

By the Committees on Community Affairs; and Innovation,
Industry, and Technology; and Senator Hutson

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1 A bill to be entitled
2 An act relating to communications services; amending
3 s. 202.20, F.S.; conforming a cross-reference;
4 amending s. 337.401, F.S.; revising legislative
5 intent; specifying limitations and prohibitions on
6 municipalities and counties relating to registrations
7 and renewals of communications services providers;
8 authorizing municipalities and counties to require
9 certain information as part of a permit application
10 and to request certain updates from providers;
11 prohibiting municipalities and counties from requiring
12 a payment of fees, costs, or charges for provider
13 registration or renewal; prohibiting municipalities
14 and counties from adopting or enforcing certain
15 ordinances, regulations, or requirements; specifying
16 limitations on municipal and county authority to
17 regulate and manage municipal and county roads or
18 rights-of-way; prohibiting certain municipalities and
19 counties from electing to impose permit fees;
20 providing retroactive applicability; authorizing
21 certain municipalities and counties to continue to
22 require and collect such fees; deleting obsolete
23 provisions; specifying activities for which permit
24 fees may not be imposed; deleting certain provisions
25 relating to municipality, charter county, and
26 noncharter county elections to impose, or not to
27 impose, permit fees; requiring that enforcement of
28 certain ordinances must be suspended until certain
29 conditions are met; revising legislative intent

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30 relating to the imposition of certain fees, costs, and
31 exactions on providers; specifying a condition for
32 certain in-kind compensation; specifying prohibited
33 acts by municipalities and counties in the use of
34 their authority over the placement of facilities for
35 certain purposes; authorizing municipalities and
36 counties to require a right-of-way permit for certain
37 purposes; providing requirements for processing
38 certain permit applications; prohibiting
39 municipalities and counties from certain actions
40 relating to certain aerial or underground
41 communications facilities; specifying limitations and
42 requirements for certain municipal and county rules
43 and regulations; revising definitions under the
44 Advanced Wireless Infrastructure Deployment Act;
45 prohibiting certain actions by an authority relating
46 to certain utility poles; prohibiting authorities from
47 requiring permit applicants to provide certain
48 information, except under certain circumstances;
49 adding prohibited acts by authorities relating to
50 small wireless facilities, application requirements,
51 public notification and public meetings, and the
52 placement of certain facilities; revising
53 applicability of authority rules and regulations
54 governing the placement of utility poles in the public
55 rights-of-way; providing construction relating to
56 judicial review of certain application denials; adding
57 grounds for an authority's denial of a proposed
58 collocation of a small wireless facility in the public

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59 rights-of-way; deleting an authority's authorization
60 to adopt ordinances for performance bonds and security
61 funds; authorizing an authority to require a
62 construction bond, subject to certain conditions;
63 requiring authorities to accept certain financial
64 instruments for certain financial obligations;
65 authorizing providers to add authorities to certain
66 financial instruments; prohibiting an authority from
67 requiring a provider to indemnify the authority for
68 certain liabilities; prohibiting an authority from
69 requiring a permit, approval, fees, charges, costs, or
70 exactions for certain activities; authorizing and
71 limiting filings the authority may require relating to
72 micro wireless facility equipment; providing an
73 exception to a provision authorizing an authority to
74 require a certain right-of-way permit; authorizing
75 authorities to require wireless providers to comply
76 with certain objective design standards adopted by
77 ordinance; authorizing the authority to waive such
78 design standards under certain circumstances;
79 providing a requirement for the waiver; revising an
80 authority's authorization to apply certain ordinances
81 to applications filed before a certain timeframe;
82 prohibiting authorities from certain actions relating
83 to registrations, applications, permits, and approvals
84 in relation to small wireless facilities; deleting a
85 requirement for wireless providers to comply with
86 certain undergrounding requirements; authorizing a
87 civil action for violations; authorizing actions a

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88 court may take; providing an effective date.

89

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

91

92 Section 1. Paragraph (b) of subsection (2) of section
93 202.20, Florida Statutes, is amended to read:

94 202.20 Local communications services tax conversion rates.-

95 (2)

96 (b) Except as otherwise provided in this subsection,
97 "replaced revenue sources," as used in this section, means the
98 following taxes, charges, fees, or other impositions to the
99 extent that the respective local taxing jurisdictions were
100 authorized to impose them prior to July 1, 2000.

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

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

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

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

108 d. Franchise fees on dealers of communications services
109 which use the public roads or rights-of-way, up to the limit set
110 forth in s. 337.401. For purposes of calculating rates under
111 this section, it is the legislative intent that charter counties
112 be treated as having had the same authority as municipalities to
113 impose franchise fees on recurring local telecommunication
114 service revenues prior to July 1, 2000. However, the Legislature
115 recognizes that the authority of charter counties to impose such
116 fees is in dispute, and the treatment provided in this section

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117 is not an expression of legislative intent that charter counties
118 actually do or do not possess such authority.

119 e. Actual permit fees relating to placing or maintaining
120 facilities in or on public roads or rights-of-way, collected
121 from providers of long-distance, cable, and mobile
122 communications services for the fiscal year ending September 30,
123 1999; however, if a municipality or charter county elects the
124 option to charge permit fees pursuant to s. 337.401(3)(c)
125 ~~337.401(3)(c)1.a.~~, such fees shall not be included as a replaced
126 revenue source.

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

130 Section 2. Subsection (3), paragraphs (e) and (f) of
131 subsection (6), and paragraphs (b), (c), (d), (e), (f), (g), and
132 (i) of subsection (7) of section 337.401, Florida Statutes, are
133 amended, and subsection (8) is added to that section, to read:

134 337.401 Use of right-of-way for utilities subject to
135 regulation; permit; fees.—

136 (3)(a) Because of the unique circumstances applicable to
137 providers of communications services, including, but not limited
138 to, the circumstances described in paragraph (e) and the fact
139 that federal and state law require the nondiscriminatory
140 treatment of providers of telecommunications services, and
141 because of the desire to promote competition among providers of
142 communications services, it is the intent of the Legislature
143 that municipalities and counties treat providers of
144 communications services in a nondiscriminatory and competitively
145 neutral manner when imposing rules or regulations governing the

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146 placement or maintenance of communications facilities in the
147 public roads or rights-of-way. Rules or regulations imposed by a
148 municipality or county relating to providers of communications
149 services placing or maintaining communications facilities in its
150 roads or rights-of-way must be generally applicable to all
151 providers of communications services, taking into account the
152 distinct engineering, construction, operation, maintenance,
153 public works, and safety requirements of provider facilities,
154 and, notwithstanding any other law, may not require a provider
155 of communications services to apply for or enter into an
156 individual license, franchise, or other agreement with the
157 municipality or county as a condition of placing or maintaining
158 communications facilities in its roads or rights-of-way. In
159 addition to other reasonable rules or regulations that a
160 municipality or county may adopt relating to the placement or
161 maintenance of communications facilities in its roads or rights-
162 of-way under this subsection or subsection (7), a municipality
163 or county may require a provider of communications services that
164 places or seeks to place facilities in its roads or rights-of-
165 way to register with the municipality or county. To register, a
166 provider of communications services only may be required to
167 provide its name ~~and to provide the name of the registrant;~~ the
168 name, address, and telephone number of a contact person for the
169 registrant; the number of the registrant's current certificate
170 of authorization issued by the Florida Public Service
171 Commission, the Federal Communications Commission, or the
172 Department of State; and any required proof of insurance or
173 self-insuring status adequate to defend and cover claims. A
174 municipality or county may not require registration renewal more

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175 frequently than every 5 years, but may request that a provider
176 submit any updates during this period if the registration
177 information provided pursuant to this subsection changes. A
178 municipality or county may not require the provision of an
179 inventory of communications facilities, maps, locations of such
180 facilities, or other information by a registrant as a condition
181 of registration, renewal, or for any other purpose; provided,
182 however, that a municipality or county may require as part of a
183 permit application that the applicant identify at-grade
184 communications facilities within 25 feet of the proposed
185 installation location for the placement of at-grade
186 communications facilities. A municipality or county may not
187 require a provider to pay any fee, cost, or other charge for
188 registration or renewal thereof. It is the intent of the
189 Legislature that the placement, operation, maintenance,
190 upgrading, and extension of communications facilities not be
191 unreasonably interrupted or delayed through the permitting or
192 other local regulatory process. Except as provided in this
193 chapter or otherwise expressly authorized by chapter 202,
194 chapter 364, or chapter 610, a municipality or county may not
195 adopt or enforce any ordinance, regulation, or requirement as to
196 the placement or operation of communications facilities in a
197 right-of-way by a communications services provider authorized by
198 state or local law to operate in a right-of-way; regulate any
199 communications services; or impose or collect any tax, fee,
200 cost, charge, or exaction for the provision of communications
201 services over the communications services provider's
202 communications facilities in a right-of-way.

203 (b) Registration described in paragraph (a) does not

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204 establish a right to place or maintain, or priority for the
205 placement or maintenance of, a communications facility in roads
206 or rights-of-way of a municipality or county. Each municipality
207 and county retains the authority to regulate and manage
208 municipal and county roads or rights-of-way in exercising its
209 police power, subject to the limitations imposed in this section
210 and chapters 202 and 610. Any rules or regulations adopted by a
211 municipality or county which govern the occupation of its roads
212 or rights-of-way by providers of communications services must be
213 related to the placement or maintenance of facilities in such
214 roads or rights-of-way, must be reasonable and
215 nondiscriminatory, and may include only those matters necessary
216 to manage the roads or rights-of-way of the municipality or
217 county.

218 (c) Any municipality or county that, as of January 1, 2019,
219 elected to require permit fees from any provider of
220 communications services that uses or occupy municipal or county
221 road or rights-of-way pursuant to former paragraph (c) or
222 paragraph (j), Florida Statutes 2018, may continue to require
223 and collect such fees. A municipality or county that elected as
224 of such date to require permit fees may elect to forego such
225 fees as provided herein. A municipality or county that elected
226 as of such date not to require permit fees may not elect to
227 impose permit fees.

228 ~~1. It is the intention of the state to treat all providers~~
229 ~~of communications services that use or occupy municipal or~~
230 ~~charter county roads or rights-of-way for the provision of~~
231 ~~communications services in a nondiscriminatory and competitively~~
232 ~~neutral manner with respect to the payment of permit fees.~~

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233 ~~Certain providers of communications services have been granted~~
234 ~~by general law the authority to offset permit fees against~~
235 ~~franchise or other fees while other providers of communications~~
236 ~~services have not been granted this authority. In order to treat~~
237 ~~all providers of communications services in a nondiscriminatory~~
238 ~~and competitively neutral manner with respect to the payment of~~
239 ~~permit fees, each municipality and charter county shall make an~~
240 ~~election under either sub-subparagraph a. or sub-subparagraph b.~~
241 ~~and must inform the Department of Revenue of the election by~~
242 ~~certified mail by July 16, 2001. Such election shall take effect~~
243 ~~October 1, 2001.~~

244 ~~a. (I) The municipality or charter county may require and~~
245 ~~collect permit fees from any providers of communications~~
246 ~~services that use or occupy municipal or county roads or rights-~~
247 ~~of-way. All fees authorized ~~permitted~~ under this paragraph ~~sub-~~
248 ~~subparagraph~~ must be reasonable and commensurate with the direct
249 and actual cost of the regulatory activity, including issuing
250 and processing permits, plan reviews, physical inspection, and
251 direct administrative costs; must be demonstrable; and must be
252 equitable among users of the roads or rights-of-way. A fee
253 authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~ may
254 ~~not~~ be offset against the tax imposed under chapter 202;
255 include the costs of roads or rights-of-way acquisition or roads
256 or rights-of-way rental; include any general administrative,
257 management, or maintenance costs of the roads or rights-of-way;
258 or be based on a percentage of the value or costs associated
259 with the work to be performed on the roads or rights-of-way. In
260 an action to recover amounts due for a fee not authorized
261 ~~permitted~~ under this paragraph ~~sub-subparagraph~~, the prevailing~~

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262 party may recover court costs and attorney ~~attorney's~~ fees at
263 trial and on appeal. In addition to the limitations set forth in
264 this section, a fee levied by a municipality or charter county
265 under this paragraph ~~sub-subparagraph~~ may not exceed \$100.
266 However, permit fees may not be imposed with respect to permits
267 that may be required for service drop lines not required to be
268 noticed under s. 556.108(5) ~~s. 556.108(5)(a)2.~~ or for any
269 activity that does not require the physical disturbance of the
270 roads or rights-of-way or does not impair access to or full use
271 of the roads or rights-of-way, including, but not limited to,
272 any emergency repairs of existing facilities, extensions of such
273 facilities for providing communications services to customers,
274 and the placement of micro wireless facilities in accordance
275 with subparagraph (7)(e)3.

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

283 ~~b. Alternatively, the municipality or charter county may~~
284 ~~elect not to require and collect permit fees from any provider~~
285 ~~of communications services that uses or occupies municipal or~~
286 ~~charter county roads or rights-of-way for the provision of~~
287 ~~communications services; however, each municipality or charter~~
288 ~~county that elects to operate under this sub-subparagraph~~
289 ~~retains all authority to establish rules and regulations for~~
290 ~~providers of communications services to use or occupy roads or~~

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291 ~~rights of way as provided in this section.~~

292 1. If a municipality or charter county elects to not
293 require permit fees ~~operate under this sub-subparagraph,~~ the
294 total rate for the local communications services tax as computed
295 under s. 202.20 for that municipality or charter county may be
296 increased by ordinance or resolution by an amount not to exceed
297 a rate of 0.12 percent. ~~If a municipality or charter county~~
298 ~~elects to increase its rate effective October 1, 2001, the~~
299 ~~municipality or charter county shall inform the department of~~
300 ~~such increased rate by certified mail postmarked on or before~~
301 ~~July 16, 2001.~~

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

306 ~~2. Each noncharter county shall make an election under~~
307 ~~either sub-subparagraph a. or sub-subparagraph b. and shall~~
308 ~~inform the Department of Revenue of the election by certified~~
309 ~~mail by July 16, 2001. Such election shall take effect October~~
310 ~~1, 2001.~~

311 ~~a. The noncharter county may elect to require and collect~~
312 ~~permit fees from any providers of communications services that~~
313 ~~use or occupy noncharter county roads or rights of way. All fees~~
314 ~~permitted under this sub-subparagraph must be reasonable and~~
315 ~~commensurate with the direct and actual cost of the regulatory~~
316 ~~activity, including issuing and processing permits, plan~~
317 ~~reviews, physical inspection, and direct administrative costs;~~
318 ~~must be demonstrable; and must be equitable among users of the~~
319 ~~roads or rights of way. A fee permitted under this sub-~~

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320 ~~subparagraph may not: be offset against the tax imposed under~~
321 ~~chapter 202; include the costs of roads or rights-of-way~~
322 ~~acquisition or roads or rights-of-way rental; include any~~
323 ~~general administrative, management, or maintenance costs of the~~
324 ~~roads or rights-of-way; or be based on a percentage of the value~~
325 ~~or costs associated with the work to be performed on the roads~~
326 ~~or rights-of-way. In an action to recover amounts due for a fee~~
327 ~~not permitted under this sub-subparagraph, the prevailing party~~
328 ~~may recover court costs and attorney's fees at trial and on~~
329 ~~appeal. In addition to the limitations set forth in this~~
330 ~~section, a fee levied by a noncharter county under this sub-~~
331 ~~subparagraph may not exceed \$100. However, permit fees may not~~
332 ~~be imposed with respect to permits that may be required for~~
333 ~~service drop lines not required to be noticed under s.~~
334 ~~556.108(5)(a)2. or for any activity that does not require the~~
335 ~~physical disturbance of the roads or rights-of-way or does not~~
336 ~~impair access to or full use of the roads or rights-of-way.~~

337 ~~b. Alternatively, the noncharter county may elect not to~~
338 ~~require and collect permit fees from any provider of~~
339 ~~communications services that uses or occupies noncharter county~~
340 ~~roads or rights-of-way for the provision of communications~~
341 ~~services; however, each noncharter county that elects to operate~~
342 ~~under this sub-subparagraph shall retain all authority to~~
343 ~~establish rules and regulations for providers of communications~~
344 ~~services to use or occupy roads or rights-of-way as provided in~~
345 ~~this section.~~

346 2. ~~If a noncharter county elects to~~ not require permit fees
347 ~~operate under this sub-subparagraph, the total rate for the~~
348 ~~local communications services tax as computed under s. 202.20~~

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349 for that noncharter county may be increased by ordinance or
350 resolution by an amount not to exceed a rate of 0.24 percent, to
351 replace the revenue the noncharter county would otherwise have
352 received from permit fees for providers of communications
353 services. ~~If a noncharter county elects to increase its rate~~
354 ~~effective October 1, 2001, the noncharter county shall inform~~
355 ~~the department of such increased rate by certified mail~~
356 ~~postmarked on or before July 16, 2001.~~

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

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

364 (d) ~~After January 1, 2001,~~ In addition to any other notice
365 requirements, a municipality must provide to the Secretary of
366 State, at least 10 days prior to consideration on first reading,
367 notice of a proposed ordinance governing a telecommunications
368 company placing or maintaining telecommunications facilities in
369 its roads or rights-of-way. ~~After January 1, 2001,~~ In addition
370 to any other notice requirements, a county must provide to the
371 Secretary of State, at least 15 days prior to consideration at a
372 public hearing, notice of a proposed ordinance governing a
373 telecommunications company placing or maintaining
374 telecommunications facilities in its roads or rights-of-way. The
375 notice required by this paragraph must be published by the
376 Secretary of State on a designated Internet website. The failure
377 of a municipality or county to provide such notice does not

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378 render the ordinance invalid, provided that enforcement of such
379 ordinance must be suspended until 30 days after the municipality
380 or county provides the required notice.

381 (e) The authority of municipalities and counties to require
382 franchise fees from providers of communications services, with
383 respect to the provision of communications services, is
384 specifically preempted by the state because of unique
385 circumstances applicable to providers of communications services
386 when compared to other utilities occupying municipal or county
387 roads or rights-of-way. Providers of communications services may
388 provide similar services in a manner that requires the placement
389 of facilities in municipal or county roads or rights-of-way or
390 in a manner that does not require the placement of facilities in
391 such roads or rights-of-way. Although similar communications
392 services may be provided by different means, the state desires
393 to treat providers of communications services in a
394 nondiscriminatory manner and to have the taxes, franchise fees,
395 and other fees, costs, and financial or regulatory exactions
396 paid by or imposed on providers of communications services be
397 competitively neutral. Municipalities and counties retain all
398 existing authority, if any, to collect franchise fees from users
399 or occupants of municipal or county roads or rights-of-way other
400 than providers of communications services, and the provisions of
401 this subsection shall have no effect upon this authority. The
402 provisions of this subsection do not restrict the authority, if
403 any, of municipalities or counties or other governmental
404 entities to receive reasonable rental fees based on fair market
405 value for the use of public lands and buildings on property
406 outside the public roads or rights-of-way for the placement of

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407 communications antennas and towers.

408 (f) Except as expressly allowed or authorized by general
409 law and except for the rights-of-way permit fees subject to
410 paragraph (c), a municipality or county may not levy on a
411 provider of communications services a tax, fee, or other charge
412 or imposition for operating as a provider of communications
413 services within the jurisdiction of the municipality or county
414 which is in any way related to using its roads or rights-of-way.
415 A municipality or county may not require or solicit in-kind
416 compensation, except as otherwise provided in s. 202.24(2)(c)8.
417 or s. 610.109, provided that the in-kind compensation is not a
418 franchise fee under federal law. Nothing in this paragraph shall
419 impair any ordinance or agreement in effect on May 22, 1998, or
420 any voluntary agreement entered into subsequent to that date,
421 which provides for or allows in-kind compensation by a
422 telecommunications company.

423 (g) A municipality or county may not use its authority over
424 the placement of facilities in its roads and rights-of-way as a
425 basis for asserting or exercising regulatory control over a
426 provider of communications services regarding matters within the
427 exclusive jurisdiction of the Florida Public Service Commission
428 or the Federal Communications Commission, including, but not
429 limited to, the operations, systems, equipment, technology,
430 qualifications, services, service quality, service territory,
431 and prices of a provider of communications services. A
432 municipality or county may not require any permit for the
433 maintenance, repair, replacement, or upgrade of existing aerial
434 wireline communications facilities on utility poles or for
435 aerial wireline facilities between existing wireline

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436 communications facility attachments on utility poles by a
437 communications services provider; provided, however, that a
438 municipality or county may require a right-of-way permit for
439 work that involves excavation, closure of a sidewalk, or closure
440 of a vehicular lane, unless the provider is making emergency
441 restoration or repair work to existing facilities. Any permit
442 application required by an authority under this section for the
443 placement of communications facilities must be processed and
444 acted upon consistent with the timeframes provided in
445 subparagraphs (7) (d) 7.-9. In addition, a municipality or county
446 may not require any permit or other approval, fee, charge, or
447 cost, or other exaction for the maintenance, repair,
448 replacement, or upgrade of existing aerial or underground
449 communications facilities located on private property outside of
450 the public rights-of-way.

451 (h) A provider of communications services that has obtained
452 permission to occupy the roads or rights-of-way of an
453 incorporated municipality pursuant to s. 362.01 or that is
454 otherwise lawfully occupying the roads or rights-of-way of a
455 municipality or county shall not be required to obtain consent
456 to continue such lawful occupation of those roads or rights-of-
457 way; however, nothing in this paragraph shall be interpreted to
458 limit the power of a municipality or county to adopt or enforce
459 reasonable rules or regulations as provided in this section and
460 consistent with chapters 202, 364, and 610. Any such rules or
461 regulations must be in writing, and registered providers of
462 communications services in the municipality or county must be
463 given at least 60 days' advance written notice of any changes to
464 the rules and regulations.

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465 (i) Except as expressly provided in this section, this
466 section does not modify the authority of municipalities and
467 counties to levy the tax authorized in chapter 202 or the duties
468 of providers of communications services under ss. 337.402-
469 337.404. This section does not apply to building permits, pole
470 attachments, or private roads, private easements, and private
471 rights-of-way.

472 ~~(j) Pursuant to this paragraph, any county or municipality~~
473 ~~may by ordinance change either its election made on or before~~
474 ~~July 16, 2001, under paragraph (c) or an election made under~~
475 ~~this paragraph.~~

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

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

490 ~~2.a. If a noncharter county changes its election under this~~
491 ~~paragraph in order to exercise its authority to require and~~
492 ~~collect permit fees in accordance with this subsection, the rate~~
493 ~~of the local communications services tax imposed by such~~

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494 ~~jurisdiction pursuant to ss. 202.19 and 202.20 shall~~
495 ~~automatically be reduced by the percentage, if any, by which~~
496 ~~such rate was increased pursuant to sub-subparagraph (c)2.b.~~

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

503 ~~3.a. Any change of election pursuant to this paragraph and~~
504 ~~any tax rate change resulting from such change of election shall~~
505 ~~be subject to the notice requirements of s. 202.21; however, no~~
506 ~~such change of election shall become effective prior to January~~
507 ~~1, 2003.~~

508 ~~b. Any county or municipality changing its election under~~
509 ~~this paragraph in order to exercise its authority to require and~~
510 ~~collect permit fees shall, in addition to complying with the~~
511 ~~notice requirements under s. 202.21, provide to all dealers~~
512 ~~providing communications services in such jurisdiction written~~
513 ~~notice of such change of election by September 1 immediately~~
514 ~~preceding the January 1 on which such change of election becomes~~
515 ~~effective. For purposes of this sub-subparagraph, dealers~~
516 ~~providing communications services in such jurisdiction shall~~
517 ~~include every dealer reporting tax to such jurisdiction pursuant~~
518 ~~to s. 202.37 on the return required under s. 202.27 to be filed~~
519 ~~on or before the 20th day of May immediately preceding the~~
520 ~~January 1 on which such change of election becomes effective.~~

521 ~~(k)~~ Notwithstanding the provisions of s. 202.19, when a
522 local communications services tax rate is changed as a result of

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523 an election made or changed under this subsection, such rate may
524 ~~shall~~ not be rounded to tenths.

525 (6)

526 (e) This subsection does not alter any provision of this
527 section or s. 202.24 relating to taxes, fees, or other charges
528 or impositions by a municipality or county on a dealer of
529 communications services or authorize that any charges be
530 assessed on a dealer of communications services, except as
531 specifically set forth herein. A municipality or county may not
532 charge a pass-through provider any amounts other than the
533 charges under this subsection as a condition to the placement or
534 maintenance of a communications facility in the roads or rights-
535 of-way of a municipality or county by a pass-through provider,
536 except that a municipality or county may impose permit fees on a
537 pass-through provider consistent with paragraph (3)(c) ~~if the~~
538 ~~municipality or county elects to exercise its authority to~~
539 ~~collect permit fees under paragraph (3)(c).~~

540 (f) The charges under this subsection do not apply to
541 communications facilities placed in a municipality's or county's
542 rights-of-way prior to the effective date of this subsection
543 with permission from the municipality or county, if any was
544 required, except to the extent the facilities of a pass-through
545 provider were subject to per linear foot or mile charges in
546 effect as of October 1, 2001, in which case the municipality or
547 county may only impose on a pass-through provider charges
548 consistent with paragraph (b) or paragraph (c) for such
549 facilities. Notwithstanding the foregoing, this subsection does
550 not impair any written agreement between a pass-through provider
551 and a municipality or county imposing per linear foot or mile

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552 charges for communications facilities placed in municipal or
553 county roads or rights-of-way that is in effect prior to the
554 effective date of this subsection. Upon the termination or
555 expiration of any such written agreement, any charges imposed
556 must shall be consistent with this section ~~paragraph (b) or~~
557 ~~paragraph (c). Notwithstanding the foregoing, until October 1,~~
558 ~~2005, this subsection shall not affect a municipality or county~~
559 ~~continuing to impose charges in excess of the charges authorized~~
560 ~~in this subsection on facilities of a pass-through provider that~~
561 ~~is not a dealer of communications services in the state under~~
562 ~~chapter 202, but only to the extent such charges were imposed by~~
563 ~~municipal or county ordinance or resolution adopted prior to~~
564 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~
565 ~~shall be consistent with paragraph (b) or paragraph (c).~~

566 (7)

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

568 1. "Antenna" means communications equipment that transmits
569 or receives electromagnetic radio frequency signals used in
570 providing wireless services.

571 2. "Applicable codes" means uniform building, fire,
572 electrical, plumbing, or mechanical codes adopted by a
573 recognized national code organization or local amendments to
574 those codes enacted solely to address threats of destruction of
575 property or injury to persons, ~~or local codes or ordinances~~
576 ~~adopted to implement this subsection. The term includes~~
577 ~~objective design standards adopted by ordinance that may require~~
578 ~~a new utility pole that replaces an existing utility pole to be~~
579 ~~of substantially similar design, material, and color or that may~~
580 ~~require reasonable spacing requirements concerning the location~~

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581 ~~of ground-mounted equipment. The term includes objective design~~
582 ~~standards adopted by ordinance that may require a small wireless~~
583 ~~facility to meet reasonable location context, color, stealth,~~
584 ~~and concealment requirements; however, such design standards may~~
585 ~~be waived by the authority upon a showing that the design~~
586 ~~standards are not reasonably compatible for the particular~~
587 ~~location of a small wireless facility or that the design~~
588 ~~standards impose an excessive expense. The waiver shall be~~
589 ~~granted or denied within 45 days after the date of the request.~~

590 3. "Applicant" means a person who submits an application
591 and is a wireless provider.

592 4. "Application" means a request submitted by an applicant
593 to an authority for a permit to collocate small wireless
594 facilities or to place a new utility pole used to support a
595 small wireless facility.

596 5. "Authority" means a county or municipality having
597 jurisdiction and control of the rights-of-way of any public
598 road. The term does not include the Department of
599 Transportation. Rights-of-way under the jurisdiction and control
600 of the department are excluded from this subsection.

601 6. "Authority utility pole" means a utility pole owned by
602 an authority in the right-of-way. The term does not include a
603 utility pole owned by a municipal electric utility, a utility
604 pole used to support municipally owned or operated electric
605 distribution facilities, or a utility pole located in the right-
606 of-way within:

607 a. A retirement community that:

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

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

611 (III) Has underground utilities for electric transmission
612 or distribution.

613 b. A municipality that:

614 (I) Is located on a coastal barrier island as defined in s.
615 161.053(1)(b)3.;

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

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

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

621 7. "Collocate" or "collocation" means to install, mount,
622 maintain, modify, operate, or replace one or more wireless
623 facilities on, under, within, or adjacent to a wireless support
624 structure or utility pole. The term does not include the
625 installation of a new utility pole or wireless support structure
626 in the public rights-of-way.

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

628 9. "Micro wireless facility" means a small wireless
629 facility having dimensions no larger than 24 inches in length,
630 15 inches in width, and 12 inches in height and an exterior
631 antenna, if any, no longer than 11 inches.

632 10. "Small wireless facility" means a wireless facility
633 that meets the following qualifications:

634 a. Each antenna associated with the facility is located
635 inside an enclosure of no more than 6 cubic feet in volume or,
636 in the case of antennas that have exposed elements, each antenna
637 and all of its exposed elements could fit within an enclosure of
638 no more than 6 cubic feet in volume; and

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639 b. All other wireless equipment associated with the
640 facility is cumulatively no more than 28 cubic feet in volume.
641 The following types of associated ancillary equipment are not
642 included in the calculation of equipment volume: electric
643 meters, concealment elements, telecommunications demarcation
644 boxes, ground-based enclosures, grounding equipment, power
645 transfer switches, cutoff switches, vertical cable runs for the
646 connection of power and other services, and utility poles or
647 other support structures.

648 11. "Utility pole" means a pole or similar structure that
649 is used in whole or in part to provide communications services
650 or for electric distribution, lighting, traffic control,
651 signage, or a similar function. The term includes the vertical
652 support structure for traffic lights but does not include a
653 horizontal structure to which signal lights or other traffic
654 control devices are attached and does not include a pole or
655 similar structure 15 feet in height or less unless an authority
656 grants a waiver for such pole.

657 12. "Wireless facility" means equipment at a fixed location
658 which enables wireless communications between user equipment and
659 a communications network, including radio transceivers,
660 antennas, wires, coaxial or fiber-optic cable or other cables,
661 regular and backup power supplies, and comparable equipment,
662 regardless of technological configuration, and equipment
663 associated with wireless communications. The term includes small
664 wireless facilities. The term does not include:

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

667 b. Wireline backhaul facilities; or

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

671 13. "Wireless infrastructure provider" means a person who
672 has been certificated under chapter 364 to provide
673 telecommunications service ~~in the state~~ or under chapter 610 to
674 provide cable or video services in this state, or that person's
675 affiliate, and who builds or installs wireless communication
676 transmission equipment, wireless facilities, or wireless support
677 structures but is not a wireless services provider.

678 14. "Wireless provider" means a wireless infrastructure
679 provider or a wireless services provider.

680 15. "Wireless services" means any services provided using
681 licensed or unlicensed spectrum, whether at a fixed location or
682 mobile, using wireless facilities.

683 16. "Wireless services provider" means a person who
684 provides wireless services.

685 17. "Wireless support structure" means a freestanding
686 structure, such as a monopole, a guyed or self-supporting tower,
687 or another existing or proposed structure designed to support or
688 capable of supporting wireless facilities. The term does not
689 include a utility pole, pedestal, or other support structure for
690 ground-based equipment not mounted on a utility pole and less
691 than 10 feet in height.

692 (c) Except as provided in this subsection, an authority may
693 not prohibit, regulate, or charge for the collocation of small
694 wireless facilities in the public rights-of-way or for the
695 installation, maintenance, modification, operation, or
696 replacement of utility poles used for the collocation of small

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697 wireless facilities in the public rights-of-way.

698 (d) An authority may require a registration process and
699 permit fees in accordance with subsection (3). An authority
700 shall accept applications for permits and shall process and
701 issue permits subject to the following requirements:

702 1. An authority may not directly or indirectly require an
703 applicant to perform services unrelated to the collocation for
704 which approval is sought, such as in-kind contributions to the
705 authority, including reserving fiber, conduit, or pole space for
706 the authority.

707 2. An applicant may not be required to provide more
708 information to obtain a permit than is necessary to demonstrate
709 the applicant's compliance with applicable codes for the
710 placement of small wireless facilities in the locations
711 identified in the application. An applicant may not be required
712 to provide inventories, maps, or locations of communications
713 facilities in the right-of-way other than as necessary to avoid
714 interference with other at-grade facilities located at the
715 specific location proposed for a small wireless facility or
716 within 25 feet of such location.

717 3. An authority may not:

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

720 b. Require the placement of multiple antenna systems on a
721 single utility pole;

722 c. Require a demonstration that collocation of a small
723 wireless facility on an existing structure is not legally or
724 technically possible as a condition for granting a permit for
725 the collocation of a small wireless facility on a new utility

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726 pole;

727 d. Require compliance with an authority's provisions
728 regarding placement of small wireless facilities or a new
729 utility pole used to support a small wireless facility in
730 rights-of-way under the control of the department, unless the
731 authority has received a delegation from the department for the
732 location of the small wireless facility or utility pole; or
733 require such compliance as a condition to receive a permit that
734 is ancillary to the permit for collocation of a small wireless
735 facility, including an electrical permit;

736 e. Require a meeting before filing an application;

737 f. Require direct or indirect public notification or a
738 public meeting for the placement of communication facilities in
739 the right-of-way;

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

743 h. Prohibit the installation of a new utility pole used to
744 support the collocation of a small wireless facility if the
745 installation otherwise meets the requirements of this
746 subsection;

747 i. Require that any component of a small wireless facility
748 be placed underground; or

749 j. Require that any existing communication facility be
750 placed underground, except as provided in ss. 337.403 and
751 337.404.

752 4. Subject to sub-subparagraph (f)6.b., an authority may
753 not limit the placement, by minimum separation distances, of
754 small wireless facilities, utility poles on which small wireless

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755 facilities are or will be collocated, or other at-grade
756 communications facilities ~~by minimum separation distances.~~
757 However, within 14 days after the date of filing the
758 application, an authority may request that the proposed location
759 of a small wireless facility be moved to another location in the
760 right-of-way and placed on an alternative authority utility pole
761 or support structure or placed on ~~may place~~ a new utility pole.
762 The authority and the applicant may negotiate the alternative
763 location, including any objective design standards and
764 reasonable spacing requirements for ground-based equipment, for
765 30 days after the date of the request. At the conclusion of the
766 negotiation period, if the alternative location is accepted by
767 the applicant, the applicant must notify the authority of such
768 acceptance and the application shall be deemed granted for any
769 new location for which there is agreement and all other
770 locations in the application. If an agreement is not reached,
771 the applicant must notify the authority of such nonagreement and
772 the authority must grant or deny the original application within
773 90 days after the date the application was filed. A request for
774 an alternative location, an acceptance of an alternative
775 location, or a rejection of an alternative location must be in
776 writing and provided by electronic mail.

777 5. An authority shall limit the height of a small wireless
778 facility to 10 feet above the utility pole or structure upon
779 which the small wireless facility is to be collocated. Unless
780 waived by an authority, the height for a new utility pole is
781 limited to the tallest existing utility pole as of July 1, 2017,
782 located in the same right-of-way, other than a utility pole for
783 which a waiver has previously been granted, measured from grade

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784 in place within 500 feet of the proposed location of the small
785 wireless facility. If there is no utility pole within 500 feet,
786 the authority shall limit the height of the utility pole to 50
787 feet.

788 6. ~~Except as provided in subparagraphs 4. and 5.,~~ The
789 installation by a communications services provider of a utility
790 pole in the public rights-of-way, other than a utility pole used
791 ~~designed~~ to support a small wireless facility, is ~~shall be~~
792 subject to authority rules or regulations governing the
793 placement of utility poles in the public rights-of-way and is
794 ~~shall be~~ subject to the application review timeframes in this
795 subsection.

796 7. Within 14 days after receiving an application, an
797 authority must determine and notify the applicant by electronic
798 mail as to whether the application is complete. If an
799 application is deemed incomplete, the authority must
800 specifically identify the missing information. An application is
801 deemed complete if the authority fails to provide notification
802 to the applicant within 14 days.

803 8. An application must be processed on a nondiscriminatory
804 basis. A complete application is deemed approved if an authority
805 fails to approve or deny the application within 60 days after
806 receipt of the application. If an authority does not use the 30-
807 day negotiation period provided in subparagraph 4., the parties
808 may mutually agree to extend the 60-day application review
809 period. The authority shall grant or deny the application at the
810 end of the extended period. A permit issued pursuant to an
811 approved application shall remain effective for 1 year unless
812 extended by the authority.

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813 9. An authority must notify the applicant of approval or
814 denial by electronic mail. An authority shall approve a complete
815 application unless it does not meet the authority's applicable
816 codes. If the application is denied, the authority must specify
817 in writing the basis for denial, including the specific code
818 provisions on which the denial was based, and send the
819 documentation to the applicant by electronic mail on the day the
820 authority denies the application. The applicant may cure the
821 deficiencies identified by the authority and resubmit the
822 application within 30 days after notice of the denial is sent to
823 the applicant. The authority shall approve or deny the revised
824 application within 30 days after receipt or the application is
825 deemed approved. The review of a revised application is ~~Any~~
826 ~~subsequent review shall be~~ limited to the deficiencies cited in
827 the denial. The availability of any subsequent review by the
828 authority does not bar review of a denial in a court of
829 competent jurisdiction.

830 10. An applicant seeking to collocate small wireless
831 facilities within the jurisdiction of a single authority may, at
832 the applicant's discretion, file a consolidated application and
833 receive a single permit for the collocation of up to 30 small
834 wireless facilities. If the application includes multiple small
835 wireless facilities, an authority may separately address small
836 wireless facility collocations for which incomplete information
837 has been received or which are denied.

838 11. An authority may deny a proposed collocation of a small
839 wireless facility in the public rights-of-way if the proposed
840 collocation:

841 a. Materially interferes with the safe operation of traffic

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842 control equipment.

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

845 c. Materially interferes with compliance with the Americans
846 with Disabilities Act or similar federal or state standards
847 regarding pedestrian access or movement.

848 d. Materially fails to comply with the 2010 edition of the
849 Florida Department of Transportation Utility Accommodation
850 Manual.

851 e. Fails to comply with applicable codes.

852 f. Fails to comply with objective design standards
853 authorized under subparagraph (f) 6.

854 12. An authority may adopt by ordinance provisions for
855 insurance coverage, indemnification, ~~performance bonds, security~~
856 ~~funds,~~ force majeure, abandonment, authority liability, or
857 authority warranties. Such provisions must be reasonable and
858 nondiscriminatory. An authority may require a construction bond
859 to secure restoration of the postconstruction rights-of-way to
860 its preconstruction condition. However, such bond must be time-
861 limited to no more than 1 year after the construction to which
862 the bond applies is completed. For any financial obligation
863 required by an authority allowed under this section, the
864 authority shall accept a letter of credit or similar financial
865 instrument issued by any financial institution that is
866 authorized to do business within the United States, provided
867 that a claim against the financial instrument may be made by
868 electronic means, including by facsimile. A provider of
869 communications services may add an authority to any existing
870 bond, insurance policy, or other relevant financial instrument,

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871 and the authority must accept such proof of coverage without any
872 conditions. An authority may not require a communications
873 services provider to indemnify it for liabilities not caused by
874 the provider, including liabilities arising from the authority's
875 negligence, gross negligence, or willful conduct.

876 13. Collocation of a small wireless facility on an
877 authority utility pole does not provide the basis for the
878 imposition of an ad valorem tax on the authority utility pole.

879 14. An authority may reserve space on authority utility
880 poles for future public safety uses. However, a reservation of
881 space may not preclude collocation of a small wireless facility.
882 If replacement of the authority utility pole is necessary to
883 accommodate the collocation of the small wireless facility and
884 the future public safety use, the pole replacement is subject to
885 make-ready provisions and the replaced pole shall accommodate
886 the future public safety use.

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

890 (e) An authority may not require any permit or other
891 approval or require fees, ~~or other~~ charges, costs, or other
892 exactions for:

893 1. Routine maintenance or repair work, including, but not
894 limited to, emergency repairs of existing facilities, or
895 extensions of such facilities, for providing communications
896 services to customers;

897 2. Replacement of existing wireless facilities with
898 wireless facilities that are substantially similar or of the
899 same or smaller size; or

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900 3. Installation, placement, maintenance, or replacement of
901 micro wireless facilities that are suspended on cables strung
902 between existing utility poles in compliance with applicable
903 codes by or for a communications services provider authorized to
904 occupy the rights-of-way and who is remitting taxes under
905 chapter 202. An authority may require an initial letter from or
906 on behalf of such provider, which is effective upon filing,
907 attesting that the micro wireless facility dimensions comply
908 with the limits of this subsection. The authority may not
909 require any additional filing or other information as long as
910 the provider is deploying the same, a substantially similar, or
911 a smaller size micro wireless facility equipment.

912
913 Notwithstanding this paragraph, an authority may require a
914 right-of-way permit for work that involves excavation, closure
915 of a sidewalk, or closure of a vehicular lane unless the
916 provider is making emergency restoration or repair work to
917 existing facilities.

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

920 1. An authority may not enter into an exclusive arrangement
921 with any person for the right to attach equipment to authority
922 utility poles.

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

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

928 4. Agreements between authorities and wireless providers

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929 that are in effect on July 1, 2017, and that relate to the
930 collocation of small wireless facilities in the right-of-way,
931 including the collocation of small wireless facilities on
932 authority utility poles, remain in effect, subject to applicable
933 termination provisions. The wireless provider may accept the
934 rates, fees, and terms established under this subsection for
935 small wireless facilities and utility poles that are the subject
936 of an application submitted after the rates, fees, and terms
937 become effective.

938 5. A person owning or controlling an authority utility pole
939 shall offer rates, fees, and other terms that comply with this
940 subsection. By the later of January 1, 2018, or 3 months after
941 receiving a request to collocate its first small wireless
942 facility on a utility pole owned or controlled by an authority,
943 the person owning or controlling the authority utility pole
944 shall make available, through ordinance or otherwise, rates,
945 fees, and terms for the collocation of small wireless facilities
946 on the authority utility pole which comply with this subsection.

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

949 b. For an authority utility pole that supports an aerial
950 facility used to provide communications services or electric
951 service, the parties shall comply with the process for make-
952 ready work under 47 U.S.C. s. 224 and implementing regulations.
953 The good faith estimate of the person owning or controlling the
954 pole for any make-ready work necessary to enable the pole to
955 support the requested collocation must include pole replacement
956 if necessary.

957 c. For an authority utility pole that does not support an

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958 aerial facility used to provide communications services or
959 electric service, the authority shall provide a good faith
960 estimate for any make-ready work necessary to enable the pole to
961 support the requested collocation, including necessary pole
962 replacement, within 60 days after receipt of a complete
963 application. Make-ready work, including any pole replacement,
964 must be completed within 60 days after written acceptance of the
965 good faith estimate by the applicant. Alternatively, an
966 authority may require the applicant seeking to collocate a small
967 wireless facility to provide a make-ready estimate at the
968 applicant's expense for the work necessary to support the small
969 wireless facility, including pole replacement, and perform the
970 make-ready work. If pole replacement is required, the scope of
971 the make-ready estimate is limited to the design, fabrication,
972 and installation of a utility pole that is substantially similar
973 in color and composition. The authority may not condition or
974 restrict the manner in which the applicant obtains, develops, or
975 provides the estimate or conducts the make-ready work subject to
976 usual construction restoration standards for work in the right-
977 of-way. The replaced or altered utility pole shall remain the
978 property of the authority.

979 d. An authority may not require more make-ready work than
980 is required to meet applicable codes or industry standards. Fees
981 for make-ready work may not include costs related to preexisting
982 damage or prior noncompliance. Fees for make-ready work,
983 including any pole replacement, may not exceed actual costs or
984 the amount charged to communications services providers other
985 than wireless services providers for similar work and may not
986 include any consultant fee or expense.

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987 6. An authority may require wireless providers to comply
988 with objective design standards adopted by ordinance. The
989 ordinance may require:

990 a. A new utility pole that replaces an existing utility
991 pole to be of substantially similar design, material, and color;

992 b. Reasonable spacing requirements concerning the location
993 of a ground-mounted component of a small wireless facility which
994 does not exceed 15 feet from the associated support structure;

995 or

996 c. A small wireless facility to meet reasonable location
997 context, color, camouflage, and concealment requirements,
998 subject to the limitations in this subsection.

999
1000 Such design standards under this subparagraph may be waived by
1001 the authority upon a showing that the design standards are not
1002 reasonably compatible for the particular location of a small
1003 wireless facility or are technically infeasible or that the
1004 design standards impose an excessive expense. The waiver must be
1005 granted or denied within 45 days after the date of the request.

1006 (g) For any applications filed before the effective date of
1007 ordinances implementing this subsection, an authority may apply
1008 current ordinances relating to placement of communications
1009 facilities in the right-of-way related to registration,
1010 permitting, insurance coverage, indemnification, ~~performance~~
1011 ~~bonds, security funds,~~ force majeure, abandonment, authority
1012 liability, or authority warranties. Permit application
1013 requirements and small wireless facility placement requirements,
1014 including utility pole height limits, that conflict with this
1015 subsection must ~~shall~~ be waived by the authority. An authority

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1016 may not institute, either expressly or de facto, a moratorium,
1017 zoning-in-progress, or other mechanism that would prohibit or
1018 delay the filing, receiving, or processing of registrations,
1019 applications, or issuing of permits or other approvals for the
1020 collocation of small wireless facilities or the installation,
1021 modification, or replacement of utility poles used to support
1022 the collocation of small wireless facilities.

1023 ~~(i) A wireless provider shall, in relation to a small~~
1024 ~~wireless facility, utility pole, or wireless support structure~~
1025 ~~in the public rights-of-way, comply with nondiscriminatory~~
1026 ~~undergrounding requirements of an authority that prohibit above-~~
1027 ~~ground structures in public rights-of-way. Any such requirements~~
1028 ~~may be waived by the authority.~~

1029 (8) (a) Any person aggrieved by a violation of this section
1030 may bring a civil action in a United States District Court or in
1031 any other court of competent jurisdiction.

1032 (b) The court may:

1033 1. Grant temporary or permanent injunctions on terms as it
1034 may deem reasonable to prevent or restrain violations of this
1035 section; and

1036 2. Direct the recovery of full costs, including awarding
1037 reasonable attorney fees, to the party who prevails.

1038 Section 3. This act shall take effect July 1, 2019.