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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RCS | . | |
| 04/19/2019 | . | |
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The Committee on Appropriations (Hutson) recommended the following:

1 **Senate Substitute for Amendment (500128) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Paragraph (b) of subsection (2) of section
7 202.20, Florida Statutes, is amended to read:

8 202.20 Local communications services tax conversion rates.—

9 (2)

10 (b) Except as otherwise provided in this subsection,



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11 "replaced revenue sources," as used in this section, means the
12 following taxes, charges, fees, or other impositions to the
13 extent that the respective local taxing jurisdictions were
14 authorized to impose them prior to July 1, 2000.

15 1. With respect to municipalities and charter counties and
16 the taxes authorized by s. 202.19(1):

17 a. The public service tax on telecommunications authorized
18 by former s. 166.231(9).

19 b. Franchise fees on cable service providers as authorized
20 by 47 U.S.C. s. 542.

21 c. The public service tax on prepaid calling arrangements.

22 d. Franchise fees on dealers of communications services
23 which use the public roads or rights-of-way, up to the limit set
24 forth in s. 337.401. For purposes of calculating rates under
25 this section, it is the legislative intent that charter counties
26 be treated as having had the same authority as municipalities to
27 impose franchise fees on recurring local telecommunication
28 service revenues prior to July 1, 2000. However, the Legislature
29 recognizes that the authority of charter counties to impose such
30 fees is in dispute, and the treatment provided in this section
31 is not an expression of legislative intent that charter counties
32 actually do or do not possess such authority.

33 e. Actual permit fees relating to placing or maintaining
34 facilities in or on public roads or rights-of-way, collected
35 from providers of long-distance, cable, and mobile
36 communications services for the fiscal year ending September 30,
37 1999; however, if a municipality or charter county elects the
38 option to charge permit fees pursuant to s. 337.401(3)(c)
39 ~~337.401(3)(c)1.a.~~, such fees shall not be included as a replaced



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40 revenue source.

41 2. With respect to all other counties and the taxes
42 authorized in s. 202.19(1), franchise fees on cable service
43 providers as authorized by 47 U.S.C. s. 542.

44 Section 2. Subsection (3), paragraphs (d), (e), and (f) of
45 subsection (6), and paragraphs (b), (c), (d), (e), (f), (g), and
46 (i) of subsection (7) of section 337.401, Florida Statutes, are
47 amended, paragraph (r) is added to subsection (7), and
48 subsections (8) and (9) are added to that section, to read:

49 337.401 Use of right-of-way for utilities subject to
50 regulation; permit; fees.—

51 (3) (a) Because of the unique circumstances applicable to
52 providers of communications services, including, but not limited
53 to, the circumstances described in paragraph (e) and the fact
54 that federal and state law require the nondiscriminatory
55 treatment of providers of telecommunications services, and
56 because of the desire to promote competition among providers of
57 communications services, it is the intent of the Legislature
58 that municipalities and counties treat providers of
59 communications services in a nondiscriminatory and competitively
60 neutral manner when imposing rules or regulations governing the
61 placement or maintenance of communications facilities in the
62 public roads or rights-of-way. Rules or regulations imposed by a
63 municipality or county relating to providers of communications
64 services placing or maintaining communications facilities in its
65 roads or rights-of-way must be generally applicable to all
66 providers of communications services, taking into account the
67 distinct engineering, construction, operation, maintenance,
68 public works, and safety requirements of the provider's



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69 facilities, and, notwithstanding any other law, may not require
70 a provider of communications services to apply for or enter into
71 an individual license, franchise, or other agreement with the
72 municipality or county as a condition of placing or maintaining
73 communications facilities in its roads or rights-of-way. In
74 addition to other reasonable rules or regulations that a
75 municipality or county may adopt relating to the placement or
76 maintenance of communications facilities in its roads or rights-
77 of-way under this subsection or subsection (7), a municipality
78 or county may require a provider of communications services that
79 places or seeks to place facilities in its roads or rights-of-
80 way to register with the municipality or county. To register, a
81 provider of communications services may be required only to
82 provide its name ~~and to provide the name of the registrant;~~ the
83 name, address, and telephone number of a contact person for the
84 registrant; the number of the registrant's current certificate
85 of authorization issued by the Florida Public Service
86 Commission, the Federal Communications Commission, or the
87 Department of State; a statement of whether the registrant is a
88 pass-through provider as defined in s. 337.401(6)(a)1.; the
89 registrant's federal employer identification number; and any
90 required proof of insurance or self-insuring status adequate to
91 defend and cover claims. A municipality or county may not
92 require a registrant to renew a registration more frequently
93 than every 5 years but may require during this period that a
94 registrant update the registration information provided under
95 this subsection within 90 days after a change in such
96 information. A municipality or county may not require the
97 registrant to provide an inventory of communications facilities,



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98 maps, locations of such facilities, or other information by a
99 registrant as a condition of registration, renewal, or for any
100 other purpose; provided, however, that a municipality or county
101 may require as part of a permit application that the applicant
102 identify at-grade communications facilities within 50 feet of
103 the proposed installation location for the placement of at-grade
104 communications facilities. A municipality or county may not
105 require a provider to pay any fee, cost, or other charge for
106 registration or renewal thereof. It is the intent of the
107 Legislature that the placement, operation, maintenance,
108 upgrading, and extension of communications facilities not be
109 unreasonably interrupted or delayed through the permitting or
110 other local regulatory process. Except as provided in this
111 chapter or otherwise expressly authorized by chapter 202,
112 chapter 364, or chapter 610, a municipality or county may not
113 adopt or enforce any ordinance, regulation, or requirement as to
114 the placement or operation of communications facilities in a
115 right-of-way by a communications services provider authorized by
116 state or local law to operate in a right-of-way; regulate any
117 communications services; or impose or collect any tax, fee,
118 cost, charge, or exaction for the provision of communications
119 services over the communications services provider's
120 communications facilities in a right-of-way.

121 (b) Registration described in paragraph (a) does not
122 establish a right to place or maintain, or priority for the
123 placement or maintenance of, a communications facility in roads
124 or rights-of-way of a municipality or county. Each municipality
125 and county retains the authority to regulate and manage
126 municipal and county roads or rights-of-way in exercising its



127 police power, subject to the limitations imposed in this section
128 and chapters 202 and 610. Any rules or regulations adopted by a
129 municipality or county which govern the occupation of its roads
130 or rights-of-way by providers of communications services must be
131 related to the placement or maintenance of facilities in such
132 roads or rights-of-way, must be reasonable and
133 nondiscriminatory, and may include only those matters necessary
134 to manage the roads or rights-of-way of the municipality or
135 county.

136 (c) Any municipality or county that, as of January 1, 2019,
137 elected to require permit fees from any provider of
138 communications services that uses or occupies municipal or
139 county roads or rights-of-way pursuant to former paragraph (c)
140 or paragraph (j), Florida Statutes 2018, may continue to require
141 and collect such fees. A municipality or county that elected as
142 of January 1, 2019, to require permit fees may elect to forego
143 such fees as provided herein. A municipality or county that
144 elected as of January 1, 2019, not to require permit fees may
145 not elect to impose permit fees.

146 ~~1. It is the intention of the state to treat all providers~~
147 ~~of communications services that use or occupy municipal or~~
148 ~~charter county roads or rights-of-way for the provision of~~
149 ~~communications services in a nondiscriminatory and competitively~~
150 ~~neutral manner with respect to the payment of permit fees.~~
151 ~~Certain providers of communications services have been granted~~
152 ~~by general law the authority to offset permit fees against~~
153 ~~franchise or other fees while other providers of communications~~
154 ~~services have not been granted this authority. In order to treat~~
155 ~~all providers of communications services in a nondiscriminatory~~



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156 ~~and competitively neutral manner with respect to the payment of~~
157 ~~permit fees, each municipality and charter county shall make an~~
158 ~~election under either sub-subparagraph a. or sub-subparagraph b.~~
159 ~~and must inform the Department of Revenue of the election by~~
160 ~~certified mail by July 16, 2001. Such election shall take effect~~
161 ~~October 1, 2001.~~

162 ~~a.(I) The municipality or charter county may require and~~
163 ~~collect permit fees from any providers of communications~~
164 ~~services that use or occupy municipal or county roads or rights-~~
165 ~~of-way. All fees authorized ~~permitted~~ under this paragraph ~~sub-~~~~

166 ~~subparagraph~~ must be reasonable and commensurate with the direct
167 and actual cost of the regulatory activity, including issuing
168 and processing permits, plan reviews, physical inspection, and
169 direct administrative costs; must be demonstrable; and must be
170 equitable among users of the roads or rights-of-way. A fee
171 authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~ may
172 not~~+~~ be offset against the tax imposed under chapter 202;
173 include the costs of roads or rights-of-way acquisition or roads
174 or rights-of-way rental; include any general administrative,
175 management, or maintenance costs of the roads or rights-of-way;
176 or be based on a percentage of the value or costs associated
177 with the work to be performed on the roads or rights-of-way. In
178 an action to recover amounts due for a fee not authorized
179 ~~permitted~~ under this paragraph ~~sub-subparagraph~~, the prevailing
180 party may recover court costs and attorney ~~attorney's~~ fees at
181 trial and on appeal. In addition to the limitations set forth in
182 this section, a fee levied by a municipality or charter county
183 under this paragraph ~~sub-subparagraph~~ may not exceed \$100.
184 However, permit fees may not be imposed with respect to permits



185 that may be required for service drop lines not required to be
186 noticed under s. 556.108(5) ~~s. 556.108(5)(a)2.~~ or for any
187 activity that does not require the physical disturbance of the
188 roads or rights-of-way or does not impair access to or full use
189 of the roads or rights-of-way, including, but not limited to,
190 the performance of service restoration work on existing
191 facilities, extensions of such facilities for providing
192 communications services to customers, and the placement of micro
193 wireless facilities in accordance with subparagraph (7)(e)3.

194 ~~(II) To ensure competitive neutrality among providers of~~
195 ~~communications services, for any municipality or charter county~~
196 ~~that elects to exercise its authority to require and collect~~
197 ~~permit fees under this sub-subparagraph, the rate of the local~~
198 ~~communications services tax imposed by such jurisdiction, as~~
199 ~~computed under s. 202.20, shall automatically be reduced by a~~
200 ~~rate of 0.12 percent.~~

201 ~~b. Alternatively, the municipality or charter county may~~
202 ~~elect not to require and collect permit fees from any provider~~
203 ~~of communications services that uses or occupies municipal or~~
204 ~~charter county roads or rights-of-way for the provision of~~
205 ~~communications services; however, each municipality or charter~~
206 ~~county that elects to operate under this sub-subparagraph~~
207 ~~retains all authority to establish rules and regulations for~~
208 ~~providers of communications services to use or occupy roads or~~
209 ~~rights-of-way as provided in this section.~~

210 1. If a municipality or charter county elects to not
211 require permit fees ~~operate under this sub-subparagraph,~~ the
212 total rate for the local communications services tax as computed
213 under s. 202.20 for that municipality or charter county may be



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214 increased by ordinance or resolution by an amount not to exceed
215 a rate of 0.12 percent. ~~If a municipality or charter county~~
216 ~~elects to increase its rate effective October 1, 2001, the~~
217 ~~municipality or charter county shall inform the department of~~
218 ~~such increased rate by certified mail postmarked on or before~~
219 ~~July 16, 2001.~~

220 ~~e. A municipality or charter county that does not make an~~
221 ~~election as provided for in this subparagraph shall be presumed~~
222 ~~to have elected to operate under the provisions of sub-~~
223 ~~subparagraph b.~~

224 ~~2. Each noncharter county shall make an election under~~
225 ~~either sub-subparagraph a. or sub-subparagraph b. and shall~~
226 ~~inform the Department of Revenue of the election by certified~~
227 ~~mail by July 16, 2001. Such election shall take effect October~~
228 ~~1, 2001.~~

229 ~~a. The noncharter county may elect to require and collect~~
230 ~~permit fees from any providers of communications services that~~
231 ~~use or occupy noncharter county roads or rights-of-way. All fees~~
232 ~~permitted under this sub-subparagraph must be reasonable and~~
233 ~~commensurate with the direct and actual cost of the regulatory~~
234 ~~activity, including issuing and processing permits, plan~~
235 ~~reviews, physical inspection, and direct administrative costs;~~
236 ~~must be demonstrable; and must be equitable among users of the~~
237 ~~roads or rights-of-way. A fee permitted under this sub-~~
238 ~~subparagraph may not: be offset against the tax imposed under~~
239 ~~chapter 202; include the costs of roads or rights-of-way~~
240 ~~acquisition or roads or rights-of-way rental; include any~~
241 ~~general administrative, management, or maintenance costs of the~~
242 ~~roads or rights-of-way; or be based on a percentage of the value~~



243 ~~or costs associated with the work to be performed on the roads~~
244 ~~or rights-of-way. In an action to recover amounts due for a fee~~
245 ~~not permitted under this sub-subparagraph, the prevailing party~~
246 ~~may recover court costs and attorney's fees at trial and on~~
247 ~~appeal. In addition to the limitations set forth in this~~
248 ~~section, a fee levied by a noncharter county under this sub-~~
249 ~~subparagraph may not exceed \$100. However, permit fees may not~~
250 ~~be imposed with respect to permits that may be required for~~
251 ~~service drop lines not required to be noticed under s.~~
252 ~~556.108(5) (a)2. or for any activity that does not require the~~
253 ~~physical disturbance of the roads or rights-of-way or does not~~
254 ~~impair access to or full use of the roads or rights-of-way.~~

255 ~~b. Alternatively, the noncharter county may elect not to~~
256 ~~require and collect permit fees from any provider of~~
257 ~~communications services that uses or occupies noncharter county~~
258 ~~roads or rights-of-way for the provision of communications~~
259 ~~services; however, each noncharter county that elects to operate~~
260 ~~under this sub-subparagraph shall retain all authority to~~
261 ~~establish rules and regulations for providers of communications~~
262 ~~services to use or occupy roads or rights-of-way as provided in~~
263 ~~this section.~~

264 2. ~~If a noncharter county elects to not require permit fees~~
265 ~~operate under this sub-subparagraph, the total rate for the~~
266 ~~local communications services tax as computed under s. 202.20~~
267 ~~for that noncharter county may be increased by ordinance or~~
268 ~~resolution by an amount not to exceed a rate of 0.24 percent, to~~
269 ~~replace the revenue the noncharter county would otherwise have~~
270 ~~received from permit fees for providers of communications~~
271 ~~services. If a noncharter county elects to increase its rate~~



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272 ~~effective October 1, 2001, the noncharter county shall inform~~
273 ~~the department of such increased rate by certified mail~~
274 ~~postmarked on or before July 16, 2001.~~

275 ~~e. A noncharter county that does not make an election as~~
276 ~~provided for in this subparagraph shall be presumed to have~~
277 ~~elected to operate under the provisions of sub-subparagraph b.~~

278 ~~3. Except as provided in this paragraph, municipalities and~~
279 ~~counties retain all existing authority to require and collect~~
280 ~~permit fees from users or occupants of municipal or county roads~~
281 ~~or rights-of-way and to set appropriate permit fee amounts.~~

282 ~~(d) After January 1, 2001, In addition to any other notice~~
283 ~~requirements, a municipality must provide to the Secretary of~~
284 ~~State, at least 10 days prior to consideration on first reading,~~
285 ~~notice of a proposed ordinance governing a telecommunications~~
286 ~~company placing or maintaining telecommunications facilities in~~
287 ~~its roads or rights-of-way. After January 1, 2001, In addition~~
288 ~~to any other notice requirements, a county must provide to the~~
289 ~~Secretary of State, at least 15 days prior to consideration at a~~
290 ~~public hearing, notice of a proposed ordinance governing a~~
291 ~~telecommunications company placing or maintaining~~
292 ~~telecommunications facilities in its roads or rights-of-way. The~~
293 ~~notice required by this paragraph must be published by the~~
294 ~~Secretary of State on a designated Internet website. The failure~~
295 ~~of a municipality or county to provide such notice does not~~
296 ~~render the ordinance invalid, provided that enforcement of such~~
297 ~~ordinance must be suspended until 30 days after the municipality~~
298 ~~or county provides the required notice.~~

299 (e) The authority of municipalities and counties to require
300 franchise fees from providers of communications services, with



301 respect to the provision of communications services, is
302 specifically preempted by the state because of unique
303 circumstances applicable to providers of communications services
304 when compared to other utilities occupying municipal or county
305 roads or rights-of-way. Providers of communications services may
306 provide similar services in a manner that requires the placement
307 of facilities in municipal or county roads or rights-of-way or
308 in a manner that does not require the placement of facilities in
309 such roads or rights-of-way. Although similar communications
310 services may be provided by different means, the state desires
311 to treat providers of communications services in a
312 nondiscriminatory manner and to have the taxes, franchise fees,
313 and other fees, costs, and financial or regulatory exactions
314 paid by or imposed on providers of communications services be
315 competitively neutral. Municipalities and counties retain all
316 existing authority, if any, to collect franchise fees from users
317 or occupants of municipal or county roads or rights-of-way other
318 than providers of communications services, and the provisions of
319 this subsection shall have no effect upon this authority. The
320 provisions of this subsection do not restrict the authority, if
321 any, of municipalities or counties or other governmental
322 entities to receive reasonable rental fees based on fair market
323 value for the use of public lands and buildings on property
324 outside the public roads or rights-of-way for the placement of
325 communications antennas and towers.

326 (f) Except as expressly allowed or authorized by general
327 law and except for the rights-of-way permit fees subject to
328 paragraph (c), a municipality or county may not levy on a
329 provider of communications services a tax, fee, or other charge



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330 or imposition for operating as a provider of communications
331 services within the jurisdiction of the municipality or county
332 which is in any way related to using its roads or rights-of-way.
333 A municipality or county may not require or solicit in-kind
334 compensation, except as otherwise provided in s. 202.24(2)(c)8.,
335 provided that the in-kind compensation is not a franchise fee
336 under federal law. Nothing in this paragraph impairs the
337 authority of a municipality or county to request public,
338 educational, or governmental access channels pursuant to ~~or~~ s.
339 610.109. Nothing in this paragraph shall impair any ordinance or
340 agreement in effect on May 22, 1998, or any voluntary agreement
341 entered into subsequent to that date, which provides for or
342 allows in-kind compensation by a telecommunications company.

343 (g) A municipality or county may not use its authority over
344 the placement of facilities in its roads and rights-of-way as a
345 basis for asserting or exercising regulatory control over a
346 provider of communications services regarding matters within the
347 exclusive jurisdiction of the Florida Public Service Commission
348 or the Federal Communications Commission, including, but not
349 limited to, the operations, systems, equipment, technology,
350 qualifications, services, service quality, service territory,
351 and prices of a provider of communications services. A
352 municipality or county may not require any permit for the
353 maintenance, repair, replacement, extension, or upgrade of
354 existing aerial wireline communications facilities on utility
355 poles or for aerial wireline facilities between existing
356 wireline communications facility attachments on utility poles by
357 a communications services provider. However, a municipality or
358 county may require a right-of-way permit for work that involves



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359 excavation, closure of a sidewalk, or closure of a vehicular
360 lane or parking lane, unless the provider is performing service
361 restoration to existing facilities. A permit application
362 required by an authority under this section for the placement of
363 communications facilities must be processed and acted upon
364 consistent with the timeframes provided in subparagraphs
365 (7) (d) 7, 8, and 9. In addition, a municipality or county may not
366 require any permit or other approval, fee, charge, or cost, or
367 other exaction for the maintenance, repair, replacement,
368 extension, or upgrade of existing aerial lines or underground
369 communications facilities located on private property outside of
370 the public rights-of-way. As used in this section, the term
371 "extension of existing facilities" includes those extensions
372 from the rights of way into a customer's private property for
373 purposes of placing a service drop or those extensions from the
374 rights of way into a utility easement to provide service to a
375 discrete identifiable customer or group of customers.

376 (h) A provider of communications services that has obtained
377 permission to occupy the roads or rights-of-way of an
378 incorporated municipality pursuant to s. 362.01 or that is
379 otherwise lawfully occupying the roads or rights-of-way of a
380 municipality or county shall not be required to obtain consent
381 to continue such lawful occupation of those roads or rights-of-
382 way; however, nothing in this paragraph shall be interpreted to
383 limit the power of a municipality or county to adopt or enforce
384 reasonable rules or regulations as provided in this section and
385 consistent with chapters 202, 364, and 610. Any such rules or
386 regulations must be in writing, and registered providers of
387 communications services in the municipality or county must be



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388 given at least 60 days advance written notice of any changes to
389 the rules and regulations.

390 (i) Except as expressly provided in this section, this
391 section does not modify the authority of municipalities and
392 counties to levy the tax authorized in chapter 202 or the duties
393 of providers of communications services under ss. 337.402-
394 337.404. This section does not apply to building permits, pole
395 attachments, or private roads, private easements, and private
396 rights-of-way.

397 ~~(j) Pursuant to this paragraph, any county or municipality~~
398 ~~may by ordinance change either its election made on or before~~
399 ~~July 16, 2001, under paragraph (c) or an election made under~~
400 ~~this paragraph.~~

401 ~~1.a. If a municipality or charter county changes its~~
402 ~~election under this paragraph in order to exercise its authority~~
403 ~~to require and collect permit fees in accordance with this~~
404 ~~subsection, the rate of the local communications services tax~~
405 ~~imposed by such jurisdiction pursuant to ss. 202.19 and 202.20~~
406 ~~shall automatically be reduced by the sum of 0.12 percent plus~~
407 ~~the percentage, if any, by which such rate was increased~~
408 ~~pursuant to sub-subparagraph (c)1.b.~~

409 ~~b. If a municipality or charter county changes its election~~
410 ~~under this paragraph in order to discontinue requiring and~~
411 ~~collecting permit fees, the rate of the local communications~~
412 ~~services tax imposed by such jurisdiction pursuant to ss. 202.19~~
413 ~~and 202.20 may be increased by ordinance or resolution by an~~
414 ~~amount not to exceed 0.24 percent.~~

415 ~~2.a. If a noncharter county changes its election under this~~
416 ~~paragraph in order to exercise its authority to require and~~



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417 ~~collect permit fees in accordance with this subsection, the rate~~
418 ~~of the local communications services tax imposed by such~~
419 ~~jurisdiction pursuant to ss. 202.19 and 202.20 shall~~
420 ~~automatically be reduced by the percentage, if any, by which~~
421 ~~such rate was increased pursuant to sub-subparagraph (c)2.b.~~

422 ~~b. If a noncharter county changes its election under this~~
423 ~~paragraph in order to discontinue requiring and collecting~~
424 ~~permit fees, the rate of the local communications services tax~~
425 ~~imposed by such jurisdiction pursuant to ss. 202.19 and 202.20~~
426 ~~may be increased by ordinance or resolution by an amount not to~~
427 ~~exceed 0.24 percent.~~

428 ~~3.a. Any change of election pursuant to this paragraph and~~
429 ~~any tax rate change resulting from such change of election shall~~
430 ~~be subject to the notice requirements of s. 202.21; however, no~~
431 ~~such change of election shall become effective prior to January~~
432 ~~1, 2003.~~

433 ~~b. Any county or municipality changing its election under~~
434 ~~this paragraph in order to exercise its authority to require and~~
435 ~~collect permit fees shall, in addition to complying with the~~
436 ~~notice requirements under s. 202.21, provide to all dealers~~
437 ~~providing communications services in such jurisdiction written~~
438 ~~notice of such change of election by September 1 immediately~~
439 ~~preceding the January 1 on which such change of election becomes~~
440 ~~effective. For purposes of this sub-subparagraph, dealers~~
441 ~~providing communications services in such jurisdiction shall~~
442 ~~include every dealer reporting tax to such jurisdiction pursuant~~
443 ~~to s. 202.37 on the return required under s. 202.27 to be filed~~
444 ~~on or before the 20th day of May immediately preceding the~~
445 ~~January 1 on which such change of election becomes effective.~~



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446 ~~(k)~~ Notwithstanding the provisions of s. 202.19, when a
447 local communications services tax rate is changed as a result of
448 an election made or changed under this subsection, such rate may
449 ~~shall~~ not be rounded to tenths.

450 (6)

451 (d) The amounts charged pursuant to this subsection shall
452 be based on the linear miles of roads or rights-of-way where a
453 communications facility is placed, not based on a summation of
454 the lengths of individual cables, conduits, strands, or fibers.
455 The amounts referenced in this subsection may be charged only
456 once annually and only to one person annually for any
457 communications facility. A municipality or county shall
458 discontinue charging such amounts to a person that has ceased to
459 be a pass-through provider. Any annual amounts charged shall be
460 reduced for a prorated portion of any 12-month period during
461 which the person remits taxes imposed by the municipality or
462 county pursuant to chapter 202. Any excess amounts paid to a
463 municipality or county shall be refunded to the person upon
464 written notice of the excess to the municipality or county. A
465 municipality or county may require a pass-through provider to
466 provide an annual notarized statement identifying the total
467 number of linear miles of pass-through facilities in the
468 municipality's or county's rights-of-way. Upon request from a
469 municipality or county, a pass-through provider must provide
470 reasonable access to maps of pass-through facilities located in
471 the rights-of-way of the municipality or county making the
472 request. The scope of the request must be limited to only those
473 maps of pass-through facilities from which the calculation of
474 the linear miles of pass-through facilities in the rights-of-way



475 can be determined. The request must be accompanied by an
476 affidavit that the person making the request is authorized by
477 the municipality or county to review tax information related to
478 the revenue and mileage calculations for pass-through providers.
479 A request may not be made more than once annually to a pass-
480 through provider.

481 (e) This subsection does not alter any provision of this
482 section or s. 202.24 relating to taxes, fees, or other charges
483 or impositions by a municipality or county on a dealer of
484 communications services or authorize that any charges be
485 assessed on a dealer of communications services, except as
486 specifically set forth herein. A municipality or county may not
487 charge a pass-through provider any amounts other than the
488 charges under this subsection as a condition to the placement or
489 maintenance of a communications facility in the roads or rights-
490 of-way of a municipality or county by a pass-through provider,
491 except that a municipality or county may impose permit fees on a
492 pass-through provider consistent with paragraph (3)(c) ~~if the~~
493 ~~municipality or county elects to exercise its authority to~~
494 ~~collect permit fees under paragraph (3)(c).~~

495 (f) The charges under this subsection do not apply to
496 communications facilities placed in a municipality's or county's
497 rights-of-way prior to the effective date of this subsection
498 with permission from the municipality or county, if any was
499 required, except to the extent the facilities of a pass-through
500 provider were subject to per linear foot or mile charges in
501 effect as of October 1, 2001, in which case the municipality or
502 county may only impose on a pass-through provider charges
503 consistent with paragraph (b) or paragraph (c) for such



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504 facilities. Notwithstanding the foregoing, this subsection does
505 not impair any written agreement between a pass-through provider
506 and a municipality or county imposing per linear foot or mile
507 charges for communications facilities placed in municipal or
508 county roads or rights-of-way that is in effect prior to the
509 effective date of this subsection. Upon the termination or
510 expiration of any such written agreement, any charges imposed
511 ~~must shall~~ be consistent with this section ~~paragraph (b) or~~
512 ~~paragraph (c). Notwithstanding the foregoing, until October 1,~~
513 ~~2005, this subsection shall not affect a municipality or county~~
514 ~~continuing to impose charges in excess of the charges authorized~~
515 ~~in this subsection on facilities of a pass-through provider that~~
516 ~~is not a dealer of communications services in the state under~~
517 ~~chapter 202, but only to the extent such charges were imposed by~~
518 ~~municipal or county ordinance or resolution adopted prior to~~
519 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~
520 ~~shall be consistent with paragraph (b) or paragraph (c).~~

521 (7)

522 (b) As used in this subsection, the term:

523 1. "Antenna" means communications equipment that transmits
524 or receives electromagnetic radio frequency signals used in
525 providing wireless services.

526 2. "Applicable codes" means uniform building, fire,
527 electrical, plumbing, or mechanical codes adopted by a
528 recognized national code organization or local amendments to
529 those codes enacted solely to address threats of destruction of
530 property or injury to persons, and includes the National
531 Electric Safety Code and the 2017 edition of the Florida
532 Department of Transportation Utility Accommodation Manual ~~or~~



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533 ~~local codes or ordinances adopted to implement this subsection.~~
534 ~~The term includes objective design standards adopted by~~
535 ~~ordinance that may require a new utility pole that replaces an~~
536 ~~existing utility pole to be of substantially similar design,~~
537 ~~material, and color or that may require reasonable spacing~~
538 ~~requirements concerning the location of ground-mounted~~
539 ~~equipment. The term includes objective design standards adopted~~
540 ~~by ordinance that may require a small wireless facility to meet~~
541 ~~reasonable location context, color, stealth, and concealment~~
542 ~~requirements; however, such design standards may be waived by~~
543 ~~the authority upon a showing that the design standards are not~~
544 ~~reasonably compatible for the particular location of a small~~
545 ~~wireless facility or that the design standards impose an~~
546 ~~excessive expense. The waiver shall be granted or denied within~~
547 ~~45 days after the date of the request.~~

548 3. "Applicant" means a person who submits an application
549 and is a wireless provider.

550 4. "Application" means a request submitted by an applicant
551 to an authority for a permit to collocate small wireless
552 facilities or to place a new utility pole used to support a
553 small wireless facility.

554 5. "Authority" means a county or municipality having
555 jurisdiction and control of the rights-of-way of any public
556 road. The term does not include the Department of
557 Transportation. Rights-of-way under the jurisdiction and control
558 of the department are excluded from this subsection.

559 6. "Authority utility pole" means a utility pole owned by
560 an authority in the right-of-way. The term does not include a
561 utility pole owned by a municipal electric utility, a utility



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562 pole used to support municipally owned or operated electric
563 distribution facilities, or a utility pole located in the right-
564 of-way within:

565 a. A retirement community that:

566 (I) Is deed restricted as housing for older persons as
567 defined in s. 760.29(4) (b);

568 (II) Has more than 5,000 residents; and

569 (III) Has underground utilities for electric transmission
570 or distribution.

571 b. A municipality that:

572 (I) Is located on a coastal barrier island as defined in s.
573 161.053(1) (b)3.;

574 (II) Has a land area of less than 5 square miles;

575 (III) Has less than 10,000 residents; and

576 (IV) Has, before July 1, 2017, received referendum approval
577 to issue debt to finance municipal-wide undergrounding of its
578 utilities for electric transmission or distribution.

579 7. "Collocate" or "collocation" means to install, mount,
580 maintain, modify, operate, or replace one or more wireless
581 facilities on, under, within, or adjacent to a wireless support
582 structure or utility pole. The term does not include the
583 installation of a new utility pole or wireless support structure
584 in the public rights-of-way.

585 8. "FCC" means the Federal Communications Commission.

586 9. "Micro wireless facility" means a small wireless
587 facility having dimensions no larger than 24 inches in length,
588 15 inches in width, and 12 inches in height and an exterior
589 antenna, if any, no longer than 11 inches.

590 10. "Small wireless facility" means a wireless facility



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591 that meets the following qualifications:

592 a. Each antenna associated with the facility is located
593 inside an enclosure of no more than 6 cubic feet in volume or,
594 in the case of antennas that have exposed elements, each antenna
595 and all of its exposed elements could fit within an enclosure of
596 no more than 6 cubic feet in volume; and

597 b. All other wireless equipment associated with the
598 facility is cumulatively no more than 28 cubic feet in volume.
599 The following types of associated ancillary equipment are not
600 included in the calculation of equipment volume: electric
601 meters, concealment elements, telecommunications demarcation
602 boxes, ground-based enclosures, grounding equipment, power
603 transfer switches, cutoff switches, vertical cable runs for the
604 connection of power and other services, and utility poles or
605 other support structures.

606 11. "Utility pole" means a pole or similar structure that
607 is used in whole or in part to provide communications services
608 or for electric distribution, lighting, traffic control,
609 signage, or a similar function. The term includes the vertical
610 support structure for traffic lights but does not include a
611 horizontal structure to which signal lights or other traffic
612 control devices are attached and does not include a pole or
613 similar structure 15 feet in height or less unless an authority
614 grants a waiver for such pole.

615 12. "Wireless facility" means equipment at a fixed location
616 which enables wireless communications between user equipment and
617 a communications network, including radio transceivers,
618 antennas, wires, coaxial or fiber-optic cable or other cables,
619 regular and backup power supplies, and comparable equipment,



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620 regardless of technological configuration, and equipment
621 associated with wireless communications. The term includes small
622 wireless facilities. The term does not include:

623 a. The structure or improvements on, under, within, or
624 adjacent to the structure on which the equipment is collocated;

625 b. Wireline backhaul facilities; or

626 c. Coaxial or fiber-optic cable that is between wireless
627 structures or utility poles or that is otherwise not immediately
628 adjacent to or directly associated with a particular antenna.

629 13. "Wireless infrastructure provider" means a person who
630 has been certificated under chapter 364 to provide
631 telecommunications service ~~in the state~~ or under chapter 610 to
632 provide cable or video services in this state, or that person's
633 affiliate, and who builds or installs wireless communication
634 transmission equipment, wireless facilities, or wireless support
635 structures but is not a wireless services provider.

636 14. "Wireless provider" means a wireless infrastructure
637 provider or a wireless services provider.

638 15. "Wireless services" means any services provided using
639 licensed or unlicensed spectrum, whether at a fixed location or
640 mobile, using wireless facilities.

641 16. "Wireless services provider" means a person who
642 provides wireless services.

643 17. "Wireless support structure" means a freestanding
644 structure, such as a monopole, a guyed or self-supporting tower,
645 or another existing or proposed structure designed to support or
646 capable of supporting wireless facilities. The term does not
647 include a utility pole, pedestal, or other support structure for
648 ground-based equipment not mounted on a utility pole and less



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649 than 5 feet in height.

650 (c) Except as provided in this subsection, an authority may
651 not prohibit, regulate, or charge for the collocation of small
652 wireless facilities in the public rights-of-way or for the
653 installation, maintenance, modification, operation, or
654 replacement of utility poles used for the collocation of small
655 wireless facilities in the public rights-of-way.

656 (d) An authority may require a registration process and
657 permit fees in accordance with subsection (3). An authority
658 shall accept applications for permits and shall process and
659 issue permits subject to the following requirements:

660 1. An authority may not directly or indirectly require an
661 applicant to perform services unrelated to the collocation for
662 which approval is sought, such as in-kind contributions to the
663 authority, including reserving fiber, conduit, or pole space for
664 the authority.

665 2. An applicant may not be required to provide more
666 information to obtain a permit than is necessary to demonstrate
667 the applicant's compliance with applicable codes for the
668 placement of small wireless facilities in the locations
669 identified in the application. An applicant may not be required
670 to provide inventories, maps, or locations of communications
671 facilities in the right-of-way other than as necessary to avoid
672 interference with other at-grade or aerial facilities located at
673 the specific location proposed for a small wireless facility or
674 within 50 feet of such location.

675 3. An authority may not:

676 a. Require the placement of small wireless facilities on
677 any specific utility pole or category of poles; ~~or~~



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678 b. Require the placement of multiple antenna systems on a
679 single utility pole;

680 c. Require a demonstration that collocation of a small
681 wireless facility on an existing structure is not legally or
682 technically possible as a condition for granting a permit for
683 the collocation of a small wireless facility on a new utility
684 pole except as provided in paragraph (i);

685 d. Require compliance with an authority's provisions
686 regarding placement of small wireless facilities or a new
687 utility pole used to support a small wireless facility in
688 rights-of-way under the control of the department unless the
689 authority has received a delegation from the department for the
690 location of the small wireless facility or utility pole, or
691 require such compliance as a condition to receive a permit that
692 is ancillary to the permit for collocation of a small wireless
693 facility, including an electrical permit;

694 e. Require a meeting before filing an application;

695 f. Require direct or indirect public notification or a
696 public meeting for the placement of communication facilities in
697 the right-of-way;

698 g. Limit the size or configuration of a small wireless
699 facility or any of its components, if the small wireless
700 facility complies with the size limits in this subsection;

701 h. Prohibit the installation of a new utility pole used to
702 support the collocation of a small wireless facility if the
703 installation otherwise meets the requirements of this
704 subsection; or

705 i. Require that any component of a small wireless facility
706 be placed underground except as provided in paragraph (i).



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707 4. Subject to paragraph (r), an authority may not limit the
708 placement, by minimum separation distances, of small wireless
709 facilities, utility poles on which small wireless facilities are
710 or will be collocated, or other at-grade communications
711 facilities by minimum separation distances. However, within 14
712 days after the date of filing the application, an authority may
713 request that the proposed location of a small wireless facility
714 be moved to another location in the right-of-way and placed on
715 an alternative authority utility pole or support structure or
716 placed on ~~may place~~ a new utility pole. The authority and the
717 applicant may negotiate the alternative location, including any
718 objective design standards and reasonable spacing requirements
719 for ground-based equipment, for 30 days after the date of the
720 request. At the conclusion of the negotiation period, if the
721 alternative location is accepted by the applicant, the applicant
722 must notify the authority of such acceptance and the application
723 shall be deemed granted for any new location for which there is
724 agreement and all other locations in the application. If an
725 agreement is not reached, the applicant must notify the
726 authority of such nonagreement and the authority must grant or
727 deny the original application within 90 days after the date the
728 application was filed. A request for an alternative location, an
729 acceptance of an alternative location, or a rejection of an
730 alternative location must be in writing and provided by
731 electronic mail.

732 5. An authority shall limit the height of a small wireless
733 facility to 10 feet above the utility pole or structure upon
734 which the small wireless facility is to be collocated. Unless
735 waived by an authority, the height for a new utility pole is



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736 limited to the tallest existing utility pole as of July 1, 2017,
737 located in the same right-of-way, other than a utility pole for
738 which a waiver has previously been granted, measured from grade
739 in place within 500 feet of the proposed location of the small
740 wireless facility. If there is no utility pole within 500 feet,
741 the authority shall limit the height of the utility pole to 50
742 feet.

743 6. ~~Except as provided in subparagraphs 4. and 5.,~~ The
744 installation by a communications services provider of a utility
745 pole in the public rights-of-way, other than a utility pole used
746 ~~designed to support a small wireless facility, is shall be~~
747 subject to authority rules or regulations governing the
748 placement of utility poles in the public rights-of-way ~~and shall~~
749 ~~be subject to the application review timeframes in this~~
750 ~~subsection.~~

751 7. Within 14 days after receiving an application, an
752 authority must determine and notify the applicant by electronic
753 mail as to whether the application is complete. If an
754 application is deemed incomplete, the authority must
755 specifically identify the missing information. An application is
756 deemed complete if the authority fails to provide notification
757 to the applicant within 14 days.

758 8. An application must be processed on a nondiscriminatory
759 basis. A complete application is deemed approved if an authority
760 fails to approve or deny the application within 60 days after
761 receipt of the application. If an authority does not use the 30-
762 day negotiation period provided in subparagraph 4., the parties
763 may mutually agree to extend the 60-day application review
764 period. The authority shall grant or deny the application at the



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765 end of the extended period. A permit issued pursuant to an
766 approved application shall remain effective for 1 year unless
767 extended by the authority.

768 9. An authority must notify the applicant of approval or
769 denial by electronic mail. An authority shall approve a complete
770 application unless it does not meet the authority's applicable
771 codes. If the application is denied, the authority must specify
772 in writing the basis for denial, including the specific code
773 provisions on which the denial was based, and send the
774 documentation to the applicant by electronic mail on the day the
775 authority denies the application. The applicant may cure the
776 deficiencies identified by the authority and resubmit the
777 application within 30 days after notice of the denial is sent to
778 the applicant. The authority shall approve or deny the revised
779 application within 30 days after receipt or the application is
780 deemed approved. The review of a revised application is Any
781 subsequent review shall be limited to the deficiencies cited in
782 the denial. If an authority provides for administrative review
783 of the denial of an application, the review must be complete and
784 a written decision issued within 45 days after a written request
785 for review is made. A denial must identify the specific code
786 provisions on which the denial is based. If the administrative
787 review is not complete within 45 days, the authority waives any
788 claim regarding failure to exhaust administrative remedies in
789 any judicial review of the denial of an application.

790 10. An applicant seeking to collocate small wireless
791 facilities within the jurisdiction of a single authority may, at
792 the applicant's discretion, file a consolidated application and
793 receive a single permit for the collocation of up to 30 small



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794 wireless facilities. If the application includes multiple small
795 wireless facilities, an authority may separately address small
796 wireless facility collocations for which incomplete information
797 has been received or which are denied.

798 11. An authority may deny an application to collocate a
799 ~~proposed collocation of~~ a small wireless facility or place a
800 utility pole used to support a small wireless facility in the
801 public rights-of-way if the proposed small wireless facility or
802 utility pole used to support a small wireless facility
803 collocation:

804 a. Materially interferes with the safe operation of traffic
805 control equipment.

806 b. Materially interferes with sight lines or clear zones
807 for transportation, pedestrians, or public safety purposes.

808 c. Materially interferes with compliance with the Americans
809 with Disabilities Act or similar federal or state standards
810 regarding pedestrian access or movement.

811 d. Materially fails to comply with the 2017 ~~2010~~ edition of
812 the Florida Department of Transportation Utility Accommodation
813 Manual.

814 e. Fails to comply with applicable codes.

815 f. Fails to comply with objective design standards
816 authorized under paragraph (r).

817 12. An authority may adopt by ordinance provisions for
818 insurance coverage, indemnification, ~~performance bonds, security~~
819 ~~funds~~, force majeure, abandonment, authority liability, or
820 authority warranties. Such provisions must be reasonable and
821 nondiscriminatory. An authority may require a construction bond
822 to secure restoration of the postconstruction rights-of-way to



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823 the preconstruction condition. However, such bond must be time-
824 limited to not more than 18 months after the construction to
825 which the bond applies is completed. For any financial
826 obligation required by an authority allowed under this section,
827 the authority shall accept a letter of credit or similar
828 financial instrument issued by any financial institution that is
829 authorized to do business within the United States, provided
830 that a claim against the financial instrument may be made by
831 electronic means, including by facsimile. A provider of
832 communications services may add an authority to any existing
833 bond, insurance policy, or other relevant financial instrument,
834 and the authority must accept such proof of coverage without any
835 conditions other than consent to venue for purposes of any
836 litigation to which the authority is a party. An authority may
837 not require a communications services provider to indemnify it
838 for liabilities not caused by the provider, including
839 liabilities arising from the authority's negligence, gross
840 negligence, or willful conduct.

841 13. Collocation of a small wireless facility on an
842 authority utility pole does not provide the basis for the
843 imposition of an ad valorem tax on the authority utility pole.

844 14. An authority may reserve space on authority utility
845 poles for future public safety uses. However, a reservation of
846 space may not preclude collocation of a small wireless facility.
847 If replacement of the authority utility pole is necessary to
848 accommodate the collocation of the small wireless facility and
849 the future public safety use, the pole replacement is subject to
850 make-ready provisions and the replaced pole shall accommodate
851 the future public safety use.



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852 15. A structure granted a permit and installed pursuant to
853 this subsection shall comply with chapter 333 and federal
854 regulations pertaining to airport airspace protections.

855 (e) An authority may not require any permit or other
856 approval or require fees, or other charges, costs, or other
857 exactions for:

858 1. Routine maintenance, the performance of service
859 restoration work on existing facilities, or repair work,
860 including, but not limited to, emergency repairs of existing
861 facilities or extensions of such facilities for providing
862 communications services to customers;

863 2. Replacement of existing wireless facilities with
864 wireless facilities that are substantially similar or of the
865 same or smaller size; or

866 3. Installation, placement, maintenance, or replacement of
867 micro wireless facilities that are suspended on cables strung
868 between existing utility poles in compliance with applicable
869 codes by or for a communications services provider authorized to
870 occupy the rights-of-way and who is remitting taxes under
871 chapter 202. An authority may require an initial letter from or
872 on behalf of such provider, which is effective upon filing,
873 attesting that the micro wireless facility dimensions comply
874 with the limits of this subsection. The authority may not
875 require any additional filing or other information as long as
876 the provider is deploying the same, a substantially similar, or
877 a smaller size micro wireless facility equipment.

878
879 Notwithstanding this paragraph, an authority may require a
880 right-of-way permit for work that involves excavation, closure



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881 of a sidewalk, or closure of a vehicular lane or parking lane,
882 unless the provider is performing service restoration on an
883 existing facility and the work is done in compliance with the
884 2017 edition of the Florida Department of Transportation Utility
885 Accommodation Manual. An authority may require notice of such
886 work within 30 days after restoration and may require an after-
887 the-fact permit for work which would otherwise have required a
888 permit.

889 (f) Collocation of small wireless facilities on authority
890 utility poles is subject to the following requirements:

891 1. An authority may not enter into an exclusive arrangement
892 with any person for the right to attach equipment to authority
893 utility poles.

894 2. The rates and fees for collocations on authority utility
895 poles must be nondiscriminatory, regardless of the services
896 provided by the collocating person.

897 3. The rate to collocate small wireless facilities on an
898 authority utility pole may not exceed \$150 per pole annually.

899 4. Agreements between authorities and wireless providers
900 that are in effect on July 1, 2017, and that relate to the
901 collocation of small wireless facilities in the right-of-way,
902 including the collocation of small wireless facilities on
903 authority utility poles, remain in effect, subject to applicable
904 termination provisions. The wireless provider may accept the
905 rates, fees, and terms established under this subsection for
906 small wireless facilities and utility poles that are the subject
907 of an application submitted after the rates, fees, and terms
908 become effective.

909 5. A person owning or controlling an authority utility pole



910 shall offer rates, fees, and other terms that comply with this
911 subsection. By the later of January 1, 2018, or 3 months after
912 receiving a request to collocate its first small wireless
913 facility on a utility pole owned or controlled by an authority,
914 the person owning or controlling the authority utility pole
915 shall make available, through ordinance or otherwise, rates,
916 fees, and terms for the collocation of small wireless facilities
917 on the authority utility pole which comply with this subsection.

918 a. The rates, fees, and terms must be nondiscriminatory and
919 competitively neutral and must comply with this subsection.

920 b. For an authority utility pole that supports an aerial
921 facility used to provide communications services or electric
922 service, the parties shall comply with the process for make-
923 ready work under 47 U.S.C. s. 224 and implementing regulations.
924 The good faith estimate of the person owning or controlling the
925 pole for any make-ready work necessary to enable the pole to
926 support the requested collocation must include pole replacement
927 if necessary.

928 c. For an authority utility pole that does not support an
929 aerial facility used to provide communications services or
930 electric service, the authority shall provide a good faith
931 estimate for any make-ready work necessary to enable the pole to
932 support the requested collocation, including necessary pole
933 replacement, within 60 days after receipt of a complete
934 application. Make-ready work, including any pole replacement,
935 must be completed within 60 days after written acceptance of the
936 good faith estimate by the applicant. Alternatively, an
937 authority may require the applicant seeking to collocate a small
938 wireless facility to provide a make-ready estimate at the



939 applicant's expense for the work necessary to support the small
940 wireless facility, including pole replacement, and perform the
941 make-ready work. If pole replacement is required, the scope of
942 the make-ready estimate is limited to the design, fabrication,
943 and installation of a utility pole that is substantially similar
944 in color and composition. The authority may not condition or
945 restrict the manner in which the applicant obtains, develops, or
946 provides the estimate or conducts the make-ready work subject to
947 usual construction restoration standards for work in the right-
948 of-way. The replaced or altered utility pole shall remain the
949 property of the authority.

950 d. An authority may not require more make-ready work than
951 is required to meet applicable codes or industry standards. Fees
952 for make-ready work may not include costs related to preexisting
953 damage or prior noncompliance. Fees for make-ready work,
954 including any pole replacement, may not exceed actual costs or
955 the amount charged to communications services providers other
956 than wireless services providers for similar work and may not
957 include any consultant fee or expense.

958 (g) For any applications filed before the effective date of
959 ordinances implementing this subsection, an authority may apply
960 current ordinances relating to placement of communications
961 facilities in the right-of-way related to registration,
962 permitting, insurance coverage, indemnification, ~~performance~~
963 ~~bonds, security funds,~~ force majeure, abandonment, authority
964 liability, or authority warranties. Permit application
965 requirements and small wireless facility placement requirements,
966 including utility pole height limits, that conflict with this
967 subsection must ~~shall~~ be waived by the authority. An authority



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968 may not institute, either expressly or de facto, a moratorium,
969 zoning-in-progress, or other mechanism that would prohibit or
970 delay the filing, receiving, or processing of registrations,
971 applications, or issuing of permits or other approvals for the
972 collocation of small wireless facilities or the installation,
973 modification, or replacement of utility poles used to support
974 the collocation of small wireless facilities.

975 (i)1. In an area where an authority has required all public
976 utility lines in the rights-of-way to be placed underground, a
977 wireless provider must comply with written, objective,
978 reasonable, and nondiscriminatory requirements that prohibit new
979 utility poles used to support small wireless facilities if:

980 a. The authority, at least 90 days prior to the submission
981 of an application, has required all public utility lines to be
982 placed underground;

983 b. Structures that the authority allows to remain above
984 ground are reasonably available to wireless providers for the
985 collocation of small wireless facilities and may be replaced by
986 a wireless provider to accommodate the collocation of small
987 wireless facilities; and

988 c. A wireless provider may install a new utility pole in
989 the designated area in the right-of-way that otherwise complies
990 with this subsection and it is not reasonably able to provide
991 wireless service by collocating on a remaining utility pole or
992 other structure in the right-of-way.

993 2. For small wireless facilities installed before an
994 authority adopts requirements that public utility lines be
995 placed underground, an authority adopting such requirements
996 must:



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997 a. Allow a wireless provider to maintain the small wireless
998 facilities in place subject to any applicable pole attachment
999 agreement with the pole owner; or
1000 b. Allow the wireless provider to replace the associated
1001 pole within 50 feet of the prior location in accordance with
1002 paragraph (r). A wireless provider shall, in relation to a small
1003 wireless facility, utility pole, or wireless support structure
1004 in the public rights-of-way, comply with nondiscriminatory
1005 undergrounding requirements of an authority that prohibit above-
1006 ground structures in public rights-of-way. Any such requirements
1007 may be waived by the authority.
1008 (r) An authority may require wireless providers to comply
1009 with objective design standards adopted by ordinance. The
1010 ordinance may only require:
1011 1. A new utility pole that replaces an existing utility
1012 pole to be of substantially similar design, material, and color;
1013 2. Reasonable spacing requirements concerning the location
1014 of a ground-mounted component of a small wireless facility which
1015 does not exceed 15 feet from the associated support structure;
1016 or
1017 3. A small wireless facility to meet reasonable location
1018 context, color, camouflage, and concealment requirements,
1019 subject to the limitations in this subsection; and
1020 4. A new utility pole used to support a small wireless
1021 facility to meet reasonable location context, color, and
1022 material of the predominant utility pole type at the proposed
1023 location of the new utility pole.
1024
1025 Such design standards under this paragraph may be waived by the



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1026 authority upon a showing that the design standards are not
1027 reasonably compatible for the particular location of a small
1028 wireless facility or utility pole or are technically infeasible
1029 or that the design standards impose an excessive expense. The
1030 waiver must be granted or denied within 45 days after the date
1031 of the request.

1032 (8) (a) Any person aggrieved by a violation of this section
1033 may bring a civil action in a United States District Court or in
1034 any other court of competent jurisdiction.

1035 (b) The court may:

1036 1. Grant temporary or permanent injunctions on terms as it
1037 may deem reasonable to prevent or restrain violations of this
1038 section; and

1039 2. Direct the recovery of full costs, including awarding
1040 reasonable attorney fees, to the party who prevails.

1041 (9) All work in the authority's rights-of-way under this
1042 section must comply with the 2017 edition of the Florida
1043 Department of Transportation Utility Accommodation Manual.

1044 Section 3. Nothing in this act shall be construed to delay
1045 the issuance of permits for other utility work, including, but
1046 not limited to, permits related to electricity or gas work in
1047 the rights-of-way.

1048 Section 4. This act shall take effect July 1, 2019.

1049
1050 ===== T I T L E A M E N D M E N T =====

1051 And the title is amended as follows:

1052 Delete everything before the enacting clause
1053 and insert:

1054 A bill to be entitled



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1055 An act relating to communications services; amending
1056 s. 202.20, F.S.; conforming a cross-reference;
1057 amending s. 337.401, F.S.; revising legislative
1058 intent; specifying limitations and prohibitions on
1059 municipalities and counties relating to registrations
1060 and renewals of communications service providers;
1061 authorizing municipalities and counties to require
1062 certain information as part of a registration;
1063 prohibiting municipalities and counties from requiring
1064 a payment of fees, costs, or charges for provider
1065 registration or renewal; prohibiting municipalities
1066 and counties from adopting or enforcing certain
1067 ordinances, regulations, or requirements; specifying
1068 limitations on municipal and county authority to
1069 regulate and manage municipal and county roads or
1070 rights-of-way; prohibiting certain municipalities and
1071 counties from electing to impose permit fees;
1072 providing retroactive applicability; authorizing
1073 certain municipalities and counties to continue to
1074 require and collect such fees; deleting obsolete
1075 provisions; specifying activities for which permit
1076 fees may not be imposed; deleting certain provisions
1077 relating to municipality, charter county, and
1078 noncharter county elections to impose, or not to
1079 impose, permit fees; requiring that enforcement of
1080 certain ordinances must be suspended until certain
1081 conditions are met; revising legislative intent
1082 relating to the imposition of certain fees, costs, and
1083 exactions on providers; specifying a condition for



1084 certain in-kind compensation; revising items over
1085 which municipalities and counties may not exercise
1086 regulatory control; authorizing municipalities and
1087 counties to require a right-of-way permit for certain
1088 purposes; providing requirements for processing
1089 certain permit applications; prohibiting
1090 municipalities and counties from certain actions
1091 relating to certain aerial or underground
1092 communications facilities; specifying limitations and
1093 requirements for certain municipal and county rules
1094 and regulations; revising definitions for the Advanced
1095 Wireless Infrastructure Deployment Act; prohibiting
1096 certain actions by an authority relating to certain
1097 utility poles; prohibiting authorities from requiring
1098 permit applicants to provide certain information,
1099 except under certain circumstances; adding prohibited
1100 acts by authorities relating to small wireless
1101 facilities, application requirements, public
1102 notification and public meetings, and the placement of
1103 certain facilities; revising applicability of
1104 authority rules and regulations governing the
1105 placement of utility poles in the public rights-of-
1106 way; providing construction relating to judicial
1107 review of certain application denials; specifying
1108 grounds for an authority's denial of a proposed
1109 collocation of a small wireless facility or placement
1110 of a utility pole in the public rights-of-way;
1111 deleting an authority's authorization to adopt
1112 ordinances for performance bonds and security funds;



1113 authorizing an authority to require a construction
1114 bond, subject to certain conditions; requiring
1115 authorities to accept certain financial instruments
1116 for certain financial obligations; authorizing
1117 providers to add authorities to certain financial
1118 instruments; prohibiting an authority from requiring a
1119 provider to indemnify an authority for certain
1120 liabilities; prohibiting an authority from requiring a
1121 permit, approval, fees, charges, costs, or exactions
1122 for certain activities; authorizing and limiting
1123 filings an authority may require relating to micro
1124 wireless facility equipment; providing an exception to
1125 a certain right-of-way permit for certain service
1126 restoration work; providing conditions under which a
1127 wireless provider must comply with certain
1128 requirements of an authority that prohibit new utility
1129 poles used to support small wireless facilities in
1130 certain areas; providing that an authority may require
1131 wireless providers to comply with certain objective
1132 design standards adopted by ordinance; authorizing an
1133 authority to waive such design standards under certain
1134 circumstances; providing a requirement for the waiver;
1135 revising an authority's authorization to apply certain
1136 ordinances to applications filed before a certain
1137 timeframe; authorizing a civil action for violations;
1138 providing actions a court may take; requiring the work
1139 of certain authority rights-of-way to comply with a
1140 specified document; providing a statement of
1141 legislative intent; providing an effective date.