

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Fischer offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause 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
9 rates.-

10 (2)

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

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

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

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

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

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

34 e. Actual permit fees relating to placing or maintaining
35 facilities in or on public roads or rights-of-way, collected
36 from providers of long-distance, cable, and mobile
37 communications services for the fiscal year ending September 30,
38 1999; however, if a municipality or charter county elects the
39 option to charge permit fees pursuant to s. 337.401(3)(c)

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40 ~~337.401(3)(c)1.a.~~, such fees shall not be included as a replaced
41 revenue source.

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

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

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

52 (3)(a) Because of the unique circumstances applicable to
53 providers of communications services, including, but not limited
54 to, the circumstances described in paragraph (e) and the fact
55 that federal and state law require the nondiscriminatory
56 treatment of providers of telecommunications services, and
57 because of the desire to promote competition among providers of
58 communications services, it is the intent of the Legislature
59 that municipalities and counties treat providers of
60 communications services in a nondiscriminatory and competitively
61 neutral manner when imposing rules or regulations governing the
62 placement or maintenance of communications facilities in the
63 public roads or rights-of-way. Rules or regulations imposed by a
64 municipality or county relating to providers of communications

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65 services placing or maintaining communications facilities in its
66 roads or rights-of-way must be generally applicable to all
67 providers of communications services, taking into account the
68 distinct engineering, construction, operation, maintenance,
69 public works, and safety requirements of the provider's
70 facilities, and, notwithstanding any other law, may not require
71 a provider of communications services to apply for or enter into
72 an individual license, franchise, or other agreement with the
73 municipality or county as a condition of placing or maintaining
74 communications facilities in its roads or rights-of-way. In
75 addition to other reasonable rules or regulations that a
76 municipality or county may adopt relating to the placement or
77 maintenance of communications facilities in its roads or rights-
78 of-way under this subsection or subsection (7), a municipality
79 or county may require a provider of communications services that
80 places or seeks to place facilities in its roads or rights-of-
81 way to register with the municipality or county. To register, a
82 provider of communications services may be required only to
83 provide its name ~~and to provide the name of the registrant;~~ the
84 name, address, and telephone number of a contact person for the
85 registrant; the number of the registrant's current certificate
86 of authorization issued by the Florida Public Service
87 Commission, the Federal Communications Commission, or the
88 Department of State; a statement of whether the registrant is a
89 pass-through provider as defined in s. 337.401(6)(a)1.; the

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90 registrant's federal employer identification number; and any
91 required proof of insurance or self-insuring status adequate to
92 defend and cover claims. A municipality or county may not
93 require a registrant to renew a registration more frequently
94 than every 5 years but may require during this period that a
95 registrant update the registration information provided under
96 this subsection within 90 days after a change in such
97 information. A municipality or county may not require the
98 registrant to provide an inventory of communications facilities,
99 maps, locations of such facilities, or other information by a
100 registrant as a condition of registration, renewal, or for any
101 other purpose; provided, however, that a municipality or county
102 may require as part of a permit application that the applicant
103 identify at-grade communications facilities within 50 feet of
104 the proposed installation location for the placement of at-grade
105 communications facilities. A municipality or county may not
106 require a provider to pay any fee, cost, or other charge for
107 registration or renewal thereof. It is the intent of the
108 Legislature that the placement, operation, maintenance,
109 upgrading, and extension of communications facilities not be
110 unreasonably interrupted or delayed through the permitting or
111 other local regulatory process. Except as provided in this
112 chapter or otherwise expressly authorized by chapter 202,
113 chapter 364, or chapter 610, a municipality or county may not
114 adopt or enforce any ordinance, regulation, or requirement as to

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115 the placement or operation of communications facilities in a
116 right-of-way by a communications services provider authorized by
117 state or local law to operate in a right-of-way; regulate any
118 communications services; or impose or collect any tax, fee,
119 cost, charge, or exaction for the provision of communications
120 services over the communications services provider's
121 communications facilities in a right-of-way.

122 (b) Registration described in paragraph (a) does not
123 establish a right to place or maintain, or priority for the
124 placement or maintenance of, a communications facility in roads
125 or rights-of-way of a municipality or county. Each municipality
126 and county retains the authority to regulate and manage
127 municipal and county roads or rights-of-way in exercising its
128 police power, subject to the limitations imposed in this section
129 and chapters 202 and 610. Any rules or regulations adopted by a
130 municipality or county which govern the occupation of its roads
131 or rights-of-way by providers of communications services must be
132 related to the placement or maintenance of facilities in such
133 roads or rights-of-way, must be reasonable and
134 nondiscriminatory, and may include only those matters necessary
135 to manage the roads or rights-of-way of the municipality or
136 county.

137 (c) Any municipality or county that, as of January 1,
138 2019, elected to require permit fees from any provider of
139 communications services that uses or occupies municipal or

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140 county roads or rights-of-way pursuant to former paragraph (c)
141 or paragraph (j), Florida Statutes 2018, may continue to require
142 and collect such fees. A municipality or county that elected as
143 of January 1, 2019, to require permit fees may elect to forego
144 such fees as provided herein. A municipality or county that
145 elected as of January 1, 2019, not to require permit fees may
146 not elect to impose permit fees.

147 ~~1. It is the intention of the state to treat all providers~~
148 ~~of communications services that use or occupy municipal or~~
149 ~~charter county roads or rights-of-way for the provision of~~
150 ~~communications services in a nondiscriminatory and competitively~~
151 ~~neutral manner with respect to the payment of permit fees.~~
152 ~~Certain providers of communications services have been granted~~
153 ~~by general law the authority to offset permit fees against~~
154 ~~franchise or other fees while other providers of communications~~
155 ~~services have not been granted this authority. In order to treat~~
156 ~~all providers of communications services in a nondiscriminatory~~
157 ~~and competitively neutral manner with respect to the payment of~~
158 ~~permit fees, each municipality and charter county shall make an~~
159 ~~election under either sub-subparagraph a. or sub-subparagraph b.~~
160 ~~and must inform the Department of Revenue of the election by~~
161 ~~certified mail by July 16, 2001. Such election shall take effect~~
162 ~~October 1, 2001.~~

163 ~~a.(I) The municipality or charter county may require and~~
164 ~~collect permit fees from any providers of communications~~

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165 ~~services that use or occupy municipal or county roads or rights-~~
166 ~~of-way.~~ All fees authorized ~~permitted~~ under this paragraph ~~sub-~~
167 ~~subparagraph~~ must be reasonable and commensurate with the direct
168 and actual cost of the regulatory activity, including issuing
169 and processing permits, plan reviews, physical inspection, and
170 direct administrative costs; must be demonstrable; and must be
171 equitable among users of the roads or rights-of-way. A fee
172 authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~ may
173 not ~~be~~ offset against the tax imposed under chapter 202;
174 include the costs of roads or rights-of-way acquisition or roads
175 or rights-of-way rental; include any general administrative,
176 management, or maintenance costs of the roads or rights-of-way;
177 or be based on a percentage of the value or costs associated
178 with the work to be performed on the roads or rights-of-way. In
179 an action to recover amounts due for a fee not authorized
180 ~~permitted~~ under this paragraph ~~sub-subparagraph~~, the prevailing
181 party may recover court costs and attorney ~~attorney's~~ fees at
182 trial and on appeal. In addition to the limitations set forth in
183 this section, a fee levied by a municipality or charter county
184 under this paragraph ~~sub-subparagraph~~ may not exceed \$100.
185 However, permit fees may not be imposed with respect to permits
186 that may be required for service drop lines not required to be
187 noticed under s. 556.108(5) ~~s. 556.108(5)(a)2.~~ or for any
188 activity that does not require the physical disturbance of the
189 roads or rights-of-way or does not impair access to or full use

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190 of the roads or rights-of-way, including, but not limited to,
191 the performance of service restoration work on existing
192 facilities, extensions of such facilities for providing
193 communications services to customers, and the placement of micro
194 wireless facilities in accordance with subparagraph (7) (e)3.

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

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

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

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

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

225 2. ~~Each noncharter county shall make an election under~~
226 ~~either sub-subparagraph a. or sub-subparagraph b. and shall~~
227 ~~inform the Department of Revenue of the election by certified~~
228 ~~mail by July 16, 2001. Such election shall take effect October~~
229 ~~1, 2001.~~

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

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240 ~~chapter 202; include the costs of roads or rights-of-way~~
241 ~~acquisition or roads or rights-of-way rental; include any~~
242 ~~general administrative, management, or maintenance costs of the~~
243 ~~roads or rights-of-way; or be based on a percentage of the value~~
244 ~~or costs associated with the work to be performed on the roads~~
245 ~~or rights-of-way. In an action to recover amounts due for a fee~~
246 ~~not permitted under this sub-subparagraph, the prevailing party~~
247 ~~may recover court costs and attorney's fees at trial and on~~
248 ~~appeal. In addition to the limitations set forth in this~~
249 ~~section, a fee levied by a noncharter county under this sub-~~
250 ~~subparagraph may not exceed \$100. However, permit fees may not~~
251 ~~be imposed with respect to permits that may be required for~~
252 ~~service drop lines not required to be noticed under s.~~
253 ~~556.108(5)(a)2. or for any activity that does not require the~~
254 ~~physical disturbance of the roads or rights-of-way or does not~~
255 ~~impair access to or full use of the roads or rights-of-way.~~

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

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265 2. If a noncharter county elects to not require permit
266 fees ~~operate under this sub-subparagraph~~, the total rate for the
267 local communications services tax as computed under s. 202.20
268 for that noncharter county may be increased by ordinance or
269 resolution by an amount not to exceed a rate of 0.24 percent, to
270 replace the revenue the noncharter county would otherwise have
271 received from permit fees for providers of communications
272 services. ~~If a noncharter county elects to increase its rate~~
273 ~~effective October 1, 2001, the noncharter county shall inform~~
274 ~~the department of such increased rate by certified mail~~
275 ~~postmarked on or before July 16, 2001.~~

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

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

284 ~~(d) After January 1, 2001,~~ In addition to any other notice
285 requirements, a municipality must provide to the Secretary of
286 State, at least 10 days prior to consideration on first reading,
287 notice of a proposed ordinance governing a telecommunications
288 company placing or maintaining telecommunications facilities in
289 its roads or rights-of-way. ~~After January 1, 2001,~~ In addition

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290 to any other notice requirements, a county must provide to the
291 Secretary of State, at least 15 days prior to consideration at a
292 public hearing, notice of a proposed ordinance governing a
293 telecommunications company placing or maintaining
294 telecommunications facilities in its roads or rights-of-way. The
295 notice required by this paragraph must be published by the
296 Secretary of State on a designated Internet website. The failure
297 of a municipality or county to provide such notice does not
298 render the ordinance invalid, provided that enforcement of such
299 ordinance must be suspended until 30 days after the municipality
300 or county provides the required notice.

301 (e) The authority of municipalities and counties to
302 require franchise fees from providers of communications
303 services, with respect to the provision of communications
304 services, is specifically preempted by the state because of
305 unique circumstances applicable to providers of communications
306 services when compared to other utilities occupying municipal or
307 county roads or rights-of-way. Providers of communications
308 services may provide similar services in a manner that requires
309 the placement of facilities in municipal or county roads or
310 rights-of-way or in a manner that does not require the placement
311 of facilities in such roads or rights-of-way. Although similar
312 communications services may be provided by different means, the
313 state desires to treat providers of communications services in a
314 nondiscriminatory manner and to have the taxes, franchise fees,

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315 and other fees, costs, and financial or regulatory exactions
316 paid by or imposed on providers of communications services be
317 competitively neutral. Municipalities and counties retain all
318 existing authority, if any, to collect franchise fees from users
319 or occupants of municipal or county roads or rights-of-way other
320 than providers of communications services, and the provisions of
321 this subsection shall have no effect upon this authority. The
322 provisions of this subsection do not restrict the authority, if
323 any, of municipalities or counties or other governmental
324 entities to receive reasonable rental fees based on fair market
325 value for the use of public lands and buildings on property
326 outside the public roads or rights-of-way for the placement of
327 communications antennas and towers.

328 (f) Except as expressly allowed or authorized by general
329 law and except for the rights-of-way permit fees subject to
330 paragraph (c), a municipality or county may not levy on a
331 provider of communications services a tax, fee, or other charge
332 or imposition for operating as a provider of communications
333 services within the jurisdiction of the municipality or county
334 which is in any way related to using its roads or rights-of-way.
335 A municipality or county may not require or solicit in-kind
336 compensation, except as otherwise provided in s. 202.24(2)(c)8.
337 ~~or s. 610.109,~~ provided that the in-kind compensation is not a
338 franchise fee under federal law. Nothing in this paragraph
339 impairs the authority of a municipality or county to request

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340 public, educational, or governmental access channels pursuant to
341 s. 610.109. Nothing in this paragraph shall impair any ordinance
342 or agreement in effect on May 22, 1998, or any voluntary
343 agreement entered into subsequent to that date, which provides
344 for or allows in-kind compensation by a telecommunications
345 company.

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

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

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

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390 communications services in the municipality or county must be
391 given at least 60 days advance written notice of any changes to
392 the rules and regulations.

393 (i) Except as expressly provided in this section, this
394 section does not modify the authority of municipalities and
395 counties to levy the tax authorized in chapter 202 or the duties
396 of providers of communications services under ss. 337.402-
397 337.404. This section does not apply to building permits, pole
398 attachments, or private roads, private easements, and private
399 rights-of-way.

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

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

412 ~~b. If a municipality or charter county changes its~~
413 ~~election under this paragraph in order to discontinue requiring~~
414 ~~and collecting permit fees, the rate of the local communications~~

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415 ~~services tax imposed by such jurisdiction pursuant to ss. 202.19~~
416 ~~and 202.20 may be increased by ordinance or resolution by an~~
417 ~~amount not to exceed 0.24 percent.~~

418 ~~2.a. If a noncharter county changes its election under~~
419 ~~this paragraph in order to exercise its authority to require and~~
420 ~~collect permit fees in accordance with this subsection, the rate~~
421 ~~of the local communications services tax imposed by such~~
422 ~~jurisdiction pursuant to ss. 202.19 and 202.20 shall~~
423 ~~automatically be reduced by the percentage, if any, by which~~
424 ~~such rate was increased pursuant to sub-subparagraph (c)2.b.~~

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

431 ~~3.a. Any change of election pursuant to this paragraph and~~
432 ~~any tax rate change resulting from such change of election shall~~
433 ~~be subject to the notice requirements of s. 202.21; however, no~~
434 ~~such change of election shall become effective prior to January~~
435 ~~1, 2003.~~

436 ~~b. Any county or municipality changing its election under~~
437 ~~this paragraph in order to exercise its authority to require and~~
438 ~~collect permit fees shall, in addition to complying with the~~
439 ~~notice requirements under s. 202.21, provide to all dealers~~

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440 ~~providing communications services in such jurisdiction written~~
441 ~~notice of such change of election by September 1 immediately~~
442 ~~preceding the January 1 on which such change of election becomes~~
443 ~~effective. For purposes of this sub-subparagraph, dealers~~
444 ~~providing communications services in such jurisdiction shall~~
445 ~~include every dealer reporting tax to such jurisdiction pursuant~~
446 ~~to s. 202.37 on the return required under s. 202.27 to be filed~~
447 ~~on or before the 20th day of May immediately preceding the~~
448 ~~January 1 on which such change of election becomes effective.~~

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

453 (6)

454 (d) The amounts charged pursuant to this subsection shall
455 be based on the linear miles of roads or rights-of-way where a
456 communications facility is placed, not based on a summation of
457 the lengths of individual cables, conduits, strands, or fibers.
458 The amounts referenced in this subsection may be charged only
459 once annually and only to one person annually for any
460 communications facility. A municipality or county shall
461 discontinue charging such amounts to a person that has ceased to
462 be a pass-through provider. Any annual amounts charged shall be
463 reduced for a prorated portion of any 12-month period during
464 which the person remits taxes imposed by the municipality or

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465 county pursuant to chapter 202. Any excess amounts paid to a
466 municipality or county shall be refunded to the person upon
467 written notice of the excess to the municipality or county. A
468 municipality or county may require a pass-through provider to
469 provide an annual notarized statement identifying the total
470 number of linear miles of pass-through facilities in the
471 municipality's or county's rights-of-way. Upon request from a
472 municipality or county, a pass-through provider must provide
473 reasonable access to maps of pass-through facilities located in
474 the rights-of-way of the municipality or county making the
475 request. The scope of the request must be limited to only those
476 maps of pass-through facilities from which the calculation of
477 the linear miles of pass-through facilities in the rights-of-way
478 can be determined. The request must be accompanied by an
479 affidavit that the person making the request is authorized by
480 the municipality or county to review tax information related to
481 the revenue and mileage calculations for pass-through providers.
482 A request may not be made more than once annually to a pass-
483 through provider.

484 (e) This subsection does not alter any provision of this
485 section or s. 202.24 relating to taxes, fees, or other charges
486 or impositions by a municipality or county on a dealer of
487 communications services or authorize that any charges be
488 assessed on a dealer of communications services, except as
489 specifically set forth herein. A municipality or county may not

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490 charge a pass-through provider any amounts other than the
491 charges under this subsection as a condition to the placement or
492 maintenance of a communications facility in the roads or rights-
493 of-way of a municipality or county by a pass-through provider,
494 except that a municipality or county may impose permit fees on a
495 pass-through provider consistent with paragraph (3) (c) ~~if the~~
496 ~~municipality or county elects to exercise its authority to~~
497 ~~collect permit fees under paragraph (3) (e).~~

498 (f) The charges under this subsection do not apply to
499 communications facilities placed in a municipality's or county's
500 rights-of-way prior to the effective date of this subsection
501 with permission from the municipality or county, if any was
502 required, except to the extent the facilities of a pass-through
503 provider were subject to per linear foot or mile charges in
504 effect as of October 1, 2001, in which case the municipality or
505 county may only impose on a pass-through provider charges
506 consistent with paragraph (b) or paragraph (c) for such
507 facilities. Notwithstanding the foregoing, this subsection does
508 not impair any written agreement between a pass-through provider
509 and a municipality or county imposing per linear foot or mile
510 charges for communications facilities placed in municipal or
511 county roads or rights-of-way that is in effect prior to the
512 effective date of this subsection. Upon the termination or
513 expiration of any such written agreement, any charges imposed
514 must ~~shall~~ be consistent with this section ~~paragraph (b) or~~

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515 ~~paragraph (c). Notwithstanding the foregoing, until October 1,~~
516 ~~2005, this subsection shall not affect a municipality or county~~
517 ~~continuing to impose charges in excess of the charges authorized~~
518 ~~in this subsection on facilities of a pass-through provider that~~
519 ~~is not a dealer of communications services in the state under~~
520 ~~chapter 202, but only to the extent such charges were imposed by~~
521 ~~municipal or county ordinance or resolution adopted prior to~~
522 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~
523 ~~shall be consistent with paragraph (b) or paragraph (c).~~

524 (7)

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

526 1. "Antenna" means communications equipment that transmits
527 or receives electromagnetic radio frequency signals used in
528 providing wireless services.

529 2. "Applicable codes" means uniform building, fire,
530 electrical, plumbing, or mechanical codes adopted by a
531 recognized national code organization or local amendments to
532 those codes enacted solely to address threats of destruction of
533 property or injury to persons, and includes the National
534 Electric Safety Code and the 2017 edition of the Florida
535 Department of Transportation Utility Accommodation Manual ~~or~~
536 ~~local codes or ordinances adopted to implement this subsection.~~
537 ~~The term includes objective design standards adopted by~~
538 ~~ordinance that may require a new utility pole that replaces an~~
539 ~~existing utility pole to be of substantially similar design,~~

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540 ~~material, and color or that may require reasonable spacing~~
541 ~~requirements concerning the location of ground-mounted~~
542 ~~equipment. The term includes objective design standards adopted~~
543 ~~by ordinance that may require a small wireless facility to meet~~
544 ~~reasonable location context, color, stealth, and concealment~~
545 ~~requirements; however, such design standards may be waived by~~
546 ~~the authority upon a showing that the design standards are not~~
547 ~~reasonably compatible for the particular location of a small~~
548 ~~wireless facility or that the design standards impose an~~
549 ~~excessive expense. The waiver shall be granted or denied within~~
550 ~~45 days after the date of the request.~~

551 3. "Applicant" means a person who submits an application
552 and is a wireless provider.

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

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

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

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565 pole used to support municipally owned or operated electric
566 distribution facilities, or a utility pole located in the right-
567 of-way within:

568 a. A retirement community that:

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

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

572 (III) Has underground utilities for electric transmission
573 or distribution.

574 b. A municipality that:

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

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

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

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

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

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

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589 9. "Micro wireless facility" means a small wireless
590 facility having dimensions no larger than 24 inches in length,
591 15 inches in width, and 12 inches in height and an exterior
592 antenna, if any, no longer than 11 inches.

593 10. "Small wireless facility" means a wireless facility
594 that meets the following qualifications:

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

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

609 11. "Utility pole" means a pole or similar structure that
610 is used in whole or in part to provide communications services
611 or for electric distribution, lighting, traffic control,
612 signage, or a similar function. The term includes the vertical
613 support structure for traffic lights but does not include a

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614 horizontal structure to which signal lights or other traffic
615 control devices are attached and does not include a pole or
616 similar structure 15 feet in height or less unless an authority
617 grants a waiver for such pole.

618 12. "Wireless facility" means equipment at a fixed
619 location which enables wireless communications between user
620 equipment and a communications network, including radio
621 transceivers, antennas, wires, coaxial or fiber-optic cable or
622 other cables, regular and backup power supplies, and comparable
623 equipment, regardless of technological configuration, and
624 equipment associated with wireless communications. The term
625 includes small wireless facilities. The term does not include:

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

628 b. Wireline backhaul facilities; or

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

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

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639 14. "Wireless provider" means a wireless infrastructure
640 provider or a wireless services provider.

641 15. "Wireless services" means any services provided using
642 licensed or unlicensed spectrum, whether at a fixed location or
643 mobile, using wireless facilities.

644 16. "Wireless services provider" means a person who
645 provides wireless services.

646 17. "Wireless support structure" means a freestanding
647 structure, such as a monopole, a guyed or self-supporting tower,
648 or another existing or proposed structure designed to support or
649 capable of supporting wireless facilities. The term does not
650 include a utility pole, pedestal, or other support structure for
651 ground-based equipment not mounted on a utility pole and less
652 than 5 feet in height.

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

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

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

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

678 3. An authority may not:

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

681 b. Require the placement of multiple antenna systems on a
682 single utility pole;

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

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

697 e. Require a meeting before filing an application;

698 f. Require direct or indirect public notification or a
699 public meeting for the placement of communication facilities in
700 the right-of-way;

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

704 h. Prohibit the installation of a new utility pole used to
705 support the collocation of a small wireless facility if the
706 installation otherwise meets the requirements of this
707 subsection;

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

710 4. Subject to paragraph (r), an authority may not limit
711 the placement, by minimum separation distances, of small
712 wireless facilities, utility poles on which small wireless

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

735 5. An authority shall limit the height of a small wireless
736 facility to 10 feet above the utility pole or structure upon
737 which the small wireless facility is to be collocated. Unless

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

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

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

761 8. An application must be processed on a nondiscriminatory
762 basis. A complete application is deemed approved if an authority

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763 fails to approve or deny the application within 60 days after
764 receipt of the application. If an authority does not use the 30-
765 day negotiation period provided in subparagraph 4., the parties
766 may mutually agree to extend the 60-day application review
767 period. The authority shall grant or deny the application at the
768 end of the extended period. A permit issued pursuant to an
769 approved application shall remain effective for 1 year unless
770 extended by the authority.

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

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788 for review is made. A denial must identify the specific code
789 provisions on which the denial is based. If the administrative
790 review is not complete within 45 days, the city or county waives
791 any claim regarding failure to exhaust administrative remedies
792 in any judicial review of the denial of an application.

793 10. An applicant seeking to collocate small wireless
794 facilities within the jurisdiction of a single authority may, at
795 the applicant's discretion, file a consolidated application and
796 receive a single permit for the collocation of up to 30 small
797 wireless facilities. If the application includes multiple small
798 wireless facilities, an authority may separately address small
799 wireless facility collocations for which incomplete information
800 has been received or which are denied.

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

807 a. Materially interferes with the safe operation of
808 traffic control equipment.

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

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811 c. Materially interferes with compliance with the
812 Americans with Disabilities Act or similar federal or state
813 standards regarding pedestrian access or movement.

814 d. Materially fails to comply with the 2017 ~~2010~~ edition
815 of the Florida Department of Transportation Utility
816 Accommodation Manual.

817 e. Fails to comply with applicable codes.

818 f. Fails to comply with objective design standards
819 authorized under paragraph (r).

820 12. An authority may adopt by ordinance provisions for
821 insurance coverage, indemnification, ~~performance bonds, security~~
822 ~~funds,~~ force majeure, abandonment, authority liability, or
823 authority warranties. Such provisions must be reasonable and
824 nondiscriminatory. An authority may require a construction bond
825 to secure restoration of the postconstruction rights-of-way to
826 the preconstruction condition. However, such bond must be time-
827 limited to not more than 18 months after the construction to
828 which the bond applies is completed. For any financial
829 obligation required by an authority allowed under this section,
830 the authority shall accept a letter of credit or similar
831 financial instrument issued by any financial institution that is
832 authorized to do business within the United States, provided
833 that a claim against the financial instrument may be made by
834 electronic means, including by facsimile. A provider of
835 communications services may add an authority to any existing

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836 bond, insurance policy, or other relevant financial instrument,
837 and the authority must accept such proof of coverage without any
838 conditions other than consent to venue for purposes of any
839 litigation to which the authority is a party. An authority may
840 not require a communications services provider to indemnify it
841 for liabilities not caused by the provider, including
842 liabilities arising from the authority's negligence, gross
843 negligence, or willful conduct.

844 13. Collocation of a small wireless facility on an
845 authority utility pole does not provide the basis for the
846 imposition of an ad valorem tax on the authority utility pole.

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

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

858 (e) An authority may not require any permit or other
859 approval or require fees, or other charges, costs, or other
860 exactions for:

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

866 2. Replacement of existing wireless facilities with
867 wireless facilities that are substantially similar or of the
868 same or smaller size; or

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

881
882 Notwithstanding this paragraph, an authority may require a
883 right-of-way permit for work that involves excavation, closure
884 of a sidewalk, or closure of a vehicular lane or parking lane,
885 unless the provider is performing service restoration on an

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886 existing facility and the work is done in compliance with the
887 2017 edition of the Florida Department of Transportation Utility
888 Accommodation Manual. An authority may require notice of such
889 work within 30 days after restoration and may require an after-
890 the-fact permit for work which would otherwise have required a
891 permit.

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

894 1. An authority may not enter into an exclusive
895 arrangement with any person for the right to attach equipment to
896 authority utility poles.

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

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

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

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910 of an application submitted after the rates, fees, and terms
911 become effective.

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

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

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

931 c. For an authority utility pole that does not support an
932 aerial facility used to provide communications services or
933 electric service, the authority shall provide a good faith
934 estimate for any make-ready work necessary to enable the pole to

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935 support the requested collocation, including necessary pole
936 replacement, within 60 days after receipt of a complete
937 application. Make-ready work, including any pole replacement,
938 must be completed within 60 days after written acceptance of the
939 good faith estimate by the applicant. Alternatively, an
940 authority may require the applicant seeking to collocate a small
941 wireless facility to provide a make-ready estimate at the
942 applicant's expense for the work necessary to support the small
943 wireless facility, including pole replacement, and perform the
944 make-ready work. If pole replacement is required, the scope of
945 the make-ready estimate is limited to the design, fabrication,
946 and installation of a utility pole that is substantially similar
947 in color and composition. The authority may not condition or
948 restrict the manner in which the applicant obtains, develops, or
949 provides the estimate or conducts the make-ready work subject to
950 usual construction restoration standards for work in the right-
951 of-way. The replaced or altered utility pole shall remain the
952 property of the authority.

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

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959 than wireless services providers for similar work and may not
960 include any consultant fee or expense.

961 (g) For any applications filed before the effective date
962 of ordinances implementing this subsection, an authority may
963 apply current ordinances relating to placement of communications
964 facilities in the right-of-way related to registration,
965 permitting, insurance coverage, indemnification, ~~performance~~
966 ~~bonds, security funds,~~ force majeure, abandonment, authority
967 liability, or authority warranties. Permit application
968 requirements and small wireless facility placement requirements,
969 including utility pole height limits, that conflict with this
970 subsection must shall be waived by the authority. An authority
971 may not institute, either expressly or de facto, a moratorium,
972 zoning-in-progress, or other mechanism that would prohibit or
973 delay the filing, receiving, or processing of registrations,
974 applications, or issuing of permits or other approvals for the
975 collocation of small wireless facilities or the installation,
976 modification, or replacement of utility poles used to support
977 the collocation of small wireless facilities.

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

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

987 b. Structures that the authority allows to remain above
988 ground are reasonably available to wireless providers for the
989 collocation of small wireless facilities and may be replaced by
990 a wireless provider to accommodate the collocation of small
991 wireless facilities; and

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

997 2. For small wireless facilities installed before an
998 authority adopts requirements that public utility lines be
999 placed underground, an authority adopting such requirements
1000 must:

1001 a. Allow a wireless provider to maintain the small
1002 wireless facilities in place subject to any applicable pole
1003 attachment agreement with the pole owner ; or

1004 b. Allow the wireless provider to replace the associated
1005 pole within 50 feet of the prior location in accordance with
1006 paragraph (r). ~~A wireless provider shall, in relation to a small~~
1007 ~~wireless facility, utility pole, or wireless support structure~~
1008 ~~in the public rights-of-way, comply with nondiscriminatory~~

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1009 ~~undergrounding requirements of an authority that prohibit above-~~
1010 ~~ground structures in public rights-of-way. Any such requirements~~
1011 ~~may be waived by the authority.~~

1012 (r) An authority may require wireless providers to comply
1013 with objective design standards adopted by ordinance. The
1014 ordinance may only require:

1015 1. A new utility pole that replaces an existing utility
1016 pole to be of substantially similar design, material, and color;

1017 2. Reasonable spacing requirements concerning the location
1018 of a ground-mounted component of a small wireless facility which
1019 does not exceed 15 feet from the associated support structure;

1020 or

1021 3. A small wireless facility to meet reasonable location
1022 context, color, camouflage, and concealment requirements,
1023 subject to the limitations in this subsection; and

1024 4. A new utility pole used to support a small wireless
1025 facility to meet reasonable location context, color, and
1026 material of the predominant utility pole type at the proposed
1027 location of the new utility pole.

1028
1029 Such design standards under this paragraph may be waived by the
1030 authority upon a showing that the design standards are not
1031 reasonably compatible for the particular location of a small
1032 wireless facility or utility pole or are technically infeasible
1033 or that the design standards impose an excessive expense. The

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Amendment No. 1

1034 waiver must be granted or denied within 45 days after the date
1035 of the request.

1036 (8) (a) Any person aggrieved by a violation of this section
1037 may bring a civil action in a United States District Court or in
1038 any other court of competent jurisdiction.

1039 (b) The court may:

1040 1. Grant temporary or permanent injunctions on terms as it
1041 may deem reasonable to prevent or restrain violations of this
1042 section; and

1043 2. Direct the recovery of full costs, including awarding
1044 reasonable attorney fees, to the party who prevails.

1045 (9) All work in the authority's rights-of-way under this
1046 section must comply with the 2017 edition of the Florida
1047 Department of Transportation Utility Accommodation Manual.

1048 Section 3. Nothing in this act shall be construed to delay
1049 the issuance of permits for other utility work, including, but
1050 not limited to, permits related to electricity or gas work in
1051 the rights-of-way.

1052 Section 4. This act shall take effect July 1, 2019.

1054 -----
1055 **T I T L E A M E N D M E N T**

1056 Remove everything before the enacting clause and insert:

1057 A bill to be entitled

Amendment No. 1

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

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Amendment No. 1

1083 certain ordinances must be suspended until certain
1084 conditions are met; revising legislative intent
1085 relating to the imposition of certain fees, costs, and
1086 exactions on providers; specifying a condition for
1087 certain in-kind compensation; revising items over
1088 which municipalities and counties may not exercise
1089 regulatory control; authorizing municipalities and
1090 counties to require a right-of-way permit for certain
1091 purposes; providing requirements for processing
1092 certain permit applications; prohibiting
1093 municipalities and counties from certain actions
1094 relating to certain aerial or underground
1095 communications facilities; specifying limitations and
1096 requirements for certain municipal and county rules
1097 and regulations; revising definitions for the Advanced
1098 Wireless Infrastructure Deployment Act; prohibiting
1099 certain actions by an authority relating to certain
1100 utility poles; prohibiting authorities from requiring
1101 permit applicants to provide certain information,
1102 except under certain circumstances; adding prohibited
1103 acts by authorities relating to small wireless
1104 facilities, application requirements, public
1105 notification and public meetings, and the placement of
1106 certain facilities; revising applicability of
1107 authority rules and regulations governing the

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Amendment No. 1

1108 placement of utility poles in the public rights-of-
1109 way; providing construction relating to judicial
1110 review of certain application denials; specifying
1111 grounds for an authority's denial of a proposed
1112 collocation of a small wireless facility or placement
1113 of a utility pole in the public rights-of-way;
1114 deleting an authority's authorization to adopt
1115 ordinances for performance bonds and security funds;
1116 authorizing an authority to require a construction
1117 bond, subject to certain conditions; requiring
1118 authorities to accept certain financial instruments
1119 for certain financial obligations; authorizing
1120 providers to add authorities to certain financial
1121 instruments; prohibiting an authority from requiring a
1122 provider to indemnify an authority for certain
1123 liabilities; prohibiting an authority from requiring a
1124 permit, approval, fees, charges, costs, or exactions
1125 for certain activities; authorizing and limiting
1126 filings an authority may require relating to micro
1127 wireless facility equipment; providing an exception to
1128 a certain right-of-way permit for certain service
1129 restoration work; providing conditions under which a
1130 wireless provider must comply with certain
1131 requirements of an authority that prohibit new utility
1132 poles used to support small wireless facilities in

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Amendment No. 1

1133 certain areas; providing that an authority may require
1134 wireless providers to comply with certain objective
1135 design standards adopted by ordinance; authorizing an
1136 authority to waive such design standards under certain
1137 circumstances; providing a requirement for the waiver;
1138 revising an authority's authorization to apply certain
1139 ordinances to applications filed before a certain
1140 timeframe; authorizing a civil action for violations;
1141 providing actions a court may take; requiring the work
1142 of certain authority rights-of-way to comply with a
1143 specified document; providing a statement of
1144 legislative intent; providing an effective date.