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CS/CS/HB 919, Engrossed 1

2007 Legislature

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;

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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; exempting prepaid calling arrangements
 41 from application of specified provisions relating to gift
 42 certificates and credit memos; authorizing additional
 43 positions and providing appropriations; providing an
 44 effective date.

46 Be It Enacted by the Legislature of the State of Florida:

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

50 365.171 Emergency communications ~~telephone~~ number E911
 51 state plan. ~~"911."~~

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

55 (2) LEGISLATIVE INTENT.--It is the intent of the
 56 Legislature that the communications number "911" be the

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57 designated emergency communications number. A public safety
 58 agency may not advertise or otherwise promote the use of any
 59 communications number for emergency response services other than
 60 "911." It is further the intent of the Legislature to ~~establish~~
 61 ~~and~~ implement and continually update a cohesive statewide
 62 emergency communications telephone number "E911" "911" plan for
 63 enhanced 911 services which will provide citizens with rapid
 64 direct access to public safety agencies by accessing ~~dialing the~~
 65 ~~telephone number~~ "911" with the objective of reducing the
 66 response time to situations requiring law enforcement, fire,
 67 medical, rescue, and other emergency services.

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

69 (a) "Office" means the Technology Program within the
 70 Department of Management Services, as designated by the
 71 secretary of the department ~~State Technology Office.~~

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

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

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

83 (4) STATE PLAN.--The office shall develop, maintain, and
 84 implement appropriate modifications for a statewide emergency

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85 communications E911 ~~telephone number "911"~~ system plan. The plan
 86 shall provide for:

87 (a) ~~The establishment of the~~ public agency emergency
 88 ~~telephone~~ communications requirements for each entity of local
 89 government in the state.

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

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

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

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

103
 104 The office shall be responsible for the implementation and
 105 coordination of such plan. The office shall adopt any necessary
 106 rules and schedules related to public agencies for implementing
 107 and coordinating the ~~such~~ plan, pursuant to chapter 120. ~~The~~
 108 ~~public agency designated in the plan shall order such system~~
 109 ~~within 6 months after publication date of the plan if the public~~
 110 ~~agency is in receipt of funds appropriated by the Legislature~~
 111 ~~for the implementation and maintenance of the "911" system. Any~~
 112 ~~jurisdiction which has utilized local funding as of July 1,~~

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113 ~~1976, to begin the implementation of the state plan as set forth~~
114 ~~in this section shall be eligible for at least a partial~~
115 ~~reimbursement of its direct cost when, and if, state funds are~~
116 ~~available for such reimbursement.~~

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

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

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141 and using the fees authorized and imposed by s. 365.172 for such
 142 combined E911 service.

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

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

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

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

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

166 (11) ~~(12)~~ FEDERAL ASSISTANCE.--The secretary of the
 167 department ~~office~~ or his or her designee may apply for and
 168 accept federal funding assistance in the development and

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169 implementation of a statewide emergency communications telephone
 170 number E911 "911" system.

171 ~~(13) "911" FEE.~~

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

180 ~~1. At the request of the county subscribing to "911"~~
 181 ~~service, the telephone company shall, insofar as is practicable,~~
 182 ~~bill the "911" fee to the local exchange subscribers served by~~
 183 ~~the "911" service, on an individual access line basis, at a rate~~
 184 ~~not to exceed 50 cents per month per line (up to a maximum of 25~~
 185 ~~access lines per account bill rendered). However, the fee may~~
 186 ~~not be assessed on any pay telephone in this state. A county~~
 187 ~~collecting the fee for the first time may collect the fee for no~~
 188 ~~longer than 36 months without initiating the acquisition of its~~
 189 ~~"911" equipment.~~

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

195 ~~3. Any county that currently has an operational "911"~~
 196 ~~system or that is actively pursuing the implementation of a~~

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

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225 ~~However, in no case shall the fee exceed 50 cents per month per~~
 226 ~~line. All current "911" fees shall be reported to the office~~
 227 ~~within 30 days of the start of each county's fiscal period. Any~~
 228 ~~fee adjustment made by a county shall be reported to the office.~~
 229 ~~A county shall give the telephone company a 90-day written~~
 230 ~~notice of such fee adjustment.~~

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

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

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

245 ~~6. It is the intent of the Legislature that the "911" fee~~
 246 ~~authorized by this section to be imposed by counties will not~~
 247 ~~necessarily provide the total funding required for establishing~~
 248 ~~or providing the "911" service. For purposes of this section,~~
 249 ~~"911" service includes the functions of database management,~~
 250 ~~call taking, location verification, and call transfer. The~~
 251 ~~following costs directly attributable to the establishment~~
 252 ~~and/or provision of "911" service are eligible for expenditure~~

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253 ~~of moneys derived from imposition of the "911" fee authorized by~~
254 ~~this section: the acquisition, implementation, and maintenance~~
255 ~~of Public Safety Answering Point (PSAP) equipment and "911"~~
256 ~~service features, as defined in the Florida Public Service~~
257 ~~Commission's lawfully approved "911" and related tariffs and/or~~
258 ~~the acquisition, installation, and maintenance of other "911"~~
259 ~~equipment, including call answering equipment, call transfer~~
260 ~~equipment, ANI controllers, ALI controllers, ANI displays, ALI~~
261 ~~displays, station instruments, "911" telecommunications systems,~~
262 ~~teleprinters, logging recorders, instant playback recorders,~~
263 ~~telephone devices for the deaf (TDD) used in the "911" system,~~
264 ~~PSAP backup power systems, consoles, automatic call~~
265 ~~distributors, and interfaces (hardware and software) for~~
266 ~~computer aided dispatch (CAD) systems; salary and associated~~
267 ~~expenses for "911" call takers for that portion of their time~~
268 ~~spent taking and transferring "911" calls; salary and associated~~
269 ~~expenses for a county to employ a full time equivalent "911"~~
270 ~~coordinator position and a full time equivalent staff assistant~~
271 ~~position per county for the portion of their time spent~~
272 ~~administrating the "911" system; training costs for PSAP call~~
273 ~~takers in the proper methods and techniques used in taking and~~
274 ~~transferring "911" calls; and expenses required to develop and~~
275 ~~maintain all information (ALI and ANI databases and other~~
276 ~~information source repositories) necessary to properly inform~~
277 ~~call takers as to location address, type of emergency, and other~~
278 ~~information directly relevant to the "911" call taking and~~
279 ~~transferring function. No wireless telephone service provider~~
280 ~~shall be required to participate in any pilot project or to~~

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281 ~~otherwise implement a nonemergency "311" system or similar~~
 282 ~~nonemergency system. The "911" fee revenues shall not be used to~~
 283 ~~pay for any item not listed, including, but not limited to, any~~
 284 ~~capital or operational costs for emergency responses which occur~~
 285 ~~after the call transfer to the responding public safety entity~~
 286 ~~and the costs for constructing buildings, leasing buildings,~~
 287 ~~maintaining buildings, or renovating buildings, except for those~~
 288 ~~building modifications necessary to maintain the security and~~
 289 ~~environmental integrity of the PSAP and "911" equipment rooms.~~

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

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

303 ~~_____ I am in favor of the "911" emergency telephone system~~
 304 ~~fee.~~

305 ~~_____ I am against the "911" emergency telephone system~~
 306 ~~fee.~~

307
 308 ~~If a majority of the electors voting on the question approve the~~

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309 ~~fee, it may be imposed by the county.~~

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

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

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

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

355 ~~(16) FALSE "911" CALLS. Whoever accesses the number "911"~~
 356 ~~for the purpose of making a false alarm or complaint or~~
 357 ~~reporting false information which could result in the emergency~~
 358 ~~response of any public safety agency is guilty of a misdemeanor~~
 359 ~~of the first degree, punishable as provided in s. 775.082 or s.~~
 360 ~~775.083.~~

361 Section 2. Section 365.172, Florida Statutes, is amended
 362 to read:

363 365.172 ~~Wireless~~ Emergency communications ~~telephone~~ number
 364 "E911."--

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(1) SHORT TITLE.--This section may be cited as the
 "Wireless Emergency Communications Number E911 Act."
 (2) ~~FINDINGS, PURPOSE, AND LEGISLATIVE INTENT.--The
 Legislature finds and declares that:~~
 (a) ~~The mobile nature of wireless communications service
 creates complexities for providing 911 emergency services.~~
 (b) ~~Wireless telephone service providers are required by
 the Federal Communications Commission to provide wireless
 enhanced 911 (E911) service in the form of automatic location
 identification and automatic number identification pursuant to
 the terms and conditions set forth in an order issued by the
 Federal Communications Commission.~~
 (c) ~~Wireless telephone service providers and counties that
 operate 911 and E911 systems require adequate funding to recover
 the costs of designing, purchasing, installing, testing, and
 operating enhanced facilities, systems, and services necessary
 to comply with the requirements for E911 services mandated by
 the Federal Communications Commission and to maximize the
 availability of E911 services throughout this state.~~
 (d) ~~The revenues generated by the E911 fee imposed under
 this section are required to fund the efforts of the counties,
 the Wireless 911 Board under the State Technology Office, and
 commercial mobile radio service providers to improve the public
 health, safety, and welfare and serve a public purpose by
 providing emergency telephone assistance through wireless
 communications.~~
 (e) ~~It is necessary and beneficial to levy a fee on
 wireless services and to create the Wireless 911 Board to~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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393 ~~administer fee proceeds as provided in this section.~~

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

395 ~~(a)1.~~ Establish and implement a comprehensive statewide
 396 emergency telecommunications ~~telephone~~ number system that will
 397 provide users of voice communications services within the state
 398 ~~wireless telephone users with~~ rapid direct access to public
 399 safety agencies by accessing ~~dialing~~ the telephone number "911."

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

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

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

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

419

420 It is further the intent of the Legislature that the fee

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421 authorized or imposed by this section not necessarily provide
 422 the total funding required for establishing or providing E911
 423 service.

424 (3) DEFINITIONS.--Only as used in this section and ss.
 425 365.171, 365.173, and 365.174, the term:

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

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

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

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

440 (d) "Automatic number identification" means the capability
 441 of the E911 service which enables the automatic display of the
 442 ~~10-digit~~ service number used to place a 911 call.

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

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

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449 (g) "Collocation" means the situation when a second or
450 subsequent wireless provider uses an existing structure to
451 locate a second or subsequent antennae. The term includes the
452 ground, platform, or roof installation of equipment enclosures,
453 cabinets, or buildings, and cables, brackets, and other
454 equipment associated with the location and operation of the
455 antennae.

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

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

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

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

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477 (l) "Fund" means the ~~Wireless~~ Emergency Communications
 478 Number E911 Telephone System Fund established in s. 365.173 and
 479 maintained under this section for the purpose of recovering the
 480 costs associated with providing 911 service or E911 service,
 481 including the costs of implementing the order. The fund shall be
 482 segregated into wireless and nonwireless categories.

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

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

497 (o) "Local exchange carrier" means a "competitive local
 498 exchange telecommunications company" or a "local exchange
 499 telecommunications company" as defined in s. 364.02.

500 (p) "Local government" means any municipality, county, or
 501 political subdivision or agency of a municipality, county, or
 502 political subdivision.

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

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505 (r) "Mobile telephone number" or "MTN" means the telephone
 506 number assigned to a wireless telephone at the time of initial
 507 activation.

508 (s) "Nonwireless category" means the revenues to the fund
 509 received from voice communications services providers other than
 510 wireless providers.

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

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

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

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

522 b. Memorandum and Order No. FCC 97-402 adopted on December
 523 23, 1997.

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

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

526 2. Orders and rules subsequently adopted by the Federal
 527 Communications Commission relating to the provision of ~~wireless~~
 528 911 services, including Order Number FCC-05-116, adopted May 19,
 529 2005.

530 (v)~~(u)~~ "Prepaid calling arrangements" has the same meaning
 531 as defined in s. 212.05(1)(e) ~~wireless telephone service" means~~
 532 ~~wireless telephone service that is activated in advance by~~

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533 ~~payment for a finite dollar amount of service or for a finite~~
534 ~~set of minutes that terminate either upon use by a customer and~~
535 ~~delivery by the wireless provider of an agreed-upon amount of~~
536 ~~service corresponding to the total dollar amount paid in advance~~
537 ~~or within a certain period of time following the initial~~
538 ~~purchase or activation, unless additional payments are made.~~

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

- 541 ~~1. Is subject to the requirements of the order; or~~
542 ~~2. Elects to provide wireless 911 service or E911 service~~
543 ~~in this state.~~

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

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

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

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

560 ~~(z) "Service" means "commercial mobile radio service" as~~

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561 ~~provided under ss. 3(27) and 332(d) of the Federal~~
 562 ~~Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq., and~~
 563 ~~the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-~~
 564 ~~66, August 10, 1993, 107 Stat. 312. The term "service" includes~~
 565 ~~the term "wireless" and service provided by any wireless real-~~
 566 ~~time two-way wire communication device, including radio-~~
 567 ~~telephone communications used in cellular telephone service;~~
 568 ~~personal communications service; or the functional or~~
 569 ~~competitive equivalent of a radio telephone communications line~~
 570 ~~used in cellular telephone service, a personal communications~~
 571 ~~service, or a network radio access line. The term does not~~
 572 ~~include wireless providers that offer mainly dispatch service in~~
 573 ~~a more localized, noncellular configuration; providers offering~~
 574 ~~only data, one way, or stored voice services on an~~
 575 ~~interconnected basis; providers of air to ground services; or~~
 576 ~~public coast stations.~~

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

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

581 ~~(aa)(cc)~~ "Tower" means any structure designed primarily to
 582 support a wireless provider's antennae.

583 (bb) "Voice communications services" means two-way voice
 584 service, through the use of any technology, which actually
 585 provides access to E911 services, and includes communications
 586 services, as defined in s. 202.11, which actually provide access
 587 to E911 services and which are required to be included in the
 588 provision of E911 services pursuant to orders and rules adopted

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589 by the Federal Communications Commission. The term includes
 590 voice-over-Internet-protocol service. For the purposes of this
 591 section, the term "voice-over-Internet-protocol service" or
 592 "VoIP service" means interconnected VoIP services having the
 593 following characteristics:

- 594 1. The service enables real-time, two-way voice
 595 communications;
- 596 2. The service requires a broadband connection from the
 597 user's locations;
- 598 3. The service requires IP-compatible customer premises
 599 equipment; and
- 600 4. The service offering allows users generally to receive
 601 calls that originate on the public switched telephone network
 602 and to terminate calls on the public switched telephone network.

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

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

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

614 (ff) ~~(dd)~~ "Wireless communications facility" means any
 615 equipment or facility used to provide service and may include,
 616 but is not limited to, antennae, towers, equipment enclosures,

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617 cabling, antenna brackets, and other such equipment. Placing a
 618 wireless communications facility on an existing structure does
 619 not cause the existing structure to become a wireless
 620 communications facility.

621 (gg) "Wireless provider" means a person who provides
 622 wireless service and:

- 623 1. Is subject to the requirements of the order; or
- 624 2. Elects to provide wireless 911 service or E911 service
 625 in this state.

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

642 ~~(ee) "Wireless 911 system" or "wireless 911 service" means~~
 643 ~~an emergency telephone system or service that provides a~~
 644 ~~subscriber with the ability to reach an answering point by~~

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645 ~~dialing the digits "911." A wireless 911 system is complementary~~
 646 ~~to a wired 911 system as provided for in s. 365.171.~~

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

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

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

666 (b) The board shall consist of nine ~~seven~~ members, one of
 667 whom must be the system director designated under s. 365.171(5),
 668 or his or her designee, who shall serve as the chair of the
 669 board. The remaining eight ~~six~~ members of the board shall be
 670 appointed by the Governor and must be composed of four ~~three~~
 671 county 911 coordinators, consisting of a representative from a
 672 rural county, a representative from a medium county, a

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673 representative from a large county, and an at-large
674 representative recommended by the Florida Association of
675 Counties in consultation with the county 911 coordinators; two
676 local exchange carrier members, one of which must be the local
677 exchange carrier having the greatest number of access lines in
678 the state; and two ~~three~~ members from the wireless
679 telecommunications industry recommended by the Florida
680 Telecommunications Industry Association in consultation with the
681 wireless telecommunications industry. In recommending members
682 from the wireless telecommunications industry, consideration
683 must be given to wireless providers who are not affiliated with
684 local exchange carriers. Not more than one member may be
685 appointed to represent any single provider on the board.

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

696 (d) The first vacancy in a wireless provider
697 representative position occurring after July 1, 2007, must be
698 filled by appointment of a local exchange company
699 representative. Until the appointment is made, there shall be
700 only one local exchange company representative serving on the

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701 board, notwithstanding any other provision to the contrary.
 702 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.--
 703 (a) The board shall:
 704 1. Administer the E911 fee.
 705 2. Implement, maintain, and oversee the fund.
 706 3. Review and oversee the disbursement of the revenues
 707 deposited into the fund as provided in s. 365.173.
 708 a. The board may establish a schedule for implementing
 709 wireless E911 service by service area, and prioritize
 710 disbursements of revenues from the fund to providers and rural
 711 counties as provided in s. 365.173(2)(d) ~~s. 365.173(2)(b)~~ and
 712 (g) ~~(e)~~ pursuant to the schedule, in order to implement E911
 713 services in the most efficient and cost-effective manner.
 714 b. Revenues in the fund ~~collected and deposited into the~~
 715 ~~fund for distribution as provided in s. 365.173(2)(b), but~~ which
 716 have not been disbursed because sworn invoices as required by s.
 717 365.173(2)(d) ~~s. 365.173(2)(b)~~ have not been submitted to the
 718 board, may be used ~~utilized~~ by the board as needed to provide
 719 grants to ~~rural counties and loans to medium~~ counties for the
 720 purpose of upgrading E911 systems. The counties must use the
 721 funds only for capital expenditures directly attributable to
 722 establishing and provisioning E911 services, which may include
 723 next-generation deployment. Prior to the distribution of grants,
 724 the board shall provide 90 days' written notice to all counties
 725 and publish electronically an approved application process.
 726 County grant applications shall be prioritized based on the
 727 availability of funds, current system life expectancy, system
 728 replacement needs, and Phase II compliance per the Federal

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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729 Communications Commission. No grants will be available to any
730 county for next-generation deployment until all counties are
731 Phase II complete. Grants provided to rural counties would be in
732 addition to disbursements provided under s. 365.173(2)(c). Loans
733 provided to medium counties shall be based on county hardship
734 criteria as determined and approved by the board. Revenues
735 utilized for this purpose shall be fully repaid to the fund in a
736 manner and under a timeframe as determined and approved by the
737 board. The board shall take all actions within its authority to
738 ensure that county recipients of such grants use and loans
739 utilize these funds only for the purpose under which they have
740 been provided and may take any actions within its authority to
741 secure county repayment of grant and loan revenues upon
742 determination that the funds were not used ~~utilized~~ for the
743 purpose under which they were provided.

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

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

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757 must be returned to the fund from future remittances by the
 758 nonwireless category.

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

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

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

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

780 c. Ascertaining the projected costs of compliance with the
 781 requirements of the order and projected collections of the ~~E911~~
 782 fee.

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

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785 5. Meet monthly in the most efficient and cost-effective
 786 manner, including telephonically when practical, for the
 787 business to be conducted, to review and approve or reject, in
 788 whole or in part, applications submitted by wireless providers
 789 for recovery of moneys deposited into the wireless category, and
 790 to authorize the transfer of, and distribute, the fee allocation
 791 to the counties fund.

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

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

800 ~~8. Take all necessary and reasonable steps by July 1,~~
 801 ~~2000, to secure appropriate information and reports from~~
 802 ~~providers and otherwise perform all of the functions that would~~
 803 ~~be performed by an independent accounting firm prior to~~
 804 ~~completing the request for proposals process under subsection~~
 805 ~~(7).~~

806 ~~8.9.~~ Sue and be sued, and appear and defend in all actions
 807 and proceedings, in its corporate name to the same extent as a
 808 natural person.

809 ~~9.10.~~ Adopt, use, and alter a common corporate seal.

810 ~~10.11.~~ Elect or appoint the officers and agents that are
 811 required by the affairs of the board.

812 ~~11.12.~~ The board may adopt rules under ss. 120.536(1) and

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813 120.54 to implement this section and ss. 365.173 and 365.174.

814 ~~12.13.~~ Provide coordination, support, and technical
815 assistance to counties to promote the deployment of advanced 911
816 and E911 systems in the state.

817 ~~13.14.~~ Provide coordination and support for educational
818 opportunities related to E911 ~~911~~ issues for the E911 ~~911~~
819 community in this state.

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

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

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

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

839 ~~18.19.~~ Have the authority to secure the services of an
840 independent, private attorney via invitation to bid, request for

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841 proposals, invitation to negotiate, or professional contracts
 842 for legal services already established at the Division of
 843 Purchasing of the Department of Management Services.

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

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

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

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

866 2. Whether the amount of the ~~E911~~ fee and the allocation
 867 percentages set forth in s. 365.173 have been or should be
 868 adjusted to comply with the requirements of the order or other

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869 provisions of this chapter, and the reasons for making or not
 870 making, if so, a recommended adjustment to the ~~E911~~ fee.

871 3. Any other issues related to providing ~~wireless~~ E911
 872 services.

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

874 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING
 875 FIRM.--

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

882 1. A description of the scope and general requirements of
 883 the services requested.

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

888 3. A description of information to be provided by the
 889 proposer, including the proposer's background and qualifications
 890 and the proposed cost of the services to be provided.

891 (b) The board shall establish a committee to review
 892 requests for proposals which must include the statewide E911 ~~911~~
 893 system director designated under s. 365.171(5), or his or her
 894 designee, and two members of the board, one of whom is a county
 895 911 coordinator and one of whom represents a voice
 896 communications services provider ~~the wireless telecommunications~~

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897 ~~industry~~. The review committee shall review the proposals
 898 received by the board and recommend an independent accounting
 899 firm to the board for final selection. By agreeing to serve on
 900 the review committee, each member of the review committee shall
 901 verify that he or she does not have any interest or employment,
 902 directly or indirectly, with potential proposers which conflicts
 903 in any manner or degree with his or her performance on the
 904 committee.

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

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

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

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

922 2. Except in the case of prepaid wireless service, each
 923 wireless provider shall bill the fee to a subscriber on a per-
 924 service-identifier basis for service identifiers whose primary

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925 place of use is within this state. Before July 1, 2009, the fee
926 shall not be assessed on or collected from a provider with
927 respect to an end user's service if that end user's service is a
928 prepaid calling arrangement that is subject to s. 212.05(1)(e).

929 a. The board shall conduct a study to determine whether it
930 is feasible to collect E911 fees from the sale of prepaid
931 wireless service. If, based on the findings of the study, the
932 board determines that a fee should not be collected from the
933 sale of prepaid wireless service, it shall report its findings
934 and recommendation to the Governor, the President of the Senate,
935 and the Speaker of the House of Representatives by December 31,
936 2008. If the board determines that a fee should be collected
937 from the sale of prepaid wireless service, the board shall
938 collect the fee beginning July 1, 2009.

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

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

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

948 c. The study must include an evaluation of methods by
949 which E911 fees may be collected from end users and purchasers
950 of prepaid wireless service on an equitable, efficient,
951 competitively neutral, and nondiscriminatory basis and must
952 consider whether the collection of fees on prepaid wireless

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953 service would constitute an efficient use of public funds given
954 the technological and practical considerations of collecting the
955 fee based on the varying methodologies prepaid wireless service
956 providers and their agents use in marketing prepaid wireless
957 service.

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

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

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

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

978 3. All voice communications services providers not
979 addressed under subparagraphs 1. and 2. shall bill the fee on a
980 per-service-identifier basis for service identifiers whose

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981 primary place of use is within the state up to a maximum of 25
 982 service identifiers for each account bill rendered.

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

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

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

999 (d) Each provider may retain 1 percent of the amount of
 1000 the fees collected as reimbursement for the administrative costs
 1001 incurred by the provider to bill, collect, and remit the fee.
 1002 The remainder shall be delivered to the board and deposited by
 1003 the board into the fund. The board shall distribute the
 1004 remainder pursuant to s. 365.173.

1005 (e) Effective September 1, 2007, voice communications
 1006 services providers billing the fee to subscribers shall deliver
 1007 revenues from the fee to the board within 60 days after the end
 1008 of the month in which the fee was billed, together with a

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1009 monthly report of the number of service identifiers in each
 1010 county. Each wireless provider and other applicable provider
 1011 identified in subparagraph (a)3. shall report the number of
 1012 service identifiers for subscribers whose place of primary use
 1013 is in each county. All provider subscriber information provided
 1014 to the board is subject to s. 365.174. If a provider chooses to
 1015 remit any fee amounts to the board before they are paid by the
 1016 subscribers, a provider may apply to the board for a refund of,
 1017 or may take a credit for, any such fees remitted to the board
 1018 which are not collected by the provider within 6 months
 1019 following the month in which the fees are charged off for
 1020 federal income tax purposes as bad debt.

1021 (f) The rate of the fee shall be set by the board after
 1022 considering the factors set forth in paragraphs (h) and (i), but
 1023 may not exceed 50 cents per month per each service identifier
 1024 number, beginning August 1, 1999. The fee shall apply uniformly
 1025 and be imposed throughout the state, except for those counties
 1026 that, before July 1, 2007, had adopted an ordinance or
 1027 resolution establishing a fee less than 50 cents per month per
 1028 access line. In those counties the fee established by ordinance
 1029 may be changed only to the uniform statewide rate no sooner than
 1030 30 days after notification is made by the county's board of
 1031 county commissioners to the board.

1032 (g) It is the intent of the Legislature that all revenue
 1033 from the fee be used as specified in s. 365.173(2)(a)-(i).

1034 (h) No later than November 1, 2007, the board may adjust
 1035 the allocation percentages for distribution of the fund as
 1036 provided in s. 365.173. When setting the percentages and

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1037 contemplating any adjustments to the fee, the board shall
 1038 consider the following:
 1039 1. The revenues currently allocated for wireless service
 1040 provider costs for implementing E911 service and projected costs
 1041 for implementing E911 service, including recurring costs for
 1042 Phase I and Phase II and the effect of new technologies;
 1043 2. The appropriate level of funding needed to fund the
 1044 rural grant program provided for in s. 365.173(2)(g); and
 1045 3. The need to fund statewide, regional, and county grants
 1046 in accordance with sub-subparagraph (6)(a)3.b.
 1047 ~~(b) The fee is established to ensure full recovery for~~
 1048 ~~providers and for counties, over a reasonable period, of the~~
 1049 ~~costs associated with developing and maintaining an E911 system~~
 1050 ~~on a technologically and competitively neutral basis.~~
 1051 (i)(e) After July 1, 2001, The board may adjust the
 1052 allocation percentages or adjust provided in s. 365.173 or
 1053 ~~reduce~~ the amount of the fee, or both, if necessary to ensure
 1054 full cost recovery or prevent overrecovery of costs incurred in
 1055 the provision of E911 service, including costs incurred or
 1056 projected to be incurred to comply with the order. Any new
 1057 allocation percentages or reduced or increased fee may not be
 1058 adjusted for 1 year. The fee may not exceed 50 cents per month
 1059 per each service identifier number. The board-established fee,
 1060 and any board adjustment of the fee, shall be uniform throughout
 1061 the state, except for the counties identified in paragraph (f).
 1062 No less than 90 days before the effective date of any adjustment
 1063 to the fee, the board shall provide written notice of the
 1064 adjusted fee amount and effective date to each voice

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1065 communications services provider from which the board is then
 1066 receiving the fee.

1067 (j)~~(d)~~ State and local taxes do not apply to the fee.

1068 (k)~~(e)~~ A local government may not levy the fee or any
 1069 additional fee on wireless providers or subscribers for the
 1070 provision of E911 service.

1071 (l) For purposes of this section, the definitions
 1072 contained in s. 202.11 and the provisions of s. 202.155 apply in
 1073 the same manner and to the same extent as the definitions and
 1074 provisions apply to the taxes levied under chapter 202 on mobile
 1075 communications services.

1076 (9) AUTHORIZED EXPENDITURES OF E911 FEE.--

1077 (a) For purposes of this section, E911 service includes
 1078 the functions of database management, call taking, location
 1079 verification, and call transfer.

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

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1093 devices and other equipment for the hearing impaired used in the
 1094 E911 system, PSAP backup power systems, consoles, automatic call
 1095 distributors, and interfaces, including hardware and software,
 1096 for computer-aided dispatch (CAD) systems, integrated CAD
 1097 systems for that portion of the systems used for E911 call
 1098 taking, network clocks, salary and associated expenses for E911
 1099 call takers for that portion of their time spent taking and
 1100 transferring E911 calls, salary and associated expenses for a
 1101 county to employ a full-time equivalent E911 coordinator
 1102 position and a full-time equivalent mapping or geographical data
 1103 position and a staff assistant position per county for the
 1104 portion of their time spent administrating the E911 system,
 1105 training costs for PSAP call takers, supervisors, and managers
 1106 in the proper methods and techniques used in taking and
 1107 transferring E911 calls, costs to train and educate PSAP
 1108 employees regarding E911 service or E911 equipment, and expenses
 1109 required to develop and maintain all information, including ALI
 1110 and ANI databases and other information source repositories,
 1111 necessary to properly inform calltakers as to location address,
 1112 type of emergency, and other information directly relevant to
 1113 the E911 call-taking and transferring function. Moneys derived
 1114 from the fee may also be used for next-generation E911 network
 1115 services, next-generation E911 database services, next-
 1116 generation E911 equipment, and wireless E911 routing systems.

1117 (c) The moneys may not be used to pay for any item not
 1118 listed in this subsection, including, but not limited to, any
 1119 capital or operational costs for emergency responses which occur
 1120 after the call transfer to the responding public safety entity

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1121 and the costs for constructing, leasing, maintaining, or
 1122 renovating buildings, except for those building modifications
 1123 necessary to maintain the security and environmental integrity
 1124 of the PSAP and E911 equipment rooms.

1125 (10) LIABILITY OF COUNTIES.--A county subscribing to 911
 1126 service remains liable to the local exchange carrier for any 911
 1127 service, equipment, operation, or maintenance charge owed by the
 1128 county to the local exchange carrier. As used in this
 1129 subsection, the term "local exchange carrier" means a local
 1130 exchange telecommunications service provider of 911 service or
 1131 equipment to any county within its certificated area.

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

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1149 state or political subdivision thereof, in connection with any
 1150 lawful investigation or other law enforcement activity by such
 1151 law enforcement officer.

1152 ~~(9) MANAGEMENT OF FUNDS.~~

1153 ~~(a) Each provider, as a part of its monthly billing~~
 1154 ~~process, shall collect the fee imposed under subsection (8). The~~
 1155 ~~provider may list the fee as a separate entry on each bill, in~~
 1156 ~~which case the fee must be identified as a fee for E911~~
 1157 ~~services. A provider shall remit the fee only if the fee is paid~~
 1158 ~~by the subscriber. If a provider receives a partial payment for~~
 1159 ~~a monthly bill from a subscriber, the amount received shall~~
 1160 ~~first be applied to the payment due the provider for the~~
 1161 ~~provision of telecommunications service.~~

1162 ~~(b) In the case of prepaid wireless telephone service, the~~
 1163 ~~monthly wireless 911 surcharge imposed by subsection (8) shall~~
 1164 ~~be remitted based upon each prepaid wireless telephone~~
 1165 ~~associated with this state, for each wireless service customer~~
 1166 ~~that has a sufficient positive balance as of the last day of~~
 1167 ~~each month. The surcharge shall be remitted in any manner~~
 1168 ~~consistent with the wireless provider's existing operating or~~
 1169 ~~technological abilities, such as customer address, location~~
 1170 ~~associated with the MTN, or reasonable allocation method based~~
 1171 ~~upon other comparable relevant data. The surcharge amount or an~~
 1172 ~~equivalent number of minutes may be reduced from the prepaid~~
 1173 ~~subscriber's account since a direct billing may not be possible.~~
 1174 ~~However, collection of the wireless 911 surcharge in the manner~~
 1175 ~~of a reduction of value or minutes from the prepaid subscriber's~~
 1176 ~~account does not constitute a reduction in the sales price for~~

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1177 ~~purposes of taxes that are collected at the point of sale.~~

1178 ~~(c) A provider is not obligated to take any legal action~~
 1179 ~~to enforce collection of the fees for which any subscriber is~~
 1180 ~~billed. The provider shall provide to the board each quarter a~~
 1181 ~~list of the names, addresses, and service numbers of all~~
 1182 ~~subscribers who have indicated to the provider their refusal to~~
 1183 ~~pay the fee.~~

1184 ~~(d) Each provider may retain 1 percent of the amount of~~
 1185 ~~the fees collected as reimbursement for the administrative costs~~
 1186 ~~incurred by the provider to bill, collect, and remit the fee.~~
 1187 ~~The remainder shall be delivered to the board and deposited in~~
 1188 ~~the fund. The board shall distribute the remainder pursuant to~~
 1189 ~~s. 365.173.~~

1190 ~~(e) Each provider shall deliver revenues from the fee to~~
 1191 ~~the board within 60 days after the end of the month in which the~~
 1192 ~~fee was billed, together with a monthly report of the number of~~
 1193 ~~wireless customers whose place of primary use is in each county.~~
 1194 ~~A provider may apply to the board for a refund of, or may take a~~
 1195 ~~credit for, any fees remitted to the board which are not~~
 1196 ~~collected by the provider within 6 months following the month in~~
 1197 ~~which the fees are charged off for federal income tax purposes~~
 1198 ~~as bad debt. The board may waive the requirement that the fees~~
 1199 ~~and number of customers whose place of primary use is in each~~
 1200 ~~county be submitted to the board each month and authorize a~~
 1201 ~~provider to submit the fees and number of customers quarterly if~~
 1202 ~~the provider demonstrates that such waiver is necessary and~~
 1203 ~~justified.~~

1204 ~~(f) For purposes of this section, the definitions~~

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1205 ~~contained in s. 202.11 and the provisions of s. 202.155 apply in~~
 1206 ~~the same manner and to the same extent as such definitions and~~
 1207 ~~provisions apply to the taxes levied pursuant to chapter 202 on~~
 1208 ~~mobile communications services.~~

1209 ~~(g) As used in this subsection, the term "provider"~~
 1210 ~~includes any person or entity that resells wireless service and~~
 1211 ~~was not assessed the fee by its resale supplier.~~

1212 ~~(10) PROVISION OF SERVICES. In accordance with the order,~~
 1213 ~~a provider is not required to provide E911 service until:~~

1214 ~~(a) The provider receives a request in writing for such~~
 1215 ~~service from the county 911 coordinator and the affected~~
 1216 ~~answering point is capable of receiving and using the data~~
 1217 ~~elements associated with the service.~~

1218 ~~(b) Funds are available under s. 365.173(2)(b).~~

1219 ~~(c) The local exchange carrier is able to support the E911~~
 1220 ~~system.~~

1221 ~~(d) The service area has been scheduled for implementation~~
 1222 ~~of E911 service by the board pursuant to subparagraph (6)(a)3.~~
 1223 ~~If a county's 911 coordinator requests E911 service from a~~
 1224 ~~provider, the coordinator shall also request E911 service from~~
 1225 ~~all other providers in the area in a nondiscriminatory and fair~~
 1226 ~~manner.~~

1227 (12)~~(11)~~ FACILITATING E911 SERVICE IMPLEMENTATION.--To
 1228 balance the public need for reliable E911 services through
 1229 reliable wireless systems and the public interest served by
 1230 governmental zoning and land development regulations and
 1231 notwithstanding any other law or local ordinance to the
 1232 contrary, the following standards shall apply to a local

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1233 government's actions, as a regulatory body, in the regulation of
1234 the placement, construction, or modification of a wireless
1235 communications facility. This subsection shall not, however, be
1236 construed to waive or alter the provisions of s. 286.011 or s.
1237 286.0115. For the purposes of this subsection only, "local
1238 government" shall mean any municipality or county and any agency
1239 of a municipality or county only. The term "local government"
1240 does not, however, include any airport, as defined by s.
1241 330.27(2), even if it is owned or controlled by or through a
1242 municipality, county, or agency of a municipality or county.
1243 Further, notwithstanding anything in this section to the
1244 contrary, this subsection does not apply to or control a local
1245 government's actions as a property or structure owner in the use
1246 of any property or structure owned by such entity for the
1247 placement, construction, or modification of wireless
1248 communications facilities. In the use of property or structures
1249 owned by the local government, however, a local government may
1250 not use its regulatory authority so as to avoid compliance with,
1251 or in a manner that does not advance, the provisions of this
1252 subsection.

1253 (a) Collocation among wireless providers is encouraged by
1254 the state.

1255 1.a. Collocations on towers, including nonconforming
1256 towers, that meet the requirements in sub-sub-paragraphs (I),
1257 (II), and (III), are subject to only building permit review,
1258 which may include a review for compliance with this
1259 subparagraph. Such collocations are not subject to any design or
1260 placement requirements of the local government's land

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1261 development regulations in effect at the time of the collocation
1262 that are more restrictive than those in effect at the time of
1263 the initial antennae placement approval, to any other portion of
1264 the land development regulations, or to public hearing review.
1265 This sub-subparagraph shall not preclude a public hearing for
1266 any appeal of the decision on the collocation application.

1267 (I) The collocation does not increase the height of the
1268 tower to which the antennae are to be attached, measured to the
1269 highest point of any part of the tower or any existing antenna
1270 attached to the tower;

1271 (II) The collocation does not increase the ground space
1272 area, commonly known as the compound, approved in the site plan
1273 for equipment enclosures and ancillary facilities; and

1274 (III) The collocation consists of antennae, equipment
1275 enclosures, and ancillary facilities that are of a design and
1276 configuration consistent with all applicable regulations,
1277 restrictions, or conditions, if any, applied to the initial
1278 antennae placed on the tower and to its accompanying equipment
1279 enclosures and ancillary facilities and, if applicable, applied
1280 to the tower supporting the antennae. Such regulations may
1281 include the design and aesthetic requirements, but not
1282 procedural requirements, other than those authorized by this
1283 section, of the local government's land development regulations
1284 in effect at the time the initial antennae placement was
1285 approved.

1286 b. Except for a historic building, structure, site,
1287 object, or district, or a tower included in sub-subparagraph a.,
1288 collocations on all other existing structures that meet the

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1289 requirements in sub-sub-subparagraphs (I)-(IV) shall be subject
1290 to no more than building permit review, and an administrative
1291 review for compliance with this subparagraph. Such collocations
1292 are not subject to any portion of the local government's land
1293 development regulations not addressed herein, or to public
1294 hearing review. This sub-subparagraph shall not preclude a
1295 public hearing for any appeal of the decision on the collocation
1296 application.

1297 (I) The collocation does not increase the height of the
1298 existing structure to which the antennae are to be attached,
1299 measured to the highest point of any part of the structure or
1300 any existing antenna attached to the structure;

1301 (II) The collocation does not increase the ground space
1302 area, otherwise known as the compound, if any, approved in the
1303 site plan for equipment enclosures and ancillary facilities;

1304 (III) The collocation consists of antennae, equipment
1305 enclosures, and ancillary facilities that are of a design and
1306 configuration consistent with any applicable structural or
1307 aesthetic design requirements and any requirements for location
1308 on the structure, but not prohibitions or restrictions on the
1309 placement of additional collocations on the existing structure
1310 or procedural requirements, other than those authorized by this
1311 section, of the local government's land development regulations
1312 in effect at the time of the collocation application; and

1313 (IV) The collocation consists of antennae, equipment
1314 enclosures, and ancillary facilities that are of a design and
1315 configuration consistent with all applicable restrictions or
1316 conditions, if any, that do not conflict with sub-sub-

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1317 subparagraph (III) and were applied to the initial antennae
1318 placed on the structure and to its accompanying equipment
1319 enclosures and ancillary facilities and, if applicable, applied
1320 to the structure supporting the antennae.

1321 c. Regulations, restrictions, conditions, or permits of
1322 the local government, acting in its regulatory capacity, that
1323 limit the number of collocations or require review processes
1324 inconsistent with this subsection shall not apply to
1325 collocations addressed in this subparagraph.

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

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1345 regulations, including, but not limited to, land development
 1346 regulations review, and building permit review, with no public
 1347 hearing review. This sub-subparagraph shall not preclude a
 1348 public hearing for any appeal of the decision on the collocation
 1349 application.

1350 2. If a collocation does not meet the requirements of
 1351 subparagraph 1., the local government may review the application
 1352 under the local government's regulations, including, but not
 1353 limited to, land development regulations, applicable to the
 1354 placement of initial antennae and their accompanying equipment
 1355 enclosure and ancillary facilities.

1356 3. If a collocation meets the requirements of subparagraph
 1357 1., the collocation shall not be considered a modification to an
 1358 existing structure or an impermissible modification of a
 1359 nonconforming structure.

1360 4. The owner of the existing tower on which the proposed
 1361 antennae are to be collocated shall remain responsible for
 1362 compliance with any applicable condition or requirement of a
 1363 permit or agreement, or any applicable condition or requirement
 1364 of the land development regulations to which the existing tower
 1365 had to comply at the time the tower was permitted, including any
 1366 aesthetic requirements, provided the condition or requirement is
 1367 not inconsistent with this paragraph.

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

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1373 | if a replacement, the replacement tower is a monopole tower or,
1374 | if the existing tower is a camouflaged tower, the replacement
1375 | tower is a like-camouflaged tower. This subparagraph shall not
1376 | preclude a public hearing for any appeal of the decision on the
1377 | application.

1378 | (b)1. A local government's land development and
1379 | construction regulations for wireless communications facilities
1380 | and the local government's review of an application for the
1381 | placement, construction, or modification of a wireless
1382 | communications facility shall only address land development or
1383 | zoning issues. In such local government regulations or review,
1384 | the local government may not require information on or evaluate
1385 | a wireless provider's business decisions about its service,
1386 | customer demand for its service, or quality of its service to or
1387 | from a particular area or site, unless the wireless provider
1388 | voluntarily offers this information to the local government. In
1389 | such local government regulations or review, a local government
1390 | may not require information on or evaluate the wireless
1391 | provider's designed service unless the information or materials
1392 | are directly related to an identified land development or zoning
1393 | issue or unless the wireless provider voluntarily offers the
1394 | information. Information or materials directly related to an
1395 | identified land development or zoning issue may include, but are
1396 | not limited to, evidence that no existing structure can
1397 | reasonably be used for the antennae placement instead of the
1398 | construction of a new tower, that residential areas cannot be
1399 | served from outside the residential area, as addressed in
1400 | subparagraph 3., or that the proposed height of a new tower or

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1401 initial antennae placement or a proposed height increase of a
1402 modified tower, replacement tower, or collocation is necessary
1403 to provide the provider's designed service. Nothing in this
1404 paragraph shall limit the local government from reviewing any
1405 applicable land development or zoning issue addressed in its
1406 adopted regulations that does not conflict with this section,
1407 including, but not limited to, aesthetics, landscaping, land use
1408 based location priorities, structural design, and setbacks.

1409 2. Any setback or distance separation required of a tower
1410 may not exceed the minimum distance necessary, as determined by
1411 the local government, to satisfy the structural safety or
1412 aesthetic concerns that are to be protected by the setback or
1413 distance separation.

1414 3. A local government may exclude the placement of
1415 wireless communications facilities in a residential area or
1416 residential zoning district but only in a manner that does not
1417 constitute an actual or effective prohibition of the provider's
1418 service in that residential area or zoning district. If a
1419 wireless provider demonstrates to the satisfaction of the local
1420 government that the provider cannot reasonably provide its
1421 service to the residential area or zone from outside the
1422 residential area or zone, the municipality or county and
1423 provider shall cooperate to determine an appropriate location
1424 for a wireless communications facility of an appropriate design
1425 within the residential area or zone. The local government may
1426 require that the wireless provider reimburse the reasonable
1427 costs incurred by the local government for this cooperative
1428 determination. An application for such cooperative determination

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1429 shall not be considered an application under paragraph (d).

1430 4. A local government may impose a reasonable fee on
 1431 applications to place, construct, or modify a wireless
 1432 communications facility only if a similar fee is imposed on
 1433 applicants seeking other similar types of zoning, land use, or
 1434 building permit review. A local government may impose fees for
 1435 the review of applications for wireless communications
 1436 facilities by consultants or experts who conduct code compliance
 1437 review for the local government but any fee is limited to
 1438 specifically identified reasonable expenses incurred in the
 1439 review. A local government may impose reasonable surety
 1440 requirements to ensure the removal of wireless communications
 1441 facilities that are no longer being used.

1442 5. A local government may impose design requirements, such
 1443 as requirements for designing towers to support collocation or
 1444 aesthetic requirements, except as otherwise limited in this
 1445 section, but shall not impose or require information on
 1446 compliance with building code type standards for the
 1447 construction or modification of wireless communications
 1448 facilities beyond those adopted by the local government under
 1449 chapter 553 and that apply to all similar types of construction.

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

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1457 spectrum use, but may request the Federal Communications
 1458 Commission to provide information as to a wireless provider's
 1459 compliance with federal regulations, as authorized by federal
 1460 law.

1461 (d)1. A local government shall grant or deny each properly
 1462 completed application for a collocation under subparagraph (a)1.
 1463 based on the application's compliance with the local
 1464 government's applicable regulations, as provided for in
 1465 subparagraph (a)1. and consistent with this subsection, and
 1466 within the normal timeframe for a similar building permit review
 1467 but in no case later than 45 business days after the date the
 1468 application is determined to be properly completed in accordance
 1469 with this paragraph.

1470 2. A local government shall grant or deny each properly
 1471 completed application for any other wireless communications
 1472 facility based on the application's compliance with the local
 1473 government's applicable regulations, including but not limited
 1474 to land development regulations, consistent with this subsection
 1475 and within the normal timeframe for a similar type review but in
 1476 no case later than 90 business days after the date the
 1477 application is determined to be properly completed in accordance
 1478 with this paragraph.

1479 3.a. An application is deemed submitted or resubmitted on
 1480 the date the application is received by the local government. If
 1481 the local government does not notify the applicant in writing
 1482 that the application is not completed in compliance with the
 1483 local government's regulations within 20 business days after the
 1484 date the application is initially submitted or additional

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1485 information resubmitted, the application is deemed, for
1486 administrative purposes only, to be properly completed and
1487 properly submitted. However, the determination shall not be
1488 deemed as an approval of the application. If the application is
1489 not completed in compliance with the local government's
1490 regulations, the local government shall so notify the applicant
1491 in writing and the notification must indicate with specificity
1492 any deficiencies in the required documents or deficiencies in
1493 the content of the required documents which, if cured, make the
1494 application properly completed. Upon resubmission of information
1495 to cure the stated deficiencies, the local government shall
1496 notify the applicant, in writing, within the normal timeframes
1497 of review, but in no case longer than 20 business days after the
1498 additional information is submitted, of any remaining
1499 deficiencies that must be cured. Deficiencies in document type
1500 or content not specified by the local government do not make the
1501 application incomplete. Notwithstanding this sub-subparagraph,
1502 if a specified deficiency is not properly cured when the
1503 applicant resubmits its application to comply with the notice of
1504 deficiencies, the local government may continue to request the
1505 information until such time as the specified deficiency is
1506 cured. The local government may establish reasonable timeframes
1507 within which the required information to cure the application
1508 deficiency is to be provided or the application will be
1509 considered withdrawn or closed.

1510 b. If the local government fails to grant or deny a
1511 properly completed application for a wireless communications
1512 facility within the timeframes set forth in this paragraph, the

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1513 application shall be deemed automatically approved and the
1514 applicant may proceed with placement of the facilities without
1515 interference or penalty. The timeframes specified in
1516 subparagraph 2. may be extended only to the extent that the
1517 application has not been granted or denied because the local
1518 government's procedures generally applicable to all other
1519 similar types of applications require action by the governing
1520 body and such action has not taken place within the timeframes
1521 specified in subparagraph 2. Under such circumstances, the local
1522 government must act to either grant or deny the application at
1523 its next regularly scheduled meeting or, otherwise, the
1524 application is deemed to be automatically approved.

1525 c. To be effective, a waiver of the timeframes set forth
1526 in this paragraph must be voluntarily agreed to by the applicant
1527 and the local government. A local government may request, but
1528 not require, a waiver of the timeframes by the applicant, except
1529 that, with respect to a specific application, a one-time waiver
1530 may be required in the case of a declared local, state, or
1531 federal emergency that directly affects the administration of
1532 all permitting activities of the local government.

1533 (e) The replacement of or modification to a wireless
1534 communications facility, except a tower, that results in a
1535 wireless communications facility not readily discernibly
1536 different in size, type, and appearance when viewed from ground
1537 level from surrounding properties, and the replacement or
1538 modification of equipment that is not visible from surrounding
1539 properties, all as reasonably determined by the local
1540 government, are subject to no more than applicable building

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1541 permit review.

1542 (f) Any other law to the contrary notwithstanding, the

1543 Department of Management Services shall negotiate, in the name

1544 of the state, leases for wireless communications facilities that

1545 provide access to state government-owned property not acquired

1546 for transportation purposes, and the Department of

1547 Transportation shall negotiate, in the name of the state, leases

1548 for wireless communications facilities that provide access to

1549 property acquired for state rights-of-way. On property acquired

1550 for transportation purposes, leases shall be granted in

1551 accordance with s. 337.251. On other state government-owned

1552 property, leases shall be granted on a space available, first-

1553 come, first-served basis. Payments required by state government

1554 under a lease must be reasonable and must reflect the market

1555 rate for the use of the state government-owned property. The

1556 Department of Management Services and the Department of

1557 Transportation are authorized to adopt rules for the terms and

1558 conditions and granting of any such leases.

1559 (g) If any person adversely affected by any action, or

1560 failure to act, or regulation, or requirement of a local

1561 government in the review or regulation of the wireless

1562 communication facilities files an appeal or brings an

1563 appropriate action in a court or venue of competent

1564 jurisdiction, following the exhaustion of all administrative

1565 remedies, the matter shall be considered on an expedited basis.

1566 (13) ~~(12)~~ MISUSE OF ~~WIRELESS~~ 911 OR E911 SYSTEM;

1567 PENALTY.--911 and E911 service must be used solely for emergency

1568 communications by the public. Any person who accesses the number

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1569 911 for the purpose of making a false alarm or complaint or
 1570 reporting false information that could result in the emergency
 1571 response of any public safety agency; any person who knowingly
 1572 uses or attempts to use such service for a purpose other than
 1573 obtaining public safety assistance;; or any person who knowingly
 1574 uses or attempts to use such service in an effort to avoid any
 1575 charge for service, commits a misdemeanor of the first degree,
 1576 punishable as provided in s. 775.082 or s. 775.083. After being
 1577 convicted of unauthorized use of such service four times, a
 1578 person who continues to engage in such unauthorized use commits
 1579 a felony of the third degree, punishable as provided in s.
 1580 775.082, s. 775.083, or s. 775.084. In addition, if the value of
 1581 the service or the service charge obtained in a manner
 1582 prohibited by this subsection exceeds \$100, the person
 1583 committing the offense commits a felony of the third degree,
 1584 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1585 (14)-(13) STATE LAW NOT PREEMPTED.--This section and ss.
 1586 365.173 and 365.174 do not alter any state law that otherwise
 1587 regulates voice communications services providers ~~of~~
 1588 ~~telecommunications service.~~

1589 Section 3. Section 501.95(2)(a), Florida Statutes, as
 1590 created in CS for CS for CS for SB 1638 or similar legislation,
 1591 does not apply to prepaid calling arrangements as defined in s.
 1592 212.05(1)(e), Florida Statutes, including prepaid cards for
 1593 wireless or wireline telecommunications service.

1594 Section 4. Two and one-half full-time equivalent positions
 1595 are authorized with an associated salary rate of 151,278, and
 1596 the sum of \$561,834 in recurring funds is appropriated for the

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1597 2007-2008 fiscal year from the Emergency Communications Number
 1598 E911 System Fund of the Department of Management Services from
 1599 revenue received pursuant to s. 365.173, Florida Statutes, for
 1600 expenditures related to the creation of the statewide E911
 1601 board.

1602 Section 5. For the 2007-2008 fiscal year, the sum of \$56
 1603 million in recurring funds is appropriated from the Emergency
 1604 Communications Number E911 System Fund in the Department of
 1605 Management Services to provide for the distribution of
 1606 nonwireless fees to counties.

1607 Section 6. For the 2007-2008 fiscal year, the sum of
 1608 \$12,541,000 in recurring funds is appropriated from the
 1609 Emergency Communications Number E911 System Fund in the
 1610 Department of Management Services to provide for an increase in
 1611 the distribution to counties for wireless fees.

1612 Section 7. For the 2007-2008 fiscal year, the sum of \$25
 1613 million in nonrecurring funds is appropriated from the Emergency
 1614 Communications Number E911 System Fund and placed in reserve in
 1615 the Department of Management Services to provide grants to
 1616 counties pursuant to s. 365.172(6)(a)3.b., Florida Statutes. The
 1617 department is authorized to request the release of funds
 1618 pursuant to the provisions in chapter 216, Florida Statutes.

1619 Section 8. This act shall take effect upon becoming a law.