 2007-2008 fiscal year from the Emergency  
9 Communications Number E911 System Fund of the Department of  
10 Management Services from revenue received pursuant to s.  
11 365.173, Florida Statutes, for expenditures related to the  
12 creation of the statewide E911 board.

13           Section 4. This act shall take effect upon becoming a  
14 law.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 1198

4 The committee substitute makes the following changes:

5 -Revises definitions of the terms "automatic location  
6 identification," "automatic number identification," "service  
7 identifier," "voice communications services," and deletes the  
8 definition of "medium county." The definition of "voice  
communications services" includes non-voice services such as  
data (text), video and relay service for the deaf and hard of  
hearing that provide access to E911 services.

9 -Revises the Board membership by identifying specific types of  
10 county coordinators to be on the board.

11 -Deletes segregated references to counties that can receive  
grants, applies to all counties; deletes references to loans.

12 -Revises the provision on addressing overages in the wireless  
13 account; changes the procedure to require all members to  
participate in the vote to make adjustments to the percentages  
14 and amounts of the fee; if excess revenues still exist allows  
transfer to counties; also sets an amount and time limit for  
authorized transfer.

15 -Requires the Board to also include in a report its rationale  
16 for adjustments to the fee or allocation percentages.

17 -Changes the wireless E911 fee provisions. Requires a study to  
18 determine if and how prepaid wireless services can be charged  
a 911 fee; also limits the fee for other voice communications  
19 services providers to up to a maximum of 25 service  
identifiers for each account bill rendered.

20 -Adds that all provider subscriber information provided to the  
21 Board is subject to s. 365.174, F.S, which relates to  
proprietary confidential business information.

22 -Clarifies that the Board is authorized to set the rate of the  
23 fee after considering specified factors; clarifies and revises  
the provision that addresses counties that have 911 fees less  
24 than 50 cents; modifies dates when the Board must set  
allocation percentages; adds affects of new technologies as a  
25 criteria to be used for considering adjustments to the fee.

26 -Revises the list of 911 cost causers and uses for the 911  
27 funds; deletes the provision relating to "311" or other  
nonemergency pilot systems.

28 -Makes technical and conforming changes.  
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