

1 A bill to be entitled
2 An act relating to emergency communications systems;
3 amending s. 365.171, F.S.; redesignating the Florida
4 Emergency Telephone Act as the "Florida Emergency
5 Communications Number E911 State Plan Act"; providing
6 legislative intent; redefining the term "office" to mean
7 the Technology Program within the Department of Management
8 Services; revising the duties of the office regarding the
9 state E911 system plan; revising provisions for content of
10 the plan; designating the secretary as the director of the
11 statewide emergency communications number E911 system;
12 removing a provision authorizing the director to employ
13 certain persons; directing the Public Service Commission
14 to adopt rules relating to coin-free 911 calls to be
15 followed by the telecommunications industry; requiring
16 approval of the office for establishing or expanding an
17 emergency communications number E911 system; removing a
18 provision for existing emergency telephone service;
19 authorizing the secretary of the department to apply for
20 and accept federal funding assistance; removing provisions
21 relating to imposition and collection of the 911 fee and
22 to the indemnification of local telephone companies;
23 removing a penalty for reporting false information that
24 may result in an emergency response; amending s. 365.172,
25 F.S.; redesignating the Wireless Emergency Communications
26 Act as the "Emergency Communications Number E911 Act";
27 providing legislative intent; revising definitions;
28 providing for administration of the fees collected;

29 | redesignating the Wireless 911 Board as the E911 Board;
 30 | revising membership, powers, duties, and responsibilities
 31 | of the board; redesignating the Wireless E911 Fee as the
 32 | E911 Fee; requiring a study relating to collecting the fee
 33 | on the sale of prepaid wireless service; revising
 34 | provisions for use of revenue collected; providing for
 35 | certain disbursements; providing for rates and collection
 36 | from consumers of voice communications services; providing
 37 | for the authorized use of the fees collected; providing
 38 | for indemnification and limitation of liability for local
 39 | exchange carriers; providing penalties for the misuse of
 40 | the E911 system; authorizing additional positions and
 41 | providing appropriations; providing an effective date.

42 |

43 | Be It Enacted by the Legislature of the State of Florida:

44 |

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

47 | 365.171 Emergency communications ~~telephone~~ number E911
 48 | state plan. ~~"911."~~

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

52 | (2) LEGISLATIVE INTENT.--It is the intent of the
 53 | Legislature that the communications number "911" be the
 54 | designated emergency communications number. A public safety
 55 | agency may not advertise or otherwise promote the use of any
 56 | communications number for emergency response services other than

57 "911." It is further the intent of the Legislature to ~~establish~~
 58 ~~and~~ implement and continually update a cohesive statewide
 59 emergency communications ~~telephone~~ number "E911" ~~"911"~~ plan for
 60 enhanced 911 services which will provide citizens with rapid
 61 direct access to public safety agencies by accessing ~~dialing the~~
 62 ~~telephone number~~ "911" with the objective of reducing the
 63 response time to situations requiring law enforcement, fire,
 64 medical, rescue, and other emergency services.

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

66 (a) "Office" means the Technology Program within the
 67 Department of Management Services, as designated by the
 68 secretary of the department ~~State Technology Office.~~

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

71 (c) "Public agency" means the state and any city, county,
 72 city and county, municipal corporation, chartered organization,
 73 public district, or public authority located in whole or in part
 74 within this state which provides, or has authority to provide,
 75 firefighting, law enforcement, ambulance, medical, or other
 76 emergency services.

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

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

84 (a) The ~~establishment of the~~ public agency emergency

85 ~~telephone~~ communications requirements for each entity of local
 86 government in the state.

87 (b) A system to meet specific local government
 88 requirements. Such system shall include law enforcement,
 89 firefighting, and emergency medical services and may include
 90 other emergency services such as poison control, suicide
 91 prevention, and emergency management services.

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

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

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

100
 101 The office shall be responsible for the implementation and
 102 coordination of such plan. The office shall adopt any necessary
 103 rules and schedules related to public agencies for implementing
 104 and coordinating the such plan, pursuant to chapter 120. ~~The~~
 105 ~~public agency designated in the plan shall order such system~~
 106 ~~within 6 months after publication date of the plan if the public~~
 107 ~~agency is in receipt of funds appropriated by the Legislature~~
 108 ~~for the implementation and maintenance of the "911" system. Any~~
 109 ~~jurisdiction which has utilized local funding as of July 1,~~
 110 ~~1976, to begin the implementation of the state plan as set forth~~
 111 ~~in this section shall be eligible for at least a partial~~
 112 ~~reimbursement of its direct cost when, and if, state funds are~~

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113 ~~available for such reimbursement.~~

114 (5) SYSTEM DIRECTOR.--The secretary of the department
115 ~~director of the office~~ or his or her designee is designated as
116 the director of the statewide emergency communications ~~telephone~~
117 number E911 ~~"911"~~ system and, for the purpose of carrying out
118 the provisions of this section, is authorized to coordinate the
119 activities of the system with state, county, local, and private
120 agencies. ~~The director is authorized to employ not less than~~
121 ~~five persons, three of whom will be at the professional level,~~
122 ~~one at the secretarial level, and one to fill a fiscal position,~~
123 ~~for the purpose of carrying out the provisions of this section.~~
124 The director in implementing the system shall consult,
125 cooperate, and coordinate with local law enforcement agencies.

126 (6) REGIONAL SYSTEMS.--~~Nothing in~~ This section does not
127 ~~shall be construed to~~ prohibit or discourage the formation of
128 multijurisdictional or regional systems; and any system
129 established pursuant to this section may include the
130 jurisdiction, or any portion thereof, of more than one public
131 agency. It is the intent of the Legislature that E911 service be
132 available throughout the state. Expenditure by counties of the
133 E911 fee authorized and imposed under s. 365.172 should support
134 this intent to the greatest extent feasible within the context
135 of local service needs and fiscal capability. This section does
136 not prohibit two or more counties from establishing a combined
137 emergency E911 communications service by an interlocal agreement
138 and using the fees authorized and imposed by s. 365.172 for such
139 combined E911 service.

140 (7) TELECOMMUNICATIONS ~~TELEPHONE~~ INDUSTRY

141 COORDINATION.--The office shall coordinate with the Florida
 142 Public Service Commission which shall encourage the Florida
 143 telecommunications ~~telephone~~ industry to activate facility
 144 modification plans for a timely E911 ~~"911"~~ implementation.

145 (8) COIN TELEPHONES.--The Florida Public Service
 146 Commission shall establish rules to be followed by the
 147 telecommunications companies ~~telephone utilities~~ in this state
 148 designed toward encouraging the provision of coin-free dialing
 149 of "911" calls wherever economically practicable and in the
 150 public interest.

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

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

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

163 ~~(11)-(12)~~ FEDERAL ASSISTANCE.--The secretary of the
 164 department ~~office~~ or his or her designee may apply for and
 165 accept federal funding assistance in the development and
 166 implementation of a statewide emergency communications ~~telephone~~
 167 number E911 ~~"911"~~ system.

168 ~~(13) "911" FEE.~~

169 ~~(a) Following approval by referendum as set forth in~~
170 ~~paragraph (b), or following approval by a majority vote of its~~
171 ~~board of county commissioners, a county may impose a "911" fee~~
172 ~~to be paid by the local exchange subscribers within its~~
173 ~~boundaries served by the "911" service. Proceeds from the "911"~~
174 ~~fee shall be used only for "911" expenditures as set forth in~~
175 ~~subparagraph 6. The manner of imposing and collecting said~~
176 ~~payment shall be as follows:~~

177 ~~1. At the request of the county subscribing to "911"~~
178 ~~service, the telephone company shall, insofar as is practicable,~~
179 ~~bill the "911" fee to the local exchange subscribers served by~~
180 ~~the "911" service, on an individual access line basis, at a rate~~
181 ~~not to exceed 50 cents per month per line (up to a maximum of 25~~
182 ~~access lines per account bill rendered). However, the fee may~~
183 ~~not be assessed on any pay telephone in this state. A county~~
184 ~~collecting the fee for the first time may collect the fee for no~~
185 ~~longer than 36 months without initiating the acquisition of its~~
186 ~~"911" equipment.~~

187 ~~2. Fees collected by the telephone company pursuant to~~
188 ~~subparagraph 1. shall be returned to the county, less the costs~~
189 ~~of administration retained pursuant to paragraph (c). The county~~
190 ~~shall provide a minimum of 90 days' written notice to the~~
191 ~~telephone company prior to the collection of any "911" fees.~~

192 ~~3. Any county that currently has an operational "911"~~
193 ~~system or that is actively pursuing the implementation of a~~
194 ~~"911" system shall establish a fund to be used exclusively for~~
195 ~~receipt and expenditure of "911" fee revenues collected pursuant~~
196 ~~to this section. All fees placed in said fund, and any interest~~

197 ~~accrued thereupon, shall be used solely for "911" costs~~
198 ~~described in subparagraph 6. The money collected and interest~~
199 ~~earned in this fund shall be appropriated for "911" purposes by~~
200 ~~the county commissioners and incorporated into the annual county~~
201 ~~budget. Such fund shall be included within the financial audit~~
202 ~~performed in accordance with s. 218.39. A report of the audit~~
203 ~~shall be forwarded to the office within 60 days of its~~
204 ~~completion. A county may carry forward on an annual basis~~
205 ~~unspent moneys in the fund for expenditures allowed by this~~
206 ~~section, or it may reduce its fee. However, in no event shall a~~
207 ~~county carry forward more than 10 percent of the "911" fee~~
208 ~~billed for the prior year. The amount of moneys carried forward~~
209 ~~each year may be accumulated in order to allow for capital~~
210 ~~improvements described in this subsection. The carryover shall~~
211 ~~be documented by resolution of the board of county commissioners~~
212 ~~expressing the purpose of the carryover or by an adopted capital~~
213 ~~improvement program identifying projected expansion or~~
214 ~~replacement expenditures for "911" equipment and service~~
215 ~~features, or both. In no event shall the "911" fee carryover~~
216 ~~surplus moneys be used for any purpose other than for the "911"~~
217 ~~equipment, service features, and installation charges authorized~~
218 ~~in subparagraph 6. Nothing in this section shall prohibit a~~
219 ~~county from using other sources of revenue for improvements,~~
220 ~~replacements, or expansions of its "911" system. A county may~~
221 ~~increase its fee for purposes authorized in this section.~~
222 ~~However, in no case shall the fee exceed 50 cents per month per~~
223 ~~line. All current "911" fees shall be reported to the office~~
224 ~~within 30 days of the start of each county's fiscal period. Any~~

225 ~~fee adjustment made by a county shall be reported to the office.~~
226 ~~A county shall give the telephone company a 90-day written~~
227 ~~notice of such fee adjustment.~~

228 ~~4. The telephone company shall have no obligation to take~~
229 ~~any legal action to enforce collection of the "911" fee. The~~
230 ~~telephone company shall provide quarterly to the county a list~~
231 ~~of the names, addresses, and telephone numbers of any and all~~
232 ~~subscribers who have identified to the telephone company their~~
233 ~~refusal to pay the "911" fee.~~

234 ~~5. The county subscribing to "911" service shall remain~~
235 ~~liable to the telephone company for any "911" service,~~
236 ~~equipment, operation, or maintenance charge owed by the county~~
237 ~~to the telephone company.~~

238
239 ~~As used in this paragraph, "telephone company" means an exchange~~
240 ~~telephone service provider of "911" service or equipment to any~~
241 ~~county within its certificated area.~~

242 ~~6. It is the intent of the Legislature that the "911" fee~~
243 ~~authorized by this section to be imposed by counties will not~~
244 ~~necessarily provide the total funding required for establishing~~
245 ~~or providing the "911" service. For purposes of this section,~~
246 ~~"911" service includes the functions of database management,~~
247 ~~call taking, location verification, and call transfer. The~~
248 ~~following costs directly attributable to the establishment~~
249 ~~and/or provision of "911" service are eligible for expenditure~~
250 ~~of moneys derived from imposition of the "911" fee authorized by~~
251 ~~this section: the acquisition, implementation, and maintenance~~
252 ~~of Public Safety Answering Point (PSAP) equipment and "911"~~

253 ~~service features, as defined in the Florida Public Service~~
254 ~~Commission's lawfully approved "911" and related tariffs and/or~~
255 ~~the acquisition, installation, and maintenance of other "911"~~
256 ~~equipment, including call answering equipment, call transfer~~
257 ~~equipment, ANI controllers, ALI controllers, ANI displays, ALI~~
258 ~~displays, station instruments, "911" telecommunications systems,~~
259 ~~teleprinters, logging recorders, instant playback recorders,~~
260 ~~telephone devices for the deaf (TDD) used in the "911" system,~~
261 ~~PSAP backup power systems, consoles, automatic call~~
262 ~~distributors, and interfaces (hardware and software) for~~
263 ~~computer aided dispatch (CAD) systems; salary and associated~~
264 ~~expenses for "911" call takers for that portion of their time~~
265 ~~spent taking and transferring "911" calls; salary and associated~~
266 ~~expenses for a county to employ a full time equivalent "911"~~
267 ~~coordinator position and a full time equivalent staff assistant~~
268 ~~position per county for the portion of their time spent~~
269 ~~administrating the "911" system; training costs for PSAP call~~
270 ~~takers in the proper methods and techniques used in taking and~~
271 ~~transferring "911" calls; and expenses required to develop and~~
272 ~~maintain all information (ALI and ANI databases and other~~
273 ~~information source repositories) necessary to properly inform~~
274 ~~call takers as to location address, type of emergency, and other~~
275 ~~information directly relevant to the "911" call taking and~~
276 ~~transferring function. No wireless telephone service provider~~
277 ~~shall be required to participate in any pilot project or to~~
278 ~~otherwise implement a nonemergency "311" system or similar~~
279 ~~nonemergency system. The "911" fee revenues shall not be used to~~
280 ~~pay for any item not listed, including, but not limited to, any~~

281 ~~capital or operational costs for emergency responses which occur~~
282 ~~after the call transfer to the responding public safety entity~~
283 ~~and the costs for constructing buildings, leasing buildings,~~
284 ~~maintaining buildings, or renovating buildings, except for those~~
285 ~~building modifications necessary to maintain the security and~~
286 ~~environmental integrity of the PSAP and "911" equipment rooms.~~

287 ~~7. It is the goal of the Legislature that enhanced "911"~~
288 ~~service be available throughout the state. Expenditure by~~
289 ~~counties of the "911" fees authorized by this section should~~
290 ~~support this goal to the greatest extent feasible within the~~
291 ~~context of local service needs and fiscal capability. Nothing in~~
292 ~~this section shall be construed to prohibit two or more counties~~
293 ~~from establishing a combined emergency "911" telephone service~~
294 ~~by interlocal agreement and utilizing the "911" fees authorized~~
295 ~~by this section for such combined "911" service.~~

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

300 ~~_____ I am in favor of the "911" emergency telephone system~~
301 ~~fee.~~

302 ~~_____ I am against the "911" emergency telephone system~~
303 ~~fee.~~

304
305 ~~If a majority of the electors voting on the question approve the~~
306 ~~fee, it may be imposed by the county.~~

307 ~~(c) Any county imposing a "911" fee in accordance with the~~
308 ~~provisions of this subsection shall allow the telephone company~~

309 ~~to retain as an administrative fee an amount equal to 1 percent~~
 310 ~~of the total "911" fee collected by the telephone company.~~

311 ~~(14) INDEMNIFICATION AND LIMITATION OF LIABILITY. All~~
 312 ~~local governments are authorized to undertake to indemnify the~~
 313 ~~telephone company against liability in accordance with the~~
 314 ~~telephone company's lawfully filed tariffs. Regardless of any~~
 315 ~~indemnification agreement, a telephone company or commercial~~
 316 ~~mobile radio service provider as defined in s. 364.02 shall not~~
 317 ~~be liable for damages resulting from or in connection with "911"~~
 318 ~~service or identification of the telephone number, address, or~~
 319 ~~name associated with any person accessing "911" service, unless~~
 320 ~~the telephone company or commercial radio service provider acted~~
 321 ~~with malicious purpose or in a manner exhibiting wanton and~~
 322 ~~willful disregard of human rights, safety, or property in~~
 323 ~~providing such services.~~

324 ~~(12)~~ (15) CONFIDENTIALITY OF RECORDS.--Any record,
 325 recording, or information, or portions thereof, obtained by a
 326 public agency or a public safety agency for the purpose of
 327 providing services in an emergency and which reveals the name,
 328 address, telephone number, or personal information about, or
 329 information which may identify any person requesting emergency
 330 service or reporting an emergency by accessing an emergency
 331 communications E911 telephone number "911" system is
 332 confidential and exempt from the provisions of s. 119.07(1) and
 333 s. 24(a), Art. I of the State Constitution, except that such
 334 record or information may be disclosed to a public safety
 335 agency. The exemption applies only to the name, address,
 336 telephone number or personal information about, or information

337 which may identify any person requesting emergency services or
338 reporting an emergency while such information is in the custody
339 of the public agency or public safety agency providing emergency
340 services. A telecommunications ~~telephone~~ company or commercial
341 mobile radio service provider shall not be liable for damages to
342 any person resulting from or in connection with such telephone
343 company's or commercial mobile radio service provider's
344 provision of any lawful assistance to any investigative or law
345 enforcement officer of the State of Florida or political
346 subdivisions thereof, of the United States, or of any other
347 state or political subdivision thereof, in connection with any
348 lawful investigation or other law enforcement activity by such
349 law enforcement officer unless the telecommunications ~~telephone~~
350 company or commercial mobile radio service provider acted in a
351 wanton and willful manner.

352 ~~(16) FALSE "911" CALLS. Whoever accesses the number "911"~~
353 ~~for the purpose of making a false alarm or complaint or~~
354 ~~reporting false information which could result in the emergency~~
355 ~~response of any public safety agency is guilty of a misdemeanor~~
356 ~~of the first degree, punishable as provided in s. 775.082 or s.~~
357 ~~775.083.~~

358 Section 2. Section 365.172, Florida Statutes, is amended
359 to read:

360 365.172 ~~Wireless~~ Emergency communications ~~telephone~~ number
361 "E911."--

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

364 (2) ~~FINDINGS, PURPOSE, AND LEGISLATIVE INTENT.~~--The

365 ~~Legislature finds and declares that:~~

366 ~~(a) The mobile nature of wireless communications service~~
367 ~~creates complexities for providing 911 emergency services.~~

368 ~~(b) Wireless telephone service providers are required by~~
369 ~~the Federal Communications Commission to provide wireless~~
370 ~~enhanced 911 (E911) service in the form of automatic location~~
371 ~~identification and automatic number identification pursuant to~~
372 ~~the terms and conditions set forth in an order issued by the~~
373 ~~Federal Communications Commission.~~

374 ~~(c) Wireless telephone service providers and counties that~~
375 ~~operate 911 and E911 systems require adequate funding to recover~~
376 ~~the costs of designing, purchasing, installing, testing, and~~
377 ~~operating enhanced facilities, systems, and services necessary~~
378 ~~to comply with the requirements for E911 services mandated by~~
379 ~~the Federal Communications Commission and to maximize the~~
380 ~~availability of E911 services throughout this state.~~

381 ~~(d) The revenues generated by the E911 fee imposed under~~
382 ~~this section are required to fund the efforts of the counties,~~
383 ~~the Wireless 911 Board under the State Technology Office, and~~
384 ~~commercial mobile radio service providers to improve the public~~
385 ~~health, safety, and welfare and serve a public purpose by~~
386 ~~providing emergency telephone assistance through wireless~~
387 ~~communications.~~

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

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

392 ~~(a)1. Establish and implement a comprehensive statewide~~

393 emergency telecommunications ~~telephone~~ number system that will
 394 provide users of voice communications services within the state
 395 ~~wireless telephone users with~~ rapid direct access to public
 396 safety agencies by accessing ~~dialing~~ the telephone number "911."

397 (b)2. Provide funds to counties ~~local governments~~ to pay
 398 certain costs associated with their E911 or the cost of
 399 installing and operating wireless 911 systems, to contract for
 400 E911 services, and to reimburse wireless telephone service
 401 providers for costs incurred to provide 911 or E911 ~~enhanced 911~~
 402 services.

403 (c)3. Levy a reasonable fee on users of voice
 404 communications services, unless otherwise provided in this
 405 section, subscribers of wireless telephone service to accomplish
 406 these purposes.

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

411 (e) Ensure that the fee established is used exclusively
 412 for recovery by wireless providers and by counties for costs
 413 associated with developing and maintaining E911 systems and
 414 networks in a manner that is competitively and technologically
 415 neutral as to all voice communications services providers.

416
 417 It is further the intent of the Legislature that the fee
 418 authorized or imposed by this section not necessarily provide
 419 the total funding required for establishing or providing E911
 420 service.

421 (3) DEFINITIONS.--Only as used in this section and ss.
422 365.171, 365.173, and 365.174, the term:

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

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

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

432 (c) "Automatic location identification" means the
433 capability of the E911 service which enables the automatic
434 display of information that defines the approximate geographic
435 location of the wireless telephone, or the location of the
436 address of the wireline telephone, used to place a 911 call.

437 (d) "Automatic number identification" means the capability
438 of the E911 service which enables the automatic display of the
439 ~~10-digit~~ service number used to place a 911 call.

440 (e) "Board" or "E911 Board" means the board of directors
441 of the E911 Wireless 911 Board established in subsection (5).

442 (f) "Building permit review" means a review for compliance
443 with building construction standards adopted by the local
444 government under chapter 553 and does not include a review for
445 compliance with land development regulations.

446 (g) "Collocation" means the situation when a second or
447 subsequent wireless provider uses an existing structure to
448 locate a second or subsequent antennae. The term includes the

449 ground, platform, or roof installation of equipment enclosures,
450 cabinets, or buildings, and cables, brackets, and other
451 equipment associated with the location and operation of the
452 antennae.

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

456 (i) "E911" is the designation for an ~~a wireless~~ enhanced
457 911 system or ~~wireless~~ enhanced 911 service that is an emergency
458 telephone system or service that provides a subscriber with
459 ~~wireless~~ 911 service and, in addition, directs 911 calls to
460 appropriate public safety answering points by selective routing
461 based on the geographical location from which the call
462 originated, or as otherwise provided in the state plan under s.
463 365.171, and that provides for automatic number identification
464 and automatic location-identification features. E911 service
465 provided by a wireless provider means E911 as defined in the
466 order in accordance with the requirements of the order.

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

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

474 (l) "Fund" means the ~~Wireless~~ Emergency Communications
475 Number E911 Telephone System Fund established in s. 365.173 and
476 maintained under this section for the purpose of recovering the

477 costs associated with providing 911 service or E911 service,
 478 including the costs of implementing the order. The fund shall be
 479 segregated into wireless and nonwireless categories.

480 (m) "Historic building, structure, site, object, or
 481 district" means any building, structure, site, object, or
 482 district that has been officially designated as a historic
 483 building, historic structure, historic site, historic object, or
 484 historic district through a federal, state, or local designation
 485 program.

486 (n) "Land development regulations" means any ordinance
 487 enacted by a local government for the regulation of any aspect
 488 of development, including an ordinance governing zoning,
 489 subdivisions, landscaping, tree protection, or signs, the local
 490 government's comprehensive plan, or any other ordinance
 491 concerning any aspect of the development of land. The term does
 492 not include any building construction standard adopted under and
 493 in compliance with chapter 553.

494 (o) "Local exchange carrier" means a "competitive local
 495 exchange telecommunications company" or a "local exchange
 496 telecommunications company" as defined in s. 364.02.

497 (p) "Local government" means any municipality, county, or
 498 political subdivision or agency of a municipality, county, or
 499 political subdivision.

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

502 (r) "Mobile telephone number" or "MTN" means the telephone
 503 number assigned to a wireless telephone at the time of initial
 504 activation.

505 (s) "Nonwireless category" means the revenues to the fund
506 received from voice communications services providers other than
507 wireless providers.

508 (t)~~(s)~~ "Office" means the Technology Program within the
509 Department of Management Services, as designated by the
510 secretary of the department ~~State Technology Office.~~

511 (u)~~(t)~~ "Order" means:

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

514 a. Order adopted on June 12, 1996, with an effective date
515 of October 1, 1996, the amendments to s. 20.03 and the creation
516 of s. 20.18 of Title 47 of the Code of Federal Regulations
517 adopted by the Federal Communications Commission pursuant to
518 such order.

519 b. Memorandum and Order No. FCC 97-402 adopted on December
520 23, 1997.

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

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

523 2. Orders and rules subsequently adopted by the Federal
524 Communications Commission relating to the provision of ~~wireless~~
525 911 services, including Order Number FCC-05-116, adopted May 19,
526 2005.

527 (v)~~(u)~~ "Prepaid calling arrangements" has the same meaning
528 as defined in s. 212.05(1)(e) ~~wireless telephone service" means~~
529 ~~wireless telephone service that is activated in advance by~~
530 ~~payment for a finite dollar amount of service or for a finite~~
531 ~~set of minutes that terminate either upon use by a customer and~~
532 ~~delivery by the wireless provider of an agreed upon amount of~~

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533 ~~service corresponding to the total dollar amount paid in advance~~
534 ~~or within a certain period of time following the initial~~
535 ~~purchase or activation, unless additional payments are made.~~

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

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

539 ~~2. Elects to provide wireless 911 service or E911 service~~
540 ~~in this state.~~

541 (w) "Public agency" means the state and any municipality,
542 county, municipal corporation, or other governmental entity,
543 public district, or public authority located in whole or in part
544 within this state which provides, or has authority to provide,
545 firefighting, law enforcement, ambulance, medical, or other
546 emergency services.

547 (x) "Public safety agency" means a functional division of
548 a public agency which provides firefighting, law enforcement,
549 medical, or other emergency services.

550 (y) "Rural county" means any county that has a population
551 of fewer than 75,000.

552 (z) "Service identifier" means the service number, access
553 line, or other unique subscriber identifier assigned to a
554 subscriber and established by the Federal Communications
555 Commission for purposes of routing calls whereby the subscriber
556 has access to the E911 system.

557 ~~(z) "Service" means "commercial mobile radio service" as~~
558 ~~provided under ss. 3(27) and 332(d) of the Federal~~
559 ~~Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and~~
560 ~~the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-~~

561 ~~66, August 10, 1993, 107 Stat. 312. The term "service" includes~~
562 ~~the term "wireless" and service provided by any wireless real-~~
563 ~~time two-way wire communication device, including radio-~~
564 ~~telephone communications used in cellular telephone service,~~
565 ~~personal communications service; or the functional or~~
566 ~~competitive equivalent of a radio telephone communications line~~
567 ~~used in cellular telephone service, a personal communications~~
568 ~~service, or a network radio access line. The term does not~~
569 ~~include wireless providers that offer mainly dispatch service in~~
570 ~~a more localized, noncellular configuration; providers offering~~
571 ~~only data, one way, or stored voice services on an~~
572 ~~interconnected basis; providers of air to ground services; or~~
573 ~~public coast stations.~~

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

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

578 ~~(aa)(ee)~~ "Tower" means any structure designed primarily to
579 support a wireless provider's antennae.

580 (bb) "Voice communications services" means two-way voice
581 service, through the use of any technology, which actually
582 provides access to E911 services, and includes communications
583 services, as defined in s. 202.11, which actually provide access
584 to E911 services and which are required to be included in the
585 provision of E911 services pursuant to orders and rules adopted
586 by the Federal Communications Commission. The term includes
587 voice-over-Internet-protocol service. For the purposes of this
588 section, the term "voice-over-Internet-protocol service" or

589 "VoIP service" means interconnected VoIP services having the
590 following characteristics:

591 1. The service enables real-time, two-way voice
592 communications;

593 2. The service requires a broadband connection from the
594 user's locations;

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

597 4. The service offering allows users generally to receive
598 calls that originate on the public switched telephone network
599 and to terminate calls on the public switched telephone network.

600 (cc) "Voice communications services provider" or
601 "provider" means any person or entity providing voice
602 communications services, except that the term does not include
603 any person or entity that resells voice communications service
604 and was assessed the fee by its resale supplier.

605 (dd) "Wireless 911 system" or "wireless 911 service" means
606 an emergency telephone system or service that provides a
607 subscriber with the ability to reach an answering point by
608 accessing the digits "911."

609 (ee) "Wireless category" means the revenues to the fund
610 received from a wireless provider.

611 (ff)~~(dd)~~ "Wireless communications facility" means any
612 equipment or facility used to provide service and may include,
613 but is not limited to, antennae, towers, equipment enclosures,
614 cabling, antenna brackets, and other such equipment. Placing a
615 wireless communications facility on an existing structure does
616 not cause the existing structure to become a wireless

617 | communications facility.

618 | (gg) "Wireless provider" means a person who provides
 619 | wireless service and:

- 620 | 1. Is subject to the requirements of the order; or
 621 | 2. Elects to provide wireless 911 service or E911 service
 622 | in this state.

623 | (hh) "Wireless service" means "commercial mobile radio
 624 | service" as provided under ss. 3(27) and 332(d) of the Federal
 625 | Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and
 626 | the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-
 627 | 66, August 10, 1993, 107 Stat. 312. The term includes service
 628 | provided by any wireless real-time two-way wire communication
 629 | device, including radio-telephone communications used in
 630 | cellular telephone service; personal communications service; or
 631 | the functional or competitive equivalent of a radio-telephone
 632 | communications line used in cellular telephone service, a
 633 | personal communications service, or a network radio access line.
 634 | The term does not include wireless providers that offer mainly
 635 | dispatch service in a more localized, noncellular configuration;
 636 | providers offering only data, one-way, or stored-voice services
 637 | on an interconnected basis; providers of air-to-ground services;
 638 | or public coast stations.

639 | ~~(ee) "Wireless 911 system" or "wireless 911 service" means~~
 640 | ~~an emergency telephone system or service that provides a~~
 641 | ~~subscriber with the ability to reach an answering point by~~
 642 | ~~dialing the digits "911." A wireless 911 system is complementary~~
 643 | ~~to a wired 911 system as provided for in s. 365.171.~~

644 | (4) POWERS AND DUTIES OF THE OFFICE.--The office shall

645 | oversee the administration of the fee authorized and imposed on
 646 | subscribers of voice communications services ~~statewide E911~~
 647 | ~~service~~ under subsection (8).

648 | (5) THE E911 ~~WIRELESS~~ ~~911~~ BOARD.--

649 | (a) The E911 ~~Wireless~~ ~~911~~ Board is established to
 650 | administer, with oversight by the office, the fee imposed under
 651 | subsection (8), including receiving revenues derived from the
 652 | fee; distributing portions of the ~~such~~ revenues to wireless
 653 | providers, counties, and the office; accounting for receipts,
 654 | distributions, and income derived by the funds maintained in the
 655 | fund; and providing annual reports to the Governor and the
 656 | Legislature for submission by the office on amounts collected
 657 | and expended, the purposes for which expenditures have been
 658 | made, and the status of ~~wireless~~ E911 service in this state. In
 659 | order to advise and assist the office in carrying out the
 660 | purposes of this section, the board, which shall have the power
 661 | of a body corporate, has ~~shall have~~ the powers enumerated in
 662 | subsection (6).

663 | (b) The board shall consist of nine ~~seven~~ members, one of
 664 | whom must be the system director designated under s. 365.171(5),
 665 | or his or her designee, who shall serve as the chair of the
 666 | board. The remaining eight ~~six~~ members of the board shall be
 667 | appointed by the Governor and must be composed of four ~~three~~
 668 | county 911 coordinators, consisting of a representative from a
 669 | rural county, a representative from a medium county, a
 670 | representative from a large county, and an at-large
 671 | representative recommended by the Florida Association of
 672 | Counties in consultation with the county 911 coordinators; two

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673 local exchange carrier members, one of which must be the local
674 exchange carrier having the greatest number of access lines in
675 the state; and two ~~three~~ members from the wireless
676 telecommunications industry recommended by the Florida
677 Telecommunications Industry Association in consultation with the
678 wireless telecommunications industry. In recommending members
679 from the wireless telecommunications industry, consideration
680 must be given to wireless providers who are not affiliated with
681 local exchange carriers. Not more than one member may be
682 appointed to represent any single provider on the board.

683 (c) The system director, designated under s. 365.171(5),
684 or his or her designee, must be a permanent member of the board.
685 Each of the remaining eight ~~six~~ members of the board shall be
686 appointed to a 4-year term and may not be appointed to more than
687 two successive terms. However, for the purpose of staggering
688 terms, two of the original board members shall be appointed to
689 terms of 4 years, two shall be appointed to terms of 3 years,
690 and four ~~two~~ shall be appointed to terms of 2 years, as
691 designated by the Governor. A vacancy on the board shall be
692 filled in the same manner as the original appointment.

693 (d) The first vacancy in a wireless provider
694 representative position occurring after July 1, 2007, must be
695 filled by appointment of a local exchange company
696 representative. Until the appointment is made, there shall be
697 only one local exchange company representative serving on the
698 board, notwithstanding any other provision to the contrary.

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

700 (a) The board shall:

701 1. Administer the E911 fee.

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

703 3. Review and oversee the disbursement of the revenues

704 deposited into the fund as provided in s. 365.173.

705 a. The board may establish a schedule for implementing

706 wireless E911 service by service area, and prioritize

707 disbursements of revenues from the fund to providers and rural

708 counties as provided in s. 365.173(2)(d) ~~s. 365.173(2)(b)~~ and

709 (g) ~~(e)~~ pursuant to the schedule, in order to implement E911

710 services in the most efficient and cost-effective manner.

711 b. Revenues in the fund ~~collected and deposited into the~~

712 ~~fund for distribution as provided in s. 365.173(2)(b), but which~~

713 have not been disbursed because sworn invoices as required by s.

714 365.173(2)(d) ~~s. 365.173(2)(b)~~ have not been submitted to the

715 board, may be used ~~utilized~~ by the board as needed to provide

716 grants to ~~rural counties and loans to medium~~ counties for the

717 purpose of upgrading E911 systems. The counties must use the

718 funds only for capital expenditures directly attributable to

719 establishing and provisioning E911 services, which may include

720 next-generation deployment. Prior to the distribution of grants,

721 the board shall provide 90 days' written notice to all counties

722 and publish electronically an approved application process.

723 County grant applications shall be prioritized based on the

724 availability of funds, current system life expectancy, system

725 replacement needs, and Phase II compliance per the Federal

726 Communications Commission. No grants will be available to any

727 county for next-generation deployment until all counties are

728 Phase II complete. ~~Grants provided to rural counties would be in~~

729 ~~addition to disbursements provided under s. 365.173(2)(e). Loans~~
730 ~~provided to medium counties shall be based on county hardship~~
731 ~~criteria as determined and approved by the board. Revenues~~
732 ~~utilized for this purpose shall be fully repaid to the fund in a~~
733 ~~manner and under a timeframe as determined and approved by the~~
734 ~~board.~~ The board shall take all actions within its authority to
735 ensure that county recipients of such grants use ~~and loans~~
736 ~~utilize~~ these funds only for the purpose under which they have
737 been provided and may take any actions within its authority to
738 secure county repayment of grant ~~and loan~~ revenues upon
739 determination that the funds were not used ~~utilized~~ for the
740 purpose under which they were provided.

741 c. The board shall reimburse all costs of a wireless
742 provider in accordance with s. 365.173(2)(d) before taking any
743 action to transfer additional funds.

744 d. By September 1, 2007, the board shall authorize the
745 transfer of up to \$15 million to the counties from existing
746 money within the fund established under s. 365.173(1). The money
747 shall be disbursed equitably to all of the counties using a
748 timeframe and distribution methodology established by the board
749 before September 1, 2007, in order to prevent a loss to the
750 counties in the ordinary and expected time value of money caused
751 by any timing delay in remittance to the counties of wireline
752 fees caused by the one-time transfer of collecting wireline fees
753 by the counties to the board. All disbursements for this purpose
754 must be returned to the fund from future remittances by the
755 nonwireless category.

756 e. After taking the action required in sub-subparagraphs

757 a.-d., the board may review and, with all members participating
 758 in the vote, adjust the percentage allocations or adjust the
 759 amount of the fee, or both, under paragraph (8) (h), and, if the
 760 board determines that the revenues in the wireless category
 761 exceed the amount needed to reimburse wireless providers for the
 762 cost to implement E911 services, the board may transfer revenue
 763 to the counties from the existing funds within the wireless
 764 category. The board shall disburse the funds equitably to all
 765 counties using a timeframe and distribution methodology
 766 established by the board.

767 4. Review documentation submitted by wireless providers
 768 which reflects current and projected funds derived from the ~~E911~~
 769 fee, and the expenses incurred and expected to be incurred, in
 770 order to comply with the E911 service requirements contained in
 771 the order for the purposes of:

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

774 b. Ensuring that wireless providers are not provided
 775 disbursements from the fund which exceed the costs of providing
 776 E911 service, including the costs of complying with the order.

777 c. Ascertaining the projected costs of compliance with the
 778 requirements of the order and projected collections of the ~~E911~~
 779 fee.

780 d. Implementing changes to the allocation percentages or
 781 adjusting ~~reducing~~ the ~~E911~~ fee under paragraph (8) (i) ~~(8) (e)~~.

782 5. Meet monthly in the most efficient and cost-effective
 783 manner, including telephonically when practical, for the
 784 business to be conducted, to review and approve or reject, in

785 whole or in part, applications submitted by wireless providers
 786 for recovery of moneys deposited into the wireless category, and
 787 to authorize the transfer of, and distribute, the fee allocation
 788 to the counties fund.

789 6. Hire and retain employees, which may include an
 790 independent executive director who shall possess experience in
 791 the area of telecommunications and emergency 911 issues, for the
 792 purposes of performing the technical and administrative
 793 functions for the board.

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

797 ~~8. Take all necessary and reasonable steps by July 1,~~
 798 ~~2000, to secure appropriate information and reports from~~
 799 ~~providers and otherwise perform all of the functions that would~~
 800 ~~be performed by an independent accounting firm prior to~~
 801 ~~completing the request for proposals process under subsection~~
 802 ~~(7).~~

803 ~~8.9.~~ Sue and be sued, and appear and defend in all actions
 804 and proceedings, in its corporate name to the same extent as a
 805 natural person.

806 ~~9.10.~~ Adopt, use, and alter a common corporate seal.

807 ~~10.11.~~ Elect or appoint the officers and agents that are
 808 required by the affairs of the board.

809 ~~11.12.~~ The board may adopt rules under ss. 120.536(1) and
 810 120.54 to implement this section and ss. 365.173 and 365.174.

811 ~~12.13.~~ Provide coordination, support, and technical
 812 assistance to counties to promote the deployment of advanced 911

813 and E911 systems in the state.

814 ~~13.14.~~ Provide coordination and support for educational
815 opportunities related to E911 ~~911~~ issues for the E911 ~~911~~
816 community in this state.

817 ~~14.15.~~ Act as an advocate for issues related to E911 ~~911~~
818 system functions, features, and operations to improve the
819 delivery of E911 ~~911~~ services to the residents of and visitors
820 to this state.

821 ~~15.16.~~ Coordinate input from this state at national forums
822 and associations, to ensure that policies related to E911 ~~911~~
823 systems and services are consistent with the policies of the
824 E911 ~~911~~ community in this state.

825 ~~16.17.~~ Work cooperatively with the system director
826 established in s. 365.171(5) to enhance the state of E911 ~~911~~
827 services in this state and to provide unified leadership for all
828 E911 ~~911~~ issues through planning and coordination.

829 ~~17.18.~~ Do all acts and things necessary or convenient to
830 carry out the powers granted in this section in a manner that is
831 competitively and technologically neutral as to all voice
832 communications services providers, including, but not limited
833 to, consideration of emerging technology and related cost
834 savings, while taking into account embedded costs in current
835 systems.

836 ~~18.19.~~ Have the authority to secure the services of an
837 independent, private attorney via invitation to bid, request for
838 proposals, invitation to negotiate, or professional contracts
839 for legal services already established at the Division of
840 Purchasing of the Department of Management Services.

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

844 (c) By February 28 of each year, the board shall prepare a
 845 report for submission by the office to the Governor, the
 846 President of the Senate, and the Speaker of the House of
 847 Representatives which addresses for the immediately preceding
 848 calendar year: ~~reflects, for the immediately preceding calendar~~
 849 ~~year, the quarterly and annual receipts and disbursements of~~
 850 ~~moneys in the fund, the purposes for which disbursements of~~
 851 ~~moneys from the fund have been made, and the availability and~~
 852 ~~status of implementation of E911 service in this state.~~

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

857 1. The annual receipts, including the total amount of ~~E911~~
 858 fee revenues collected by each provider, the total disbursements
 859 of money in the fund, including the amount of fund-reimbursed
 860 expenses incurred by each wireless provider to comply with the
 861 order, and the amount of moneys on deposit in the fund, ~~all as~~
 862 ~~of December 1, 2000.~~

863 2. Whether the amount of the ~~E911~~ fee and the allocation
 864 percentages set forth in s. 365.173 have been or should be
 865 adjusted to comply with the requirements of the order or other
 866 provisions of this chapter, and the reasons for making or not
 867 making, ~~if so,~~ a recommended adjustment to the ~~E911~~ fee.

868 3. Any other issues related to providing wireless E911

869 services.

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

871 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING
872 FIRM.--

873 (a) The board shall issue a request for proposals as
874 provided in chapter 287 for the purpose of retaining an
875 independent accounting firm. The independent accounting firm
876 shall perform all material administrative and accounting tasks
877 and functions required for administering the ~~E911~~ fee. The
878 request for proposals must include, but need not be limited to:

879 1. A description of the scope and general requirements of
880 the services requested.

881 2. A description of the specific accounting and reporting
882 services required for administering the fund, including
883 processing checks and distributing funds as directed by the
884 board under s. 365.173.

885 3. A description of information to be provided by the
886 proposer, including the proposer's background and qualifications
887 and the proposed cost of the services to be provided.

888 (b) The board shall establish a committee to review
889 requests for proposals which must include the statewide E911 ~~911~~
890 system director designated under s. 365.171(5), or his or her
891 designee, and two members of the board, one of whom is a county
892 911 coordinator and one of whom represents a voice
893 communications services provider ~~the wireless telecommunications~~
894 ~~industry~~. The review committee shall review the proposals
895 received by the board and recommend an independent accounting
896 firm to the board for final selection. By agreeing to serve on

897 the review committee, each member of the review committee shall
898 verify that he or she does not have any interest or employment,
899 directly or indirectly, with potential proposers which conflicts
900 in any manner or degree with his or her performance on the
901 committee.

902 (c) After July 1, 2004, the board may secure the services
903 of an independent accounting firm via invitation to bid, request
904 for proposals, invitation to negotiate, or professional
905 contracts already established at the Division of Purchasing,
906 Department of Management Services, for certified public
907 accounting firms, or the board may hire and retain professional
908 accounting staff to accomplish these functions.

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

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

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

919 2. Except in the case of prepaid wireless service, each
920 wireless provider shall bill the fee to a subscriber on a per-
921 service-identifier basis for service identifiers whose primary
922 place of use is within this state. Before July 1, 2009, the fee
923 shall not be assessed on or collected from a provider with
924 respect to an end user's service if that end user's service is a

925 prepaid calling arrangement that is subject to s. 212.05(1)(e).

926 a. The board shall conduct a study to determine whether it
927 is feasible to collect E911 fees from the sale of prepaid
928 wireless service. If, based on the findings of the study, the
929 board determines that a fee should not be collected from the
930 sale of prepaid wireless service, it shall report its findings
931 and recommendation to the Governor, the President of the Senate,
932 and the Speaker of the House of Representatives by December 31,
933 2008. If the board determines that a fee should be collected
934 from the sale of prepaid wireless service, the board shall
935 collect the fee beginning July 1, 2009.

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

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

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

945 c. The study must include an evaluation of methods by
946 which E911 fees may be collected from end users and purchasers
947 of prepaid wireless service on an equitable, efficient,
948 competitively neutral, and nondiscriminatory basis and must
949 consider whether the collection of fees on prepaid wireless
950 service would constitute an efficient use of public funds given
951 the technological and practical considerations of collecting the
952 fee based on the varying methodologies prepaid wireless service

953 providers and their agents use in marketing prepaid wireless
954 service.

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

960 e. No later than 90 days after this section becomes law,
961 the board shall require all prepaid wireless service providers,
962 including resellers, to provide the board with information that
963 the board determines is necessary to discharge its duties under
964 this section, including information necessary for its
965 recommendation, such as total retail and reseller prepaid
966 wireless service sales.

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

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

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

980

981 The provider may list the fee as a separate entry on each bill,
982 in which case the fee must be identified as a fee for E911
983 services. A provider shall remit the fee to the board only if
984 the fee is paid by the subscriber. If a provider receives a
985 partial payment for a monthly bill from a subscriber, the amount
986 received shall first be applied to the payment due the provider
987 for providing voice communications service.

988 (b) A provider is not obligated to take any legal action
989 to enforce collection of the fees for which any subscriber is
990 billed. A county subscribing to 911 service remains liable to
991 the provider delivering the 911 service or equipment for any 911
992 service, equipment, operation, or maintenance charge owed by the
993 county to the provider.

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

996 (d) Each provider may retain 1 percent of the amount of
997 the fees collected as reimbursement for the administrative costs
998 incurred by the provider to bill, collect, and remit the fee.
999 The remainder shall be delivered to the board and deposited by
1000 the board into the fund. The board shall distribute the
1001 remainder pursuant to s. 365.173.

1002 (e) Effective September 1, 2007, voice communications
1003 services providers billing the fee to subscribers shall deliver
1004 revenues from the fee to the board within 60 days after the end
1005 of the month in which the fee was billed, together with a
1006 monthly report of the number of service identifiers in each
1007 county. Each wireless provider and other applicable provider
1008 identified in subparagraph (a)3. shall report the number of

1009 service identifiers for subscribers whose place of primary use
 1010 is in each county. All provider subscriber information provided
 1011 to the board is subject to s. 365.174. If a provider chooses to
 1012 remit any fee amounts to the board before they are paid by the
 1013 subscribers, a provider may apply to the board for a refund of,
 1014 or may take a credit for, any such fees remitted to the board
 1015 which are not collected by the provider within 6 months
 1016 following the month in which the fees are charged off for
 1017 federal income tax purposes as bad debt.

1018 (f) The rate of the fee shall be set by the board after
 1019 considering the factors set forth in paragraphs (h) and (i), but
 1020 may not exceed 50 cents per month per each service identifier
 1021 number, beginning August 1, 1999. The fee shall apply uniformly
 1022 and be imposed throughout the state, except for those counties
 1023 that, before July 1, 2007, had adopted an ordinance or
 1024 resolution establishing a fee less than 50 cents per month per
 1025 access line. In those counties the fee established by ordinance
 1026 may be changed only to the uniform statewide rate no sooner than
 1027 30 days after notification is made by the county's board of
 1028 county commissioners to the board.

1029 (g) It is the intent of the Legislature that all revenue
 1030 from the fee be used as specified in s. 365.173(2)(a)-(i).

1031 (h) No later than November 1, 2007, the board may adjust
 1032 the allocation percentages for distribution of the fund as
 1033 provided in s. 365.173. When setting the percentages and
 1034 contemplating any adjustments to the fee, the board shall
 1035 consider the following:

1036 1. The revenues currently allocated for wireless service

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1037 provider costs for implementing E911 service and projected costs
1038 for implementing E911 service, including recurring costs for
1039 Phase I and Phase II and the effect of new technologies;

1040 2. The appropriate level of funding needed to fund the
1041 rural grant program provided for in s. 365.173(2)(g); and

1042 3. The need to fund statewide, regional, and county grants
1043 in accordance with sub-subparagraph (6)(a)3.b.

1044 ~~(b) The fee is established to ensure full recovery for~~
1045 ~~providers and for counties, over a reasonable period, of the~~
1046 ~~costs associated with developing and maintaining an E911 system~~
1047 ~~on a technologically and competitively neutral basis.~~

1048 ~~(i)(c) After July 1, 2001, The board may adjust the~~
1049 ~~allocation percentages or adjust provided in s. 365.173 ~~or~~~~
1050 ~~reduce the amount of the fee, or both, if necessary to ensure~~
1051 ~~full cost recovery or prevent overrecovery of costs incurred in~~
1052 ~~the provision of E911 service, including costs incurred or~~
1053 ~~projected to be incurred to comply with the order. Any new~~
1054 ~~allocation percentages or reduced or increased fee may not be~~
1055 ~~adjusted for 1 year. The fee may not exceed 50 cents per month~~
1056 ~~per each service identifier number. The board-established fee,~~
1057 ~~and any board adjustment of the fee, shall be uniform throughout~~
1058 ~~the state, except for the counties identified in paragraph (f).~~
1059 ~~No less than 90 days before the effective date of any adjustment~~
1060 ~~to the fee, the board shall provide written notice of the~~
1061 ~~adjusted fee amount and effective date to each voice~~
1062 ~~communications services provider from which the board is then~~
1063 ~~receiving the fee.~~

1064 ~~(j)(d) State and local taxes do not apply to the fee.~~

1065 (k)~~(e)~~ A local government may not levy the fee or any
 1066 additional fee on ~~wireless~~ providers or subscribers for the
 1067 provision of E911 service.

1068 (l) For purposes of this section, the definitions
 1069 contained in s. 202.11 and the provisions of s. 202.155 apply in
 1070 the same manner and to the same extent as the definitions and
 1071 provisions apply to the taxes levied under chapter 202 on mobile
 1072 communications services.

1073 (9) AUTHORIZED EXPENDITURES OF E911 FEE.--

1074 (a) For purposes of this section, E911 service includes
 1075 the functions of database management, call taking, location
 1076 verification, and call transfer.

1077 (b) All costs directly attributable to the establishment
 1078 or provision of E911 service and contracting for E911 services
 1079 are eligible for expenditure of moneys derived from imposition
 1080 of the fee authorized by this section. These costs include the
 1081 acquisition, implementation, and maintenance of Public Safety
 1082 Answering Point (PSAP) equipment and E911 service features, as
 1083 defined in the Public Service Commission's lawfully approved 911
 1084 and E911 and related tariffs or the acquisition, installation,
 1085 and maintenance of other E911 equipment, including call
 1086 answering equipment, call transfer equipment, ANI controllers,
 1087 ALI controllers, ANI displays, ALI displays, station
 1088 instruments, E911 telecommunications systems, visual call
 1089 information and storage devices, recording equipment, telephone
 1090 devices and other equipment for the hearing impaired used in the
 1091 E911 system, PSAP backup power systems, consoles, automatic call
 1092 distributors, and interfaces, including hardware and software,

1093 for computer-aided dispatch (CAD) systems, integrated CAD
1094 systems for that portion of the systems used for E911 call
1095 taking, network clocks, salary and associated expenses for E911
1096 call takers for that portion of their time spent taking and
1097 transferring E911 calls, salary and associated expenses for a
1098 county to employ a full-time equivalent E911 coordinator
1099 position and a full-time equivalent mapping or geographical data
1100 position and a staff assistant position per county for the
1101 portion of their time spent administrating the E911 system,
1102 training costs for PSAP call takers, supervisors, and managers
1103 in the proper methods and techniques used in taking and
1104 transferring E911 calls, costs to train and educate PSAP
1105 employees regarding E911 service or E911 equipment, and expenses
1106 required to develop and maintain all information, including ALI
1107 and ANI databases and other information source repositories,
1108 necessary to properly inform calltakers as to location address,
1109 type of emergency, and other information directly relevant to
1110 the E911 call-taking and transferring function. Moneys derived
1111 from the fee may also be used for next-generation E911 network
1112 services, next-generation E911 database services, next-
1113 generation E911 equipment, and wireless E911 routing systems.

1114 (c) The moneys may not be used to pay for any item not
1115 listed in this subsection, including, but not limited to, any
1116 capital or operational costs for emergency responses which occur
1117 after the call transfer to the responding public safety entity
1118 and the costs for constructing, leasing, maintaining, or
1119 renovating buildings, except for those building modifications
1120 necessary to maintain the security and environmental integrity

1121 of the PSAP and E911 equipment rooms.

1122 (10) LIABILITY OF COUNTIES.--A county subscribing to 911
 1123 service remains liable to the local exchange carrier for any 911
 1124 service, equipment, operation, or maintenance charge owed by the
 1125 county to the local exchange carrier. As used in this
 1126 subsection, the term "local exchange carrier" means a local
 1127 exchange telecommunications service provider of 911 service or
 1128 equipment to any county within its certificated area.

1129 (11) INDEMNIFICATION AND LIMITATION OF LIABILITY.--Local
 1130 governments are authorized to undertake to indemnify local
 1131 exchange carriers against liability in accordance with the
 1132 lawfully filed tariffs of the company. Notwithstanding an
 1133 indemnification agreement, a voice communications services
 1134 provider is not liable for damages resulting from or in
 1135 connection with 911 or E911 service, or for identification of
 1136 the telephone number, or address, or name associated with any
 1137 person accessing 911 or E911 service, unless the voice
 1138 communications services provider acted with malicious purpose or
 1139 in a manner exhibiting wanton and willful disregard of the
 1140 rights, safety, or property of a person when providing such
 1141 services. A voice communications services provider is not liable
 1142 for damages to any person resulting from or in connection with
 1143 the provider's provision of any lawful assistance to any
 1144 investigative or law enforcement officer of the United States,
 1145 this state, or a political subdivision thereof, or of any other
 1146 state or political subdivision thereof, in connection with any
 1147 lawful investigation or other law enforcement activity by such
 1148 law enforcement officer.

1149 ~~(9) MANAGEMENT OF FUNDS.~~

1150 ~~(a) Each provider, as a part of its monthly billing~~
1151 ~~process, shall collect the fee imposed under subsection (8). The~~
1152 ~~provider may list the fee as a separate entry on each bill, in~~
1153 ~~which case the fee must be identified as a fee for E911~~
1154 ~~services. A provider shall remit the fee only if the fee is paid~~
1155 ~~by the subscriber. If a provider receives a partial payment for~~
1156 ~~a monthly bill from a subscriber, the amount received shall~~
1157 ~~first be applied to the payment due the provider for the~~
1158 ~~provision of telecommunications service.~~

1159 ~~(b) In the case of prepaid wireless telephone service, the~~
1160 ~~monthly wireless 911 surcharge imposed by subsection (8) shall~~
1161 ~~be remitted based upon each prepaid wireless telephone~~
1162 ~~associated with this state, for each wireless service customer~~
1163 ~~that has a sufficient positive balance as of the last day of~~
1164 ~~each month. The surcharge shall be remitted in any manner~~
1165 ~~consistent with the wireless provider's existing operating or~~
1166 ~~technological abilities, such as customer address, location~~
1167 ~~associated with the MTN, or reasonable allocation method based~~
1168 ~~upon other comparable relevant data. The surcharge amount or an~~
1169 ~~equivalent number of minutes may be reduced from the prepaid~~
1170 ~~subscriber's account since a direct billing may not be possible.~~
1171 ~~However, collection of the wireless 911 surcharge in the manner~~
1172 ~~of a reduction of value or minutes from the prepaid subscriber's~~
1173 ~~account does not constitute a reduction in the sales price for~~
1174 ~~purposes of taxes that are collected at the point of sale.~~

1175 ~~(c) A provider is not obligated to take any legal action~~
1176 ~~to enforce collection of the fees for which any subscriber is~~

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1177 ~~billed. The provider shall provide to the board each quarter a~~
1178 ~~list of the names, addresses, and service numbers of all~~
1179 ~~subscribers who have indicated to the provider their refusal to~~
1180 ~~pay the fee.~~

1181 ~~(d) Each provider may retain 1 percent of the amount of~~
1182 ~~the fees collected as reimbursement for the administrative costs~~
1183 ~~incurred by the provider to bill, collect, and remit the fee.~~
1184 ~~The remainder shall be delivered to the board and deposited in~~
1185 ~~the fund. The board shall distribute the remainder pursuant to~~
1186 ~~s. 365.173.~~

1187 ~~(e) Each provider shall deliver revenues from the fee to~~
1188 ~~the board within 60 days after the end of the month in which the~~
1189 ~~fee was billed, together with a monthly report of the number of~~
1190 ~~wireless customers whose place of primary use is in each county.~~
1191 ~~A provider may apply to the board for a refund of, or may take a~~
1192 ~~credit for, any fees remitted to the board which are not~~
1193 ~~collected by the provider within 6 months following the month in~~
1194 ~~which the fees are charged off for federal income tax purposes~~
1195 ~~as bad debt. The board may waive the requirement that the fees~~
1196 ~~and number of customers whose place of primary use is in each~~
1197 ~~county be submitted to the board each month and authorize a~~
1198 ~~provider to submit the fees and number of customers quarterly if~~
1199 ~~the provider demonstrates that such waiver is necessary and~~
1200 ~~justified.~~

1201 ~~(f) For purposes of this section, the definitions~~
1202 ~~contained in s. 202.11 and the provisions of s. 202.155 apply in~~
1203 ~~the same manner and to the same extent as such definitions and~~
1204 ~~provisions apply to the taxes levied pursuant to chapter 202 on~~

1205 ~~mobile communications services.~~

1206 ~~(g) As used in this subsection, the term "provider"~~
 1207 ~~includes any person or entity that resells wireless service and~~
 1208 ~~was not assessed the fee by its resale supplier.~~

1209 ~~(10) PROVISION OF SERVICES. In accordance with the order,~~
 1210 ~~a provider is not required to provide E911 service until:~~

1211 ~~(a) The provider receives a request in writing for such~~
 1212 ~~service from the county 911 coordinator and the affected~~
 1213 ~~answering point is capable of receiving and using the data~~
 1214 ~~elements associated with the service.~~

1215 ~~(b) Funds are available under s. 365.173(2)(b).~~

1216 ~~(c) The local exchange carrier is able to support the E911~~
 1217 ~~system.~~

1218 ~~(d) The service area has been scheduled for implementation~~
 1219 ~~of E911 service by the board pursuant to subparagraph (6)(a)3.~~
 1220 ~~If a county's 911 coordinator requests E911 service from a~~
 1221 ~~provider, the coordinator shall also request E911 service from~~
 1222 ~~all other providers in the area in a nondiscriminatory and fair~~
 1223 ~~manner.~~

1224 (12) ~~(11)~~ FACILITATING E911 SERVICE IMPLEMENTATION.--To
 1225 balance the public need for reliable E911 services through
 1226 reliable wireless systems and the public interest served by
 1227 governmental zoning and land development regulations and
 1228 notwithstanding any other law or local ordinance to the
 1229 contrary, the following standards shall apply to a local
 1230 government's actions, as a regulatory body, in the regulation of
 1231 the placement, construction, or modification of a wireless
 1232 communications facility. This subsection shall not, however, be

1233 construed to waive or alter the provisions of s. 286.011 or s.
 1234 286.0115. For the purposes of this subsection only, "local
 1235 government" shall mean any municipality or county and any agency
 1236 of a municipality or county only. The term "local government"
 1237 does not, however, include any airport, as defined by s.
 1238 330.27(2), even if it is owned or controlled by or through a
 1239 municipality, county, or agency of a municipality or county.
 1240 Further, notwithstanding anything in this section to the
 1241 contrary, this subsection does not apply to or control a local
 1242 government's actions as a property or structure owner in the use
 1243 of any property or structure owned by such entity for the
 1244 placement, construction, or modification of wireless
 1245 communications facilities. In the use of property or structures
 1246 owned by the local government, however, a local government may
 1247 not use its regulatory authority so as to avoid compliance with,
 1248 or in a manner that does not advance, the provisions of this
 1249 subsection.

1250 (a) Collocation among wireless providers is encouraged by
 1251 the state.

1252 1.a. Collocations on towers, including nonconforming
 1253 towers, that meet the requirements in sub-sub-subparagraphs (I),
 1254 (II), and (III), are subject to only building permit review,
 1255 which may include a review for compliance with this
 1256 subparagraph. Such collocations are not subject to any design or
 1257 placement requirements of the local government's land
 1258 development regulations in effect at the time of the collocation
 1259 that are more restrictive than those in effect at the time of
 1260 the initial antennae placement approval, to any other portion of

1261 the land development regulations, or to public hearing review.
1262 This sub-subparagraph shall not preclude a public hearing for
1263 any appeal of the decision on the collocation application.

1264 (I) The collocation does not increase the height of the
1265 tower to which the antennae are to be attached, measured to the
1266 highest point of any part of the tower or any existing antenna
1267 attached to the tower;

1268 (II) The collocation does not increase the ground space
1269 area, commonly known as the compound, approved in the site plan
1270 for equipment enclosures and ancillary facilities; and

1271 (III) The collocation consists of antennae, equipment
1272 enclosures, and ancillary facilities that are of a design and
1273 configuration consistent with all applicable regulations,
1274 restrictions, or conditions, if any, applied to the initial
1275 antennae placed on the tower and to its accompanying equipment
1276 enclosures and ancillary facilities and, if applicable, applied
1277 to the tower supporting the antennae. Such regulations may
1278 include the design and aesthetic requirements, but not
1279 procedural requirements, other than those authorized by this
1280 section, of the local government's land development regulations
1281 in effect at the time the initial antennae placement was
1282 approved.

1283 b. Except for a historic building, structure, site,
1284 object, or district, or a tower included in sub-subparagraph a.,
1285 collocations on all other existing structures that meet the
1286 requirements in sub-sub-subparagraphs (I)-(IV) shall be subject
1287 to no more than building permit review, and an administrative
1288 review for compliance with this subparagraph. Such collocations

1289 are not subject to any portion of the local government's land
1290 development regulations not addressed herein, or to public
1291 hearing review. This sub-subparagraph shall not preclude a
1292 public hearing for any appeal of the decision on the collocation
1293 application.

1294 (I) The collocation does not increase the height of the
1295 existing structure to which the antennae are to be attached,
1296 measured to the highest point of any part of the structure or
1297 any existing antenna attached to the structure;

1298 (II) The collocation does not increase the ground space
1299 area, otherwise known as the compound, if any, approved in the
1300 site plan for equipment enclosures and ancillary facilities;

1301 (III) The collocation consists of antennae, equipment
1302 enclosures, and ancillary facilities that are of a design and
1303 configuration consistent with any applicable structural or
1304 aesthetic design requirements and any requirements for location
1305 on the structure, but not prohibitions or restrictions on the
1306 placement of additional collocations on the existing structure
1307 or procedural requirements, other than those authorized by this
1308 section, of the local government's land development regulations
1309 in effect at the time of the collocation application; and

1310 (IV) The collocation consists of antennae, equipment
1311 enclosures, and ancillary facilities that are of a design and
1312 configuration consistent with all applicable restrictions or
1313 conditions, if any, that do not conflict with sub-sub-
1314 subparagraph (III) and were applied to the initial antennae
1315 placed on the structure and to its accompanying equipment
1316 enclosures and ancillary facilities and, if applicable, applied

1317 to the structure supporting the antennae.

1318 c. Regulations, restrictions, conditions, or permits of
1319 the local government, acting in its regulatory capacity, that
1320 limit the number of collocations or require review processes
1321 inconsistent with this subsection shall not apply to
1322 collocations addressed in this subparagraph.

1323 d. If only a portion of the collocation does not meet the
1324 requirements of this subparagraph, such as an increase in the
1325 height of the proposed antennae over the existing structure
1326 height or a proposal to expand the ground space approved in the
1327 site plan for the equipment enclosure, where all other portions
1328 of the collocation meet the requirements of this subparagraph,
1329 that portion of the collocation only may be reviewed under the
1330 local government's regulations applicable to an initial
1331 placement of that portion of the facility, including, but not
1332 limited to, its land development regulations, and within the
1333 review timeframes of subparagraph (d)2., and the rest of the
1334 collocation shall be reviewed in accordance with this
1335 subparagraph. A collocation proposal under this subparagraph
1336 that increases the ground space area, otherwise known as the
1337 compound, approved in the original site plan for equipment
1338 enclosures and ancillary facilities by no more than a cumulative
1339 amount of 400 square feet or 50 percent of the original compound
1340 size, whichever is greater, shall, however, require no more than
1341 administrative review for compliance with the local government's
1342 regulations, including, but not limited to, land development
1343 regulations review, and building permit review, with no public
1344 hearing review. This sub-subparagraph shall not preclude a

1345 public hearing for any appeal of the decision on the collocation
1346 application.

1347 2. If a collocation does not meet the requirements of
1348 subparagraph 1., the local government may review the application
1349 under the local government's regulations, including, but not
1350 limited to, land development regulations, applicable to the
1351 placement of initial antennae and their accompanying equipment
1352 enclosure and ancillary facilities.

1353 3. If a collocation meets the requirements of subparagraph
1354 1., the collocation shall not be considered a modification to an
1355 existing structure or an impermissible modification of a
1356 nonconforming structure.

1357 4. The owner of the existing tower on which the proposed
1358 antennae are to be collocated shall remain responsible for
1359 compliance with any applicable condition or requirement of a
1360 permit or agreement, or any applicable condition or requirement
1361 of the land development regulations to which the existing tower
1362 had to comply at the time the tower was permitted, including any
1363 aesthetic requirements, provided the condition or requirement is
1364 not inconsistent with this paragraph.

1365 5. An existing tower, including a nonconforming tower, may
1366 be structurally modified in order to permit collocation or may
1367 be replaced through no more than administrative review and
1368 building permit review, and is not subject to public hearing
1369 review, if the overall height of the tower is not increased and,
1370 if a replacement, the replacement tower is a monopole tower or,
1371 if the existing tower is a camouflaged tower, the replacement
1372 tower is a like-camouflaged tower. This subparagraph shall not

1373 preclude a public hearing for any appeal of the decision on the
1374 application.

1375 (b)1. A local government's land development and
1376 construction regulations for wireless communications facilities
1377 and the local government's review of an application for the
1378 placement, construction, or modification of a wireless
1379 communications facility shall only address land development or
1380 zoning issues. In such local government regulations or review,
1381 the local government may not require information on or evaluate
1382 a wireless provider's business decisions about its service,
1383 customer demand for its service, or quality of its service to or
1384 from a particular area or site, unless the wireless provider
1385 voluntarily offers this information to the local government. In
1386 such local government regulations or review, a local government
1387 may not require information on or evaluate the wireless
1388 provider's designed service unless the information or materials
1389 are directly related to an identified land development or zoning
1390 issue or unless the wireless provider voluntarily offers the
1391 information. Information or materials directly related to an
1392 identified land development or zoning issue may include, but are
1393 not limited to, evidence that no existing structure can
1394 reasonably be used for the antennae placement instead of the
1395 construction of a new tower, that residential areas cannot be
1396 served from outside the residential area, as addressed in
1397 subparagraph 3., or that the proposed height of a new tower or
1398 initial antennae placement or a proposed height increase of a
1399 modified tower, replacement tower, or collocation is necessary
1400 to provide the provider's designed service. Nothing in this

1401 paragraph shall limit the local government from reviewing any
1402 applicable land development or zoning issue addressed in its
1403 adopted regulations that does not conflict with this section,
1404 including, but not limited to, aesthetics, landscaping, land use
1405 based location priorities, structural design, and setbacks.

1406 2. Any setback or distance separation required of a tower
1407 may not exceed the minimum distance necessary, as determined by
1408 the local government, to satisfy the structural safety or
1409 aesthetic concerns that are to be protected by the setback or
1410 distance separation.

1411 3. A local government may exclude the placement of
1412 wireless communications facilities in a residential area or
1413 residential zoning district but only in a manner that does not
1414 constitute an actual or effective prohibition of the provider's
1415 service in that residential area or zoning district. If a
1416 wireless provider demonstrates to the satisfaction of the local
1417 government that the provider cannot reasonably provide its
1418 service to the residential area or zone from outside the
1419 residential area or zone, the municipality or county and
1420 provider shall cooperate to determine an appropriate location
1421 for a wireless communications facility of an appropriate design
1422 within the residential area or zone. The local government may
1423 require that the wireless provider reimburse the reasonable
1424 costs incurred by the local government for this cooperative
1425 determination. An application for such cooperative determination
1426 shall not be considered an application under paragraph (d).

1427 4. A local government may impose a reasonable fee on
1428 applications to place, construct, or modify a wireless

1429 | communications facility only if a similar fee is imposed on
1430 | applicants seeking other similar types of zoning, land use, or
1431 | building permit review. A local government may impose fees for
1432 | the review of applications for wireless communications
1433 | facilities by consultants or experts who conduct code compliance
1434 | review for the local government but any fee is limited to
1435 | specifically identified reasonable expenses incurred in the
1436 | review. A local government may impose reasonable surety
1437 | requirements to ensure the removal of wireless communications
1438 | facilities that are no longer being used.

1439 | 5. A local government may impose design requirements, such
1440 | as requirements for designing towers to support collocation or
1441 | aesthetic requirements, except as otherwise limited in this
1442 | section, but shall not impose or require information on
1443 | compliance with building code type standards for the
1444 | construction or modification of wireless communications
1445 | facilities beyond those adopted by the local government under
1446 | chapter 553 and that apply to all similar types of construction.

1447 | (c) Local governments may not require wireless providers
1448 | to provide evidence of a wireless communications facility's
1449 | compliance with federal regulations, except evidence of
1450 | compliance with applicable Federal Aviation Administration
1451 | requirements under 14 C.F.R. s. 77, as amended, and evidence of
1452 | proper Federal Communications Commission licensure, or other
1453 | evidence of Federal Communications Commission authorized
1454 | spectrum use, but may request the Federal Communications
1455 | Commission to provide information as to a wireless provider's
1456 | compliance with federal regulations, as authorized by federal

1457 law.

1458 (d)1. A local government shall grant or deny each properly
 1459 completed application for a collocation under subparagraph (a)1.
 1460 based on the application's compliance with the local
 1461 government's applicable regulations, as provided for in
 1462 subparagraph (a)1. and consistent with this subsection, and
 1463 within the normal timeframe for a similar building permit review
 1464 but in no case later than 45 business days after the date the
 1465 application is determined to be properly completed in accordance
 1466 with this paragraph.

1467 2. A local government shall grant or deny each properly
 1468 completed application for any other wireless communications
 1469 facility based on the application's compliance with the local
 1470 government's applicable regulations, including but not limited
 1471 to land development regulations, consistent with this subsection
 1472 and within the normal timeframe for a similar type review but in
 1473 no case later than 90 business days after the date the
 1474 application is determined to be properly completed in accordance
 1475 with this paragraph.

1476 3.a. An application is deemed submitted or resubmitted on
 1477 the date the application is received by the local government. If
 1478 the local government does not notify the applicant in writing
 1479 that the application is not completed in compliance with the
 1480 local government's regulations within 20 business days after the
 1481 date the application is initially submitted or additional
 1482 information resubmitted, the application is deemed, for
 1483 administrative purposes only, to be properly completed and
 1484 properly submitted. However, the determination shall not be

1485 deemed as an approval of the application. If the application is
1486 not completed in compliance with the local government's
1487 regulations, the local government shall so notify the applicant
1488 in writing and the notification must indicate with specificity
1489 any deficiencies in the required documents or deficiencies in
1490 the content of the required documents which, if cured, make the
1491 application properly completed. Upon resubmission of information
1492 to cure the stated deficiencies, the local government shall
1493 notify the applicant, in writing, within the normal timeframes
1494 of review, but in no case longer than 20 business days after the
1495 additional information is submitted, of any remaining
1496 deficiencies that must be cured. Deficiencies in document type
1497 or content not specified by the local government do not make the
1498 application incomplete. Notwithstanding this sub-subparagraph,
1499 if a specified deficiency is not properly cured when the
1500 applicant resubmits its application to comply with the notice of
1501 deficiencies, the local government may continue to request the
1502 information until such time as the specified deficiency is
1503 cured. The local government may establish reasonable timeframes
1504 within which the required information to cure the application
1505 deficiency is to be provided or the application will be
1506 considered withdrawn or closed.

1507 b. If the local government fails to grant or deny a
1508 properly completed application for a wireless communications
1509 facility within the timeframes set forth in this paragraph, the
1510 application shall be deemed automatically approved and the
1511 applicant may proceed with placement of the facilities without
1512 interference or penalty. The timeframes specified in

1513 subparagraph 2. may be extended only to the extent that the
1514 application has not been granted or denied because the local
1515 government's procedures generally applicable to all other
1516 similar types of applications require action by the governing
1517 body and such action has not taken place within the timeframes
1518 specified in subparagraph 2. Under such circumstances, the local
1519 government must act to either grant or deny the application at
1520 its next regularly scheduled meeting or, otherwise, the
1521 application is deemed to be automatically approved.

1522 c. To be effective, a waiver of the timeframes set forth
1523 in this paragraph must be voluntarily agreed to by the applicant
1524 and the local government. A local government may request, but
1525 not require, a waiver of the timeframes by the applicant, except
1526 that, with respect to a specific application, a one-time waiver
1527 may be required in the case of a declared local, state, or
1528 federal emergency that directly affects the administration of
1529 all permitting activities of the local government.

1530 (e) The replacement of or modification to a wireless
1531 communications facility, except a tower, that results in a
1532 wireless communications facility not readily discernibly
1533 different in size, type, and appearance when viewed from ground
1534 level from surrounding properties, and the replacement or
1535 modification of equipment that is not visible from surrounding
1536 properties, all as reasonably determined by the local
1537 government, are subject to no more than applicable building
1538 permit review.

1539 (f) Any other law to the contrary notwithstanding, the
1540 Department of Management Services shall negotiate, in the name

1541 of the state, leases for wireless communications facilities that
1542 provide access to state government-owned property not acquired
1543 for transportation purposes, and the Department of
1544 Transportation shall negotiate, in the name of the state, leases
1545 for wireless communications facilities that provide access to
1546 property acquired for state rights-of-way. On property acquired
1547 for transportation purposes, leases shall be granted in
1548 accordance with s. 337.251. On other state government-owned
1549 property, leases shall be granted on a space available, first-
1550 come, first-served basis. Payments required by state government
1551 under a lease must be reasonable and must reflect the market
1552 rate for the use of the state government-owned property. The
1553 Department of Management Services and the Department of
1554 Transportation are authorized to adopt rules for the terms and
1555 conditions and granting of any such leases.

1556 (g) If any person adversely affected by any action, or
1557 failure to act, or regulation, or requirement of a local
1558 government in the review or regulation of the wireless
1559 communication facilities files an appeal or brings an
1560 appropriate action in a court or venue of competent
1561 jurisdiction, following the exhaustion of all administrative
1562 remedies, the matter shall be considered on an expedited basis.

1563 (13)~~(12)~~ MISUSE OF ~~WIRELESS~~ 911 OR E911 SYSTEM;
1564 PENALTY.--911 and E911 service must be used solely for emergency
1565 communications by the public. Any person who accesses the number
1566 911 for the purpose of making a false alarm or complaint or
1567 reporting false information that could result in the emergency
1568 response of any public safety agency; any person who knowingly

1569 uses or attempts to use such service for a purpose other than
 1570 obtaining public safety assistance;⁷ or any person who knowingly
 1571 uses or attempts to use such service in an effort to avoid any
 1572 charge for service, commits a misdemeanor of the first degree,
 1573 punishable as provided in s. 775.082 or s. 775.083. After being
 1574 convicted of unauthorized use of such service four times, a
 1575 person who continues to engage in such unauthorized use commits
 1576 a felony of the third degree, punishable as provided in s.
 1577 775.082, s. 775.083, or s. 775.084. In addition, if the value of
 1578 the service or the service charge obtained in a manner
 1579 prohibited by this subsection exceeds \$100, the person
 1580 committing the offense commits a felony of the third degree,
 1581 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1582 ~~(14)(13)~~ STATE LAW NOT PREEMPTED.--This section and ss.
 1583 365.173 and 365.174 do not alter any state law that otherwise
 1584 regulates voice communications services providers ~~of~~
 1585 ~~telecommunications service~~.

1586 Section 3. Two and one-half full-time equivalent positions
 1587 are authorized with an associated salary rate of 151,278, and
 1588 the sum of \$561,834 in recurring funds is appropriated for the
 1589 2007-2008 fiscal year from the Emergency Communications Number
 1590 E911 System Fund of the Department of Management Services from
 1591 revenue received pursuant to s. 365.173, Florida Statutes, for
 1592 expenditures related to the creation of the statewide E911
 1593 board.

1594 Section 4. For the 2007-2008 fiscal year, the sum of \$56
 1595 million in recurring funds is appropriated from the Emergency
 1596 Communications Number E911 System Fund in the Department of

1597 Management Services to provide for the distribution of
 1598 nonwireless fees to counties.

1599 Section 5. For the 2007-2008 fiscal year, the sum of
 1600 \$12,541,000 in recurring funds is appropriated from the
 1601 Emergency Communications Number E911 System Fund in the
 1602 Department of Management Services to provide for an increase in
 1603 the distribution to counties for wireless fees.

1604 Section 6. For the 2007-2008 fiscal year, the sum of \$25
 1605 million in nonrecurring funds is appropriated from the Emergency
 1606 Communications Number E911 System Fund and placed in reserve in
 1607 the Department of Management Services to provide grants to
 1608 counties pursuant to s. 365.172(6)(a)3.b., Florida Statutes. The
 1609 department is authorized to request the release of funds
 1610 pursuant to the provisions in chapter 216, Florida Statutes.

1611 Section 7. This act shall take effect upon becoming a law.