

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 service providers;
8 authorizing municipalities and counties to require
9 certain information as part of a registration;
10 prohibiting municipalities and counties from requiring
11 a payment of fees, costs, or charges for provider
12 registration or renewal; prohibiting municipalities
13 and counties from adopting or enforcing certain
14 ordinances, regulations, or requirements; specifying
15 limitations on municipal and county authority to
16 regulate and manage municipal and county roads or
17 rights-of-way; prohibiting certain municipalities and
18 counties from electing to impose permit fees;
19 providing retroactive applicability; authorizing
20 certain municipalities and counties to continue to
21 require and collect such fees; deleting obsolete
22 provisions; specifying activities for which permit
23 fees may not be imposed; deleting certain provisions
24 relating to municipality, charter county, and
25 noncharter county elections to impose, or not to

26 | impose, permit fees; requiring that enforcement of
27 | certain ordinances must be suspended until certain
28 | conditions are met; revising legislative intent
29 | relating to the imposition of certain fees, costs, and
30 | exactions on providers; specifying a condition for
31 | certain in-kind compensation; revising items over
32 | which municipalities and counties may not exercise
33 | regulatory control; authorizing municipalities and
34 | counties to require a right-of-way permit for certain
35 | purposes; providing requirements for processing
36 | certain permit applications; prohibiting
37 | municipalities and counties from certain actions
38 | relating to certain aerial or underground
39 | communications facilities; specifying limitations and
40 | requirements for certain municipal and county rules
41 | and regulations; revising definitions for the Advanced
42 | Wireless Infrastructure Deployment Act; prohibiting
43 | certain actions by an authority relating to certain
44 | utility poles; prohibiting authorities from requiring
45 | permit applicants to provide certain information,
46 | except under certain circumstances; adding prohibited
47 | acts by authorities relating to small wireless
48 | facilities, application requirements, public
49 | notification and public meetings, and the placement of
50 | certain facilities; revising applicability of

51 authority rules and regulations governing the
52 placement of utility poles in the public rights-of-
53 way; providing construction relating to judicial
54 review of certain application denials; specifying
55 grounds for an authority's denial of a proposed
56 collocation of a small wireless facility or placement
57 of a utility pole in the public rights-of-way;
58 deleting an authority's authorization to adopt
59 ordinances for performance bonds and security funds;
60 authorizing an authority to require a construction
61 bond, subject to certain conditions; requiring
62 authorities to accept certain financial instruments
63 for certain financial obligations; authorizing
64 providers to add authorities to certain financial
65 instruments; prohibiting an authority from requiring a
66 provider to indemnify an authority for certain
67 liabilities; prohibiting an authority from requiring a
68 permit, approval, fees, charges, costs, or exactions
69 for certain activities; authorizing and limiting
70 filings an authority may require relating to micro
71 wireless facility equipment; providing an exception to
72 a certain right-of-way permit for certain service
73 restoration work; providing conditions under which a
74 wireless provider must comply with certain
75 requirements of an authority that prohibit new utility

76 poles used to support small wireless facilities in
 77 certain areas; providing that an authority may require
 78 wireless providers to comply with certain objective
 79 design standards adopted by ordinance; authorizing an
 80 authority to waive such design standards under certain
 81 circumstances; providing a requirement for the waiver;
 82 revising an authority's authorization to apply certain
 83 ordinances to applications filed before a certain
 84 timeframe; authorizing a civil action for violations;
 85 providing actions a court may take; requiring the work
 86 of certain authority rights-of-way to comply with a
 87 specified document; providing construction; providing
 88 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
 95 rates.—

96 (2)

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

101 authorized to impose them prior to July 1, 2000.

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

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

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

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

109 d. Franchise fees on dealers of communications services
110 which use the public roads or rights-of-way, up to the limit set
111 forth in s. 337.401. For purposes of calculating rates under
112 this section, it is the legislative intent that charter counties
113 be treated as having had the same authority as municipalities to
114 impose franchise fees on recurring local telecommunication
115 service revenues prior to July 1, 2000. However, the Legislature
116 recognizes that the authority of charter counties to impose such
117 fees is in dispute, and the treatment provided in this section
118 is not an expression of legislative intent that charter counties
119 actually do or do not possess such authority.

120 e. Actual permit fees relating to placing or maintaining
121 facilities in or on public roads or rights-of-way, collected
122 from providers of long-distance, cable, and mobile
123 communications services for the fiscal year ending September 30,
124 1999; however, if a municipality or charter county elects the
125 option to charge permit fees pursuant to s. 337.401(3)(c)

126 | ~~337.401(3)(c)1.a.~~, such fees shall not be included as a replaced
127 | revenue source.

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

131 | Section 2. Subsection (3), paragraphs (d), (e), and (f) of
132 | subsection (6), and paragraphs (b), (c), (d), (e), (f), (g), and
133 | (i) of subsection (7) of section 337.401, Florida Statutes, are
134 | amended, paragraph (r) is added to subsection (7), and
135 | subsections (8) and (9) are added to that section, to read:

136 | 337.401 Use of right-of-way for utilities subject to
137 | regulation; permit; fees.—

138 | (3) (a) Because of the unique circumstances applicable to
139 | providers of communications services, including, but not limited
140 | to, the circumstances described in paragraph (e) and the fact
141 | that federal and state law require the nondiscriminatory
142 | treatment of providers of telecommunications services, and
143 | because of the desire to promote competition among providers of
144 | communications services, it is the intent of the Legislature
145 | that municipalities and counties treat providers of
146 | communications services in a nondiscriminatory and competitively
147 | neutral manner when imposing rules or regulations governing the
148 | placement or maintenance of communications facilities in the
149 | public roads or rights-of-way. Rules or regulations imposed by a
150 | municipality or county relating to providers of communications

151 services placing or maintaining communications facilities in its
152 roads or rights-of-way must be generally applicable to all
153 providers of communications services, taking into account the
154 distinct engineering, construction, operation, maintenance,
155 public works, and safety requirements of each provider's
156 facilities, and, notwithstanding any other law, may not require
157 a provider of communications services to apply for or enter into
158 an individual license, franchise, or other agreement with the
159 municipality or county as a condition of placing or maintaining
160 communications facilities in its roads or rights-of-way. In
161 addition to other reasonable rules or regulations that a
162 municipality or county may adopt relating to the placement or
163 maintenance of communications facilities in its roads or rights-
164 of-way under this subsection or subsection (7), a municipality
165 or county may require a provider of communications services that
166 places or seeks to place facilities in its roads or rights-of-
167 way to register with the municipality or county. To register, a
168 provider of communications services may be required only to
169 provide its name ~~and to provide the name of the registrant;~~ the
170 name, address, and telephone number of a contact person for the
171 registrant; the number of the registrant's current certificate
172 of authorization issued by the Florida Public Service
173 Commission, the Federal Communications Commission, or the
174 Department of State; a statement of whether the registrant is a
175 pass-through provider as defined in s. 337.401(6)(a)1.; the

176 registrant's federal employer identification number; and any
177 required proof of insurance or self-insuring status adequate to
178 defend and cover claims. A municipality or county may not
179 require a registrant to renew a registration more frequently
180 than every 5 years but may require during this period that a
181 registrant update the registration information provided under
182 this subsection within 90 days after a change in such
183 information. A municipality or county may not require the
184 registrant to provide an inventory of communications facilities,
185 maps, locations of such facilities, or other information by a
186 registrant as a condition of registration, renewal, or for any
187 other purpose; provided, however, that a municipality or county
188 may require as part of a permit application that an applicant
189 identify at-grade communications facilities within 50 feet of
190 the proposed installation location for the placement of at-grade
191 communications facilities. A municipality or county may not
192 require a provider to pay any fee, cost, or other charge for
193 registration or renewal thereof. It is the intent of the
194 Legislature that the placement, operation, maintenance,
195 upgrading, and extension of communications facilities not be
196 unreasonably interrupted or delayed through the permitting or
197 other local regulatory process. Except as provided in this
198 chapter or otherwise expressly authorized by chapter 202,
199 chapter 364, or chapter 610, a municipality or county may not
200 adopt or enforce any ordinance, regulation, or requirement as to

201 the placement or operation of communications facilities in a
202 right-of-way by a communications services provider authorized by
203 state or local law to operate in a right-of-way; regulate any
204 communications services; or impose or collect any tax, fee,
205 cost, charge, or exaction for the provision of communications
206 services over the communications services provider's
207 communications facilities in a right-of-way.

208 (b) Registration described in paragraph (a) does not
209 establish a right to place or maintain, or priority for the
210 placement or maintenance of, a communications facility in roads
211 or rights-of-way of a municipality or county. Each municipality
212 and county retains the authority to regulate and manage
213 municipal and county roads or rights-of-way in exercising its
214 police power, subject to the limitations imposed in this section
215 and chapters 202 and 610. Any rules or regulations adopted by a
216 municipality or county which govern the occupation of its roads
217 or rights-of-way by providers of communications services must be
218 related to the placement or maintenance of facilities in such
219 roads or rights-of-way, must be reasonable and
220 nondiscriminatory, and may include only those matters necessary
221 to manage the roads or rights-of-way of the municipality or
222 county.

223 (c) Any municipality or county that, as of January 1,
224 2019, elected to require permit fees from any provider of
225 communications services that uses or occupies municipal or

226 county roads or rights-of-way pursuant to former paragraph (c)
 227 or paragraph (j), Florida Statutes 2018, may continue to require
 228 and collect such fees. A municipality or county that elected as
 229 of January 1, 2019, to require permit fees may elect to forego
 230 such fees as provided herein. A municipality or county that
 231 elected as of January 1, 2019, not to require permit fees may
 232 not elect to impose permit fees.

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

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

251 ~~services that use or occupy municipal or county roads or rights-~~
252 ~~of-way.~~ All fees authorized ~~permitted~~ under this paragraph ~~sub-~~
253 ~~subparagraph~~ must be reasonable and commensurate with the direct
254 and actual cost of the regulatory activity, including issuing
255 and processing permits, plan reviews, physical inspection, and
256 direct administrative costs; must be demonstrable; and must be
257 equitable among users of the roads or rights-of-way. A fee
258 authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~ may
259 not~~;~~ be offset against the tax imposed under chapter 202;
260 include the costs of roads or rights-of-way acquisition or roads
261 or rights-of-way rental; include any general administrative,
262 management, or maintenance costs of the roads or rights-of-way;
263 or be based on a percentage of the value or costs associated
264 with the work to be performed on the roads or rights-of-way. In
265 an action to recover amounts due for a fee not authorized
266 ~~permitted~~ under this paragraph ~~sub-subparagraph~~, the prevailing
267 party may recover court costs and attorney ~~attorney's~~ fees at
268 trial and on appeal. In addition to the limitations set forth in
269 this section, a fee levied by a municipality or charter county
270 under this paragraph ~~sub-subparagraph~~ may not exceed \$100.
271 However, permit fees may not be imposed with respect to permits
272 that may be required for service drop lines not required to be
273 noticed under s. 556.108(5) ~~s. 556.108(5)(a)2.~~ or for any
274 activity that does not require the physical disturbance of the
275 roads or rights-of-way or does not impair access to or full use

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

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

288 ~~b. Alternatively, the municipality or charter county may~~
289 ~~elect not to require and collect permit fees from any provider~~
290 ~~of communications services that uses or occupies municipal or~~
291 ~~charter county roads or rights-of-way for the provision of~~
292 ~~communications services; however, each municipality or charter~~
293 ~~county that elects to operate under this sub-subparagraph~~
294 ~~retains all authority to establish rules and regulations for~~
295 ~~providers of communications services to use or occupy roads or~~
296 ~~rights-of-way as provided in this section.~~

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

301 increased by ordinance or resolution by an amount not to exceed
302 a rate of 0.12 percent. ~~If a municipality or charter county~~
303 ~~elects to increase its rate effective October 1, 2001, the~~
304 ~~municipality or charter county shall inform the department of~~
305 ~~such increased rate by certified mail postmarked on or before~~
306 ~~July 16, 2001.~~

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

311 2. ~~Each noncharter county shall make an election under~~
312 ~~either sub-subparagraph a. or sub-subparagraph b. and shall~~
313 ~~inform the Department of Revenue of the election by certified~~
314 ~~mail by July 16, 2001. Such election shall take effect October~~
315 ~~1, 2001.~~

316 a. ~~The noncharter county may elect to require and collect~~
317 ~~permit fees from any providers of communications services that~~
318 ~~use or occupy noncharter county roads or rights-of-way. All fees~~
319 ~~permitted under this sub-subparagraph must be reasonable and~~
320 ~~commensurate with the direct and actual cost of the regulatory~~
321 ~~activity, including issuing and processing permits, plan~~
322 ~~reviews, physical inspection, and direct administrative costs;~~
323 ~~must be demonstrable; and must be equitable among users of the~~
324 ~~roads or rights-of-way. A fee permitted under this sub-~~
325 ~~subparagraph may not: be offset against the tax imposed under~~

326 ~~chapter 202; include the costs of roads or rights-of-way~~
327 ~~acquisition or roads or rights-of-way rental; include any~~
328 ~~general administrative, management, or maintenance costs of the~~
329 ~~roads or rights-of-way; or be based on a percentage of the value~~
330 ~~or costs associated with the work to be performed on the roads~~
331 ~~or rights-of-way. In an action to recover amounts due for a fee~~
332 ~~not permitted under this sub-subparagraph, the prevailing party~~
333 ~~may recover court costs and attorney's fees at trial and on~~
334 ~~appeal. In addition to the limitations set forth in this~~
335 ~~section, a fee levied by a noncharter county under this sub-~~
336 ~~subparagraph may not exceed \$100. However, permit fees may not~~
337 ~~be imposed with respect to permits that may be required for~~
338 ~~service drop lines not required to be noticed under s.~~
339 ~~556.108(5)(a)2. or for any activity that does not require the~~
340 ~~physical disturbance of the roads or rights-of-way or does not~~
341 ~~impair access to or full use of the roads or rights-of-way.~~

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

351 2. If a noncharter county elects to not require permit
352 fees ~~operate under this sub-subparagraph,~~ the total rate for the
353 local communications services tax as computed under s. 202.20
354 for that noncharter county may be increased by ordinance or
355 resolution by an amount not to exceed a rate of 0.24 percent, to
356 replace the revenue the noncharter county would otherwise have
357 received from permit fees for providers of communications
358 services. ~~If a noncharter county elects to increase its rate~~
359 ~~effective October 1, 2001, the noncharter county shall inform~~
360 ~~the department of such increased rate by certified mail~~
361 ~~postmarked on or before July 16, 2001.~~

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

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

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

376 to any other notice requirements, a county must provide to the
377 Secretary of State, at least 15 days prior to consideration at a
378 public hearing, notice of a proposed ordinance governing a
379 telecommunications company placing or maintaining
380 telecommunications facilities in its roads or rights-of-way. The
381 notice required by this paragraph must be published by the
382 Secretary of State on a designated Internet website. The failure
383 of a municipality or county to provide such notice does not
384 render the ordinance invalid, provided that enforcement of such
385 ordinance must be suspended until 30 days after the municipality
386 or county provides the required notice.

387 (e) The authority of municipalities and counties to
388 require franchise fees from providers of communications
389 services, with respect to the provision of communications
390 services, is specifically preempted by the state because of
391 unique circumstances applicable to providers of communications
392 services when compared to other utilities occupying municipal or
393 county roads or rights-of-way. Providers of communications
394 services may provide similar services in a manner that requires
395 the placement of facilities in municipal or county roads or
396 rights-of-way or in a manner that does not require the placement
397 of facilities in such roads or rights-of-way. Although similar
398 communications services may be provided by different means, the
399 state desires to treat providers of communications services in a
400 nondiscriminatory manner and to have the taxes, franchise fees,

401 and other fees, costs, and financial or regulatory exactions
402 paid by or imposed on providers of communications services be
403 competitively neutral. Municipalities and counties retain all
404 existing authority, if any, to collect franchise fees from users
405 or occupants of municipal or county roads or rights-of-way other
406 than providers of communications services, and the provisions of
407 this subsection shall have no effect upon this authority. The
408 provisions of this subsection do not restrict the authority, if
409 any, of municipalities or counties or other governmental
410 entities to receive reasonable rental fees based on fair market
411 value for the use of public lands and buildings on property
412 outside the public roads or rights-of-way for the placement of
413 communications antennas and towers.

414 (f) Except as expressly allowed or authorized by general
415 law and except for the rights-of-way permit fees subject to
416 paragraph (c), a municipality or county may not levy on a
417 provider of communications services a tax, fee, or other charge
418 or imposition for operating as a provider of communications
419 services within the jurisdiction of the municipality or county
420 which is in any way related to using its roads or rights-of-way.
421 A municipality or county may not require or solicit in-kind
422 compensation, except as otherwise provided in s. 202.24(2)(c)8.
423 ~~or s. 610.109,~~ provided that the in-kind compensation is not a
424 franchise fee under federal law. Nothing in this paragraph
425 impairs the authority of a municipality or county to request

426 public, educational, or governmental access channels pursuant to
427 s. 610.109. Nothing in this paragraph shall impair any ordinance
428 or agreement in effect on May 22, 1998, or any voluntary
429 agreement entered into subsequent to that date, which provides
430 for or allows in-kind compensation by a telecommunications
431 company.

432 (g) A municipality or county may not use its authority
433 over the placement of facilities in its roads and rights-of-way
434 as a basis for asserting or exercising regulatory control over a
435 provider of communications services regarding matters within the
436 exclusive jurisdiction of the Florida Public Service Commission
437 or the Federal Communications Commission, including, but not
438 limited to, the operations, systems, equipment, technology,
439 qualifications, services, service quality, service territory,
440 and prices of a provider of communications services. A
441 municipality or county may not require any permit for the
442 maintenance, repair, replacement, extension, or upgrade of
443 existing aerial wireline communications facilities on utility
444 poles or for aerial wireline facilities between existing
445 wireline communications facility attachments on utility poles by
446 a communications services provider. However, a municipality or
447 county may require a right-of-way permit for work that involves
448 excavation, closure of a sidewalk, or closure of a vehicular
449 lane or parking lane, unless the provider is performing service
450 restoration to existing facilities. A permit application

451 required by an authority under this section for the placement of
452 communications facilities must be processed and acted upon
453 consistent with the timeframes provided in subparagraphs
454 (7) (d) 7., 8., and 9. In addition, a municipality or county may
455 not require any permit or other approval, fee, charge, or cost,
456 or other exaction for the maintenance, repair, replacement,
457 extension, or upgrade of existing aerial lines or underground
458 communications facilities located on private property outside of
459 the public rights-of-way. As used in this section, the term
460 "extension of existing facilities" includes those extensions
461 from the rights of way into a customer's private property for
462 purposes of placing a service drop or those extensions from the
463 rights of way into a utility easement to provide service to a
464 discrete identifiable customer or group of customers.

465 (h) A provider of communications services that has
466 obtained permission to occupy the roads or rights-of-way of an
467 incorporated municipality pursuant to s. 362.01 or that is
468 otherwise lawfully occupying the roads or rights-of-way of a
469 municipality or county shall not be required to obtain consent
470 to continue such lawful occupation of those roads or rights-of-
471 way; however, nothing in this paragraph shall be interpreted to
472 limit the power of a municipality or county to adopt or enforce
473 reasonable rules or regulations as provided in this section and
474 consistent with chapters 202, 364, and 610. Any such rules or
475 regulations must be in writing, and registered providers of

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

479 (i) Except as expressly provided in this section, this
480 section does not modify the authority of municipalities and
481 counties to levy the tax authorized in chapter 202 or the duties
482 of providers of communications services under ss. 337.402-
483 337.404. This section does not apply to building permits, pole
484 attachments, or private roads, private easements, and private
485 rights-of-way.

486 ~~(j) Pursuant to this paragraph, any county or municipality~~
487 ~~may by ordinance change either its election made on or before~~
488 ~~July 16, 2001, under paragraph (c) or an election made under~~
489 ~~this paragraph.~~

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

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

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

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

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

517 ~~3.a. Any change of election pursuant to this paragraph and~~
518 ~~any tax rate change resulting from such change of election shall~~
519 ~~be subject to the notice requirements of s. 202.21; however, no~~
520 ~~such change of election shall become effective prior to January~~
521 ~~1, 2003.~~

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

526 ~~providing communications services in such jurisdiction written~~
527 ~~notice of such change of election by September 1 immediately~~
528 ~~preceding the January 1 on which such change of election becomes~~
529 ~~effective. For purposes of this sub-subparagraph, dealers~~
530 ~~providing communications services in such jurisdiction shall~~
531 ~~include every dealer reporting tax to such jurisdiction pursuant~~
532 ~~to s. 202.37 on the return required under s. 202.27 to be filed~~
533 ~~on or before the 20th day of May immediately preceding the~~
534 ~~January 1 on which such change of election becomes effective.~~

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

539 (6)

540 (d) The amounts charged pursuant to this subsection shall
541 be based on the linear miles of roads or rights-of-way where a
542 communications facility is placed, not based on a summation of
543 the lengths of individual cables, conduits, strands, or fibers.
544 The amounts referenced in this subsection may be charged only
545 once annually and only to one person annually for any
546 communications facility. A municipality or county shall
547 discontinue charging such amounts to a person that has ceased to
548 be a pass-through provider. Any annual amounts charged shall be
549 reduced for a prorated portion of any 12-month period during
550 which the person remits taxes imposed by the municipality or

551 county pursuant to chapter 202. Any excess amounts paid to a
552 municipality or county shall be refunded to the person upon
553 written notice of the excess to the municipality or county. A
554 municipality or county may require a pass-through provider to
555 provide an annual notarized statement identifying the total
556 number of linear miles of pass-through facilities in the
557 municipality's or county's rights-of-way. Upon request from a
558 municipality or county, a pass-through provider must provide
559 reasonable access to maps of pass-through facilities located in
560 the rights-of-way of the municipality or county making the
561 request. The scope of the request must be limited to only those
562 maps of pass-through facilities from which the calculation of
563 the linear miles of pass-through facilities in the rights-of-way
564 can be determined. The request must be accompanied by an
565 affidavit that the person making the request is authorized by
566 the municipality or county to review tax information related to
567 the revenue and mileage calculations for pass-through providers.
568 A request may not be made more than once annually to a pass-
569 through provider.

570 (e) This subsection does not alter any provision of this
571 section or s. 202.24 relating to taxes, fees, or other charges
572 or impositions by a municipality or county on a dealer of
573 communications services or authorize that any charges be
574 assessed on a dealer of communications services, except as
575 specifically set forth herein. A municipality or county may not

576 charge a pass-through provider any amounts other than the
577 charges under this subsection as a condition to the placement or
578 maintenance of a communications facility in the roads or rights-
579 of-way of a municipality or county by a pass-through provider,
580 except that a municipality or county may impose permit fees on a
581 pass-through provider consistent with paragraph (3)(c) ~~if the~~
582 ~~municipality or county elects to exercise its authority to~~
583 ~~collect permit fees under paragraph (3)(e).~~

584 (f) The charges under this subsection do not apply to
585 communications facilities placed in a municipality's or county's
586 rights-of-way prior to the effective date of this subsection
587 with permission from the municipality or county, if any was
588 required, except to the extent the facilities of a pass-through
589 provider were subject to per linear foot or mile charges in
590 effect as of October 1, 2001, in which case the municipality or
591 county may only impose on a pass-through provider charges
592 consistent with paragraph (b) or paragraph (c) for such
593 facilities. Notwithstanding the foregoing, this subsection does
594 not impair any written agreement between a pass-through provider
595 and a municipality or county imposing per linear foot or mile
596 charges for communications facilities placed in municipal or
597 county roads or rights-of-way that is in effect prior to the
598 effective date of this subsection. Upon the termination or
599 expiration of any such written agreement, any charges imposed
600 must ~~shall~~ be consistent with this section ~~paragraph (b) or~~

601 ~~paragraph (c). Notwithstanding the foregoing, until October 1,~~
602 ~~2005, this subsection shall not affect a municipality or county~~
603 ~~continuing to impose charges in excess of the charges authorized~~
604 ~~in this subsection on facilities of a pass-through provider that~~
605 ~~is not a dealer of communications services in the state under~~
606 ~~chapter 202, but only to the extent such charges were imposed by~~
607 ~~municipal or county ordinance or resolution adopted prior to~~
608 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~
609 ~~shall be consistent with paragraph (b) or paragraph (c).~~

610 (7)

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

612 1. "Antenna" means communications equipment that transmits
613 or receives electromagnetic radio frequency signals used in
614 providing wireless services.

615 2. "Applicable codes" means uniform building, fire,
616 electrical, plumbing, or mechanical codes adopted by a
617 recognized national code organization or local amendments to
618 those codes enacted solely to address threats of destruction of
619 property or injury to persons, and includes the National
620 Electric Safety Code and the 2017 edition of the Florida
621 Department of Transportation Utility Accommodation Manual ~~or~~
622 ~~local codes or ordinances adopted to implement this subsection.~~
623 ~~The term includes objective design standards adopted by~~
624 ~~ordinance that may require a new utility pole that replaces an~~
625 ~~existing utility pole to be of substantially similar design,~~

626 ~~material, and color or that may require reasonable spacing~~
627 ~~requirements concerning the location of ground-mounted~~
628 ~~equipment. The term includes objective design standards adopted~~
629 ~~by ordinance that may require a small wireless facility to meet~~
630 ~~reasonable location context, color, stealth, and concealment~~
631 ~~requirements; however, such design standards may be waived by~~
632 ~~the authority upon a showing that the design standards are not~~
633 ~~reasonably compatible for the particular location of a small~~
634 ~~wireless facility or that the design standards impose an~~
635 ~~excessive expense. The waiver shall be granted or denied within~~
636 ~~45 days after the date of the request.~~

637 3. "Applicant" means a person who submits an application
638 and is a wireless provider.

639 4. "Application" means a request submitted by an applicant
640 to an authority for a permit to collocate small wireless
641 facilities or to place a new utility pole used to support a
642 small wireless facility.

643 5. "Authority" means a county or municipality having
644 jurisdiction and control of the rights-of-way of any public
645 road. The term does not include the Department of
646 Transportation. Rights-of-way under the jurisdiction and control
647 of the department are excluded from this subsection.

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

651 pole used to support municipally owned or operated electric
652 distribution facilities, or a utility pole located in the right-
653 of-way within:

654 a. A retirement community that:

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

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

658 (III) Has underground utilities for electric transmission
659 or distribution.

660 b. A municipality that:

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

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

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

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

668 7. "Collocate" or "collocation" means to install, mount,
669 maintain, modify, operate, or replace one or more wireless
670 facilities on, under, within, or adjacent to a wireless support
671 structure or utility pole. The term does not include the
672 installation of a new utility pole or wireless support structure
673 in the public rights-of-way.

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

675 9. "Micro wireless facility" means a small wireless

676 facility having dimensions no larger than 24 inches in length,
677 15 inches in width, and 12 inches in height and an exterior
678 antenna, if any, no longer than 11 inches.

679 10. "Small wireless facility" means a wireless facility
680 that meets the following qualifications:

681 a. Each antenna associated with the facility is located
682 inside an enclosure of no more than 6 cubic feet in volume or,
683 in the case of antennas that have exposed elements, each antenna
684 and all of its exposed elements could fit within an enclosure of
685 no more than 6 cubic feet in volume; and

686 b. All other wireless equipment associated with the
687 facility is cumulatively no more than 28 cubic feet in volume.
688 The following types of associated ancillary equipment are not
689 included in the calculation of equipment volume: electric
690 meters, concealment elements, telecommunications demarcation
691 boxes, ground-based enclosures, grounding equipment, power
692 transfer switches, cutoff switches, vertical cable runs for the
693 connection of power and other services, and utility poles or
694 other support structures.

695 11. "Utility pole" means a pole or similar structure that
696 is used in whole or in part to provide communications services
697 or for electric distribution, lighting, traffic control,
698 signage, or a similar function. The term includes the vertical
699 support structure for traffic lights but does not include a
700 horizontal structure to which signal lights or other traffic

701 control devices are attached and does not include a pole or
 702 similar structure 15 feet in height or less unless an authority
 703 grants a waiver for such pole.

704 12. "Wireless facility" means equipment at a fixed
 705 location which enables wireless communications between user
 706 equipment and a communications network, including radio
 707 transceivers, antennas, wires, coaxial or fiber-optic cable or
 708 other cables, regular and backup power supplies, and comparable
 709 equipment, regardless of technological configuration, and
 710 equipment associated with wireless communications. The term
 711 includes small wireless facilities. The term does not include:

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

714 b. Wireline backhaul facilities; or

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

718 13. "Wireless infrastructure provider" means a person who
 719 has been certificated under chapter 364 to provide
 720 telecommunications service ~~in the state~~ or under chapter 610 to
 721 provide cable or video services in this state, or that person's
 722 affiliate, and who builds or installs wireless communication
 723 transmission equipment, wireless facilities, or wireless support
 724 structures but is not a wireless services provider.

725 14. "Wireless provider" means a wireless infrastructure

726 provider or a wireless services provider.

727 15. "Wireless services" means any services provided using
 728 licensed or unlicensed spectrum, whether at a fixed location or
 729 mobile, using wireless facilities.

730 16. "Wireless services provider" means a person who
 731 provides wireless services.

732 17. "Wireless support structure" means a freestanding
 733 structure, such as a monopole, a guyed or self-supporting tower,
 734 or another existing or proposed structure designed to support or
 735 capable of supporting wireless facilities. The term does not
 736 include a utility pole, pedestal, or other support structure for
 737 ground-based equipment not mounted on a utility pole and less
 738 than 5 feet in height.

739 (c) Except as provided in this subsection, an authority
 740 may not prohibit, regulate, or charge for the collocation of
 741 small wireless facilities in the public rights-of-way or for the
 742 installation, maintenance, modification, operation, or
 743 replacement of utility poles used for the collocation of small
 744 wireless facilities in the public rights-of-way.

745 (d) An authority may require a registration process and
 746 permit fees in accordance with subsection (3). An authority
 747 shall accept applications for permits and shall process and
 748 issue permits subject to the following requirements:

749 1. An authority may not directly or indirectly require an
 750 applicant to perform services unrelated to the collocation for

751 | which approval is sought, such as in-kind contributions to the
 752 | authority, including reserving fiber, conduit, or pole space for
 753 | the authority.

754 | 2. An applicant may not be required to provide more
 755 | information to obtain a permit than is necessary to demonstrate
 756 | the applicant's compliance with applicable codes for the
 757 | placement of small wireless facilities in the locations
 758 | identified in the application. An applicant may not be required
 759 | to provide inventories, maps, or locations of communications
 760 | facilities in the rights-of-way other than as necessary to avoid
 761 | interference with other at-grade or aerial facilities located at
 762 | the specific location proposed for a small wireless facility or
 763 | within 50 feet of such location.

- 764 | 3. An authority may not:
- 765 | a. Require the placement of small wireless facilities on
 766 | any specific utility pole or category of poles; ~~or~~
 - 767 | b. Require the placement of multiple antenna systems on a
 768 | single utility pole;
 - 769 | c. Require a demonstration that collocation of a small
 770 | wireless facility on an existing structure is not legally or
 771 | technically possible as a condition for granting a permit for
 772 | the collocation of a small wireless facility on a new utility
 773 | pole except as provided in paragraph (i);
 - 774 | d. Require compliance with an authority's provisions
 775 | regarding placement of small wireless facilities or a new

776 utility pole used to support a small wireless facility in
777 rights-of-way under the control of the department unless the
778 authority has received a delegation from the department for the
779 location of the small wireless facility or utility pole, or
780 require such compliance as a condition to receive a permit that
781 is ancillary to the permit for collocation of a small wireless
782 facility, including an electrical permit;

783 e. Require a meeting before filing an application;
784 f. Require direct or indirect public notification or a
785 public meeting for the placement of communication facilities in
786 the right-of-way;

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

790 h. Prohibit the installation of a new utility pole used to
791 support the collocation of a small wireless facility if the
792 installation otherwise meets the requirements of this
793 subsection;

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

796 4. Subject to paragraph (r), an authority may not limit
797 the placement, by minimum separation distances, of small
798 wireless facilities, utility poles on which small wireless
799 facilities are or will be collocated, or other at-grade
800 communications facilities ~~by minimum separation distances.~~

801 However, within 14 days after the date of filing the
802 application, an authority may request that the proposed location
803 of a small wireless facility be moved to another location in the
804 right-of-way and placed on an alternative authority utility pole
805 or support structure or placed on ~~may place~~ a new utility pole.
806 The authority and the applicant may negotiate the alternative
807 location, including any objective design standards and
808 reasonable spacing requirements for ground-based equipment, for
809 30 days after the date of the request. At the conclusion of the
810 negotiation period, if the alternative location is accepted by
811 the applicant, the applicant must notify the authority of such
812 acceptance and the application shall be deemed granted for any
813 new location for which there is agreement and all other
814 locations in the application. If an agreement is not reached,
815 the applicant must notify the authority of such nonagreement and
816 the authority must grant or deny the original application within
817 90 days after the date the application was filed. A request for
818 an alternative location, an acceptance of an alternative
819 location, or a rejection of an alternative location must be in
820 writing and provided by electronic mail.

821 5. An authority shall limit the height of a small wireless
822 facility to 10 feet above the utility pole or structure upon
823 which the small wireless facility is to be collocated. Unless
824 waived by an authority, the height for a new utility pole is
825 limited to the tallest existing utility pole as of July 1, 2017,

826 | located in the same right-of-way, other than a utility pole for
827 | which a waiver has previously been granted, measured from grade
828 | in place within 500 feet of the proposed location of the small
829 | wireless facility. If there is no utility pole within 500 feet,
830 | the authority shall limit the height of the utility pole to 50
831 | feet.

832 | 6. ~~Except as provided in subparagraphs 4. and 5.,~~ The
833 | installation by a communications services provider of a utility
834 | pole in the public rights-of-way, other than a utility pole used
835 | ~~designed~~ to support a small wireless facility, is ~~shall be~~
836 | subject to authority rules or regulations governing the
837 | placement of utility poles in the public rights-of-way ~~and~~
838 | ~~shall be subject to the application review timeframes in this~~
839 | ~~subsection.~~

840 | 7. Within 14 days after receiving an application, an
841 | authority must determine and notify the applicant by electronic
842 | mail as to whether the application is complete. If an
843 | application is deemed incomplete, the authority must
844 | specifically identify the missing information. An application is
845 | deemed complete if the authority fails to provide notification
846 | to the applicant within 14 days.

847 | 8. An application must be processed on a nondiscriminatory
848 | basis. A complete application is deemed approved if an authority
849 | fails to approve or deny the application within 60 days after
850 | receipt of the application. If an authority does not use the 30-

851 day negotiation period provided in subparagraph 4., the parties
852 may mutually agree to extend the 60-day application review
853 period. The authority shall grant or deny the application at the
854 end of the extended period. A permit issued pursuant to an
855 approved application shall remain effective for 1 year unless
856 extended by the authority.

857 9. An authority must notify the applicant of approval or
858 denial by electronic mail. An authority shall approve a complete
859 application unless it does not meet the authority's applicable
860 codes. If the application is denied, the authority must specify
861 in writing the basis for denial, including the specific code
862 provisions on which the denial was based, and send the
863 documentation to the applicant by electronic mail on the day the
864 authority denies the application. The applicant may cure the
865 deficiencies identified by the authority and resubmit the
866 application within 30 days after notice of the denial is sent to
867 the applicant. The authority shall approve or deny the revised
868 application within 30 days after receipt or the application is
869 deemed approved. The review of a revised application is ~~Any~~
870 ~~subsequent review shall be~~ limited to the deficiencies cited in
871 the denial. If an authority provides for administrative review
872 of the denial of an application, the review must be complete and
873 a written decision issued within 45 days after a written request
874 for review is made. A denial must identify the specific code
875 provisions on which the denial is based. If the administrative

876 review is not complete within 45 days, the city or county waives
877 any claim regarding failure to exhaust administrative remedies
878 in any judicial review of the denial of an application.

879 10. An applicant seeking to collocate small wireless
880 facilities within the jurisdiction of a single authority may, at
881 the applicant's discretion, file a consolidated application and
882 receive a single permit for the collocation of up to 30 small
883 wireless facilities. If the application includes multiple small
884 wireless facilities, an authority may separately address small
885 wireless facility collocations for which incomplete information
886 has been received or which are denied.

887 11. An authority may deny an application to collocate a
888 ~~proposed collocation of~~ a small wireless facility or place a
889 utility pole used to support a small wireless facility in the
890 public rights-of-way if the proposed small wireless facility or
891 utility pole used to support a small wireless facility
892 collocation:

893 a. Materially interferes with the safe operation of
894 traffic control equipment.

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

897 c. Materially interferes with compliance with the
898 Americans with Disabilities Act or similar federal or state
899 standards regarding pedestrian access or movement.

900 d. Materially fails to comply with the 2017 ~~2010~~ edition

901 of the Florida Department of Transportation Utility
902 Accommodation Manual.

903 e. Fails to comply with applicable codes.

904 f. Fails to comply with objective design standards
905 authorized under paragraph (r).

906 12. An authority may adopt by ordinance provisions for
907 insurance coverage, indemnification, ~~performance bonds, security~~
908 ~~funds,~~ force majeure, abandonment, authority liability, or
909 authority warranties. Such provisions must be reasonable and
910 nondiscriminatory. An authority may require a construction bond
911 to secure restoration of the postconstruction rights-of-way to
912 the preconstruction condition. However, such bond must be time-
913 limited to not more than 18 months after the construction to
914 which the bond applies is completed. For any financial
915 obligation required by an authority allowed under this section,
916 the authority shall accept a letter of credit or similar
917 financial instrument issued by any financial institution that is
918 authorized to do business within the United States, provided
919 that a claim against the financial instrument may be made by
920 electronic means, including by facsimile. A provider of
921 communications services may add an authority to any existing
922 bond, insurance policy, or other relevant financial instrument,
923 and the authority must accept such proof of coverage without any
924 conditions other than consent to venue for purposes of any
925 litigation to which the authority is a party. An authority may

926 not require a communications services provider to indemnify it
927 for liabilities not caused by the provider, including
928 liabilities arising from the authority's negligence, gross
929 negligence, or willful conduct.

930 13. Collocation of a small wireless facility on an
931 authority utility pole does not provide the basis for the
932 imposition of an ad valorem tax on the authority utility pole.

933 14. An authority may reserve space on authority utility
934 poles for future public safety uses. However, a reservation of
935 space may not preclude collocation of a small wireless facility.
936 If replacement of the authority utility pole is necessary to
937 accommodate the collocation of the small wireless facility and
938 the future public safety use, the pole replacement is subject to
939 make-ready provisions and the replaced pole shall accommodate
940 the future public safety use.

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

944 (e) An authority may not require any permit or other
945 approval or require fees, or other charges, costs, or other
946 exactions for:

947 1. Routine maintenance, the performance of service
948 restoration work on existing facilities, or repair work,
949 including, but not limited to, emergency repairs of existing
950 facilities or extensions of such facilities for providing

951 communications services to customers;

952 2. Replacement of existing wireless facilities with
953 wireless facilities that are substantially similar or of the
954 same or smaller size; or

955 3. Installation, placement, maintenance, or replacement of
956 micro wireless facilities that are suspended on cables strung
957 between existing utility poles in compliance with applicable
958 codes by or for a communications services provider authorized to
959 occupy the rights-of-way and who is remitting taxes under
960 chapter 202. An authority may require an initial letter from or
961 on behalf of such provider, which is effective upon filing,
962 attesting that the micro wireless facility dimensions comply
963 with the limits of this subsection. The authority may not
964 require any additional filing or other information as long as
965 the provider is deploying the same, a substantially similar, or
966 a smaller size micro wireless facility equipment.

967
968 Notwithstanding this paragraph, an authority may require a
969 right-of-way permit for work that involves excavation, closure
970 of a sidewalk, or closure of a vehicular lane or parking lane,
971 unless the provider is performing service restoration on an
972 existing facility and the work is done in compliance with the
973 2017 edition of the Florida Department of Transportation Utility
974 Accommodation Manual. An authority may require notice of such
975 work within 30 days after restoration and may require an after-

976 | the-fact permit for work which would otherwise have required a
 977 | permit.

978 | (f) Collocation of small wireless facilities on authority
 979 | utility poles is subject to the following requirements:

980 | 1. An authority may not enter into an exclusive
 981 | arrangement with any person for the right to attach equipment to
 982 | authority utility poles.

983 | 2. The rates and fees for collocations on authority
 984 | utility poles must be nondiscriminatory, regardless of the
 985 | services provided by the collocating person.

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

988 | 4. Agreements between authorities and wireless providers
 989 | that are in effect on July 1, 2017, and that relate to the
 990 | collocation of small wireless facilities in the right-of-way,
 991 | including the collocation of small wireless facilities on
 992 | authority utility poles, remain in effect, subject to applicable
 993 | termination provisions. The wireless provider may accept the
 994 | rates, fees, and terms established under this subsection for
 995 | small wireless facilities and utility poles that are the subject
 996 | of an application submitted after the rates, fees, and terms
 997 | become effective.

998 | 5. A person owning or controlling an authority utility
 999 | pole shall offer rates, fees, and other terms that comply with
 1000 | this subsection. By the later of January 1, 2018, or 3 months

1001 after receiving a request to collocate its first small wireless
1002 facility on a utility pole owned or controlled by an authority,
1003 the person owning or controlling the authority utility pole
1004 shall make available, through ordinance or otherwise, rates,
1005 fees, and terms for the collocation of small wireless facilities
1006 on the authority utility pole which comply with this subsection.

1007 a. The rates, fees, and terms must be nondiscriminatory
1008 and competitively neutral and must comply with this subsection.

1009 b. For an authority utility pole that supports an aerial
1010 facility used to provide communications services or electric
1011 service, the parties shall comply with the process for make-
1012 ready work under 47 U.S.C. s. 224 and implementing regulations.
1013 The good faith estimate of the person owning or controlling the
1014 pole for any make-ready work necessary to enable the pole to
1015 support the requested collocation must include pole replacement
1016 if necessary.

1017 c. For an authority utility pole that does not support an
1018 aerial facility used to provide communications services or
1019 electric service, the authority shall provide a good faith
1020 estimate for any make-ready work necessary to enable the pole to
1021 support the requested collocation, including necessary pole
1022 replacement, within 60 days after receipt of a complete
1023 application. Make-ready work, including any pole replacement,
1024 must be completed within 60 days after written acceptance of the
1025 good faith estimate by the applicant. Alternatively, an

1026 authority may require the applicant seeking to collocate a small
1027 wireless facility to provide a make-ready estimate at the
1028 applicant's expense for the work necessary to support the small
1029 wireless facility, including pole replacement, and perform the
1030 make-ready work. If pole replacement is required, the scope of
1031 the make-ready estimate is limited to the design, fabrication,
1032 and installation of a utility pole that is substantially similar
1033 in color and composition. The authority may not condition or
1034 restrict the manner in which the applicant obtains, develops, or
1035 provides the estimate or conducts the make-ready work subject to
1036 usual construction restoration standards for work in the right-
1037 of-way. The replaced or altered utility pole shall remain the
1038 property of the authority.

1039 d. An authority may not require more make-ready work than
1040 is required to meet applicable codes or industry standards. Fees
1041 for make-ready work may not include costs related to preexisting
1042 damage or prior noncompliance. Fees for make-ready work,
1043 including any pole replacement, may not exceed actual costs or
1044 the amount charged to communications services providers other
1045 than wireless services providers for similar work and may not
1046 include any consultant fee or expense.

1047 (g) For any applications filed before the effective date
1048 of ordinances implementing this subsection, an authority may
1049 apply current ordinances relating to placement of communications
1050 facilities in the right-of-way related to registration,

1051 permitting, insurance coverage, indemnification, ~~performance~~
 1052 ~~bonds, security funds,~~ force majeure, abandonment, authority
 1053 liability, or authority warranties. Permit application
 1054 requirements and small wireless facility placement requirements,
 1055 including utility pole height limits, that conflict with this
 1056 subsection must ~~shall~~ be waived by the authority. An authority
 1057 may not institute, either expressly or de facto, a moratorium,
 1058 zoning-in-progress, or other mechanism that would prohibit or
 1059 delay the filing, receiving, or processing of registrations,
 1060 applications, or issuing of permits or other approvals for the
 1061 collocation of small wireless facilities or the installation,
 1062 modification, or replacement of utility poles used to support
 1063 the collocation of small wireless facilities.

1064 (i) 1. In an area where an authority has required all
 1065 public utility lines in the rights-of-way to be placed
 1066 underground, a wireless provider must comply with written,
 1067 objective, reasonable, and nondiscriminatory requirements that
 1068 prohibit new utility poles used to support small wireless
 1069 facilities if:

1070 a. The authority, at least 90 days prior to the submission
 1071 of an application, has required all public utility lines to be
 1072 placed underground;

1073 b. Structures that the authority allows to remain above
 1074 ground are reasonably available to wireless providers for the
 1075 collocation of small wireless facilities and may be replaced by

1076 a wireless provider to accommodate the collocation of small
1077 wireless facilities; and

1078 c. A wireless provider may install a new utility pole in
1079 the designated area in the right-of-way that otherwise complies
1080 with this subsection and it is not reasonably able to provide
1081 wireless service by collocating on a remaining utility pole or
1082 other structure in the right-of-way.

1083 2. For small wireless facilities installed before an
1084 authority adopts requirements that public utility lines be
1085 placed underground, an authority adopting such requirements
1086 must:

1087 a. Allow a wireless provider to maintain the small
1088 wireless facilities in place subject to any applicable pole
1089 attachment agreement with the pole owner ; or

1090 b. Allow the wireless provider to replace the associated
1091 pole within 50 feet of the prior location in accordance with
1092 paragraph (r). A wireless provider shall, in relation to a small
1093 wireless facility, utility pole, or wireless support structure
1094 in the public rights-of-way, comply with nondiscriminatory
1095 undergrounding requirements of an authority that prohibit above-
1096 ground structures in public rights-of-way. Any such requirements
1097 may be waived by the authority.

1098 (r) An authority may require wireless providers to comply
1099 with objective design standards adopted by ordinance. The
1100 ordinance may only require:

1101 1. A new utility pole that replaces an existing utility
1102 pole to be of substantially similar design, material, and color;

1103 2. Reasonable spacing requirements concerning the location
1104 of a ground-mounted component of a small wireless facility which
1105 does not exceed 15 feet from the associated support structure;
1106 or

1107 3. A small wireless facility to meet reasonable location
1108 context, color, camouflage, and concealment requirements,
1109 subject to the limitations in this subsection; and

1110 4. A new utility pole used to support a small wireless
1111 facility to meet reasonable location context, color, and
1112 material of the predominant utility pole type at the proposed
1113 location of the new utility pole.

1114
1115 Such design standards under this paragraph may be waived by the
1116 authority upon a showing that the design standards are not
1117 reasonably compatible for the particular location of a small
1118 wireless facility or utility pole or are technically infeasible
1119 or that the design standards impose an excessive expense. The
1120 waiver must be granted or denied within 45 days after the date
1121 of the request.

1122 (8) (a) Any person aggrieved by a violation of this section
1123 may bring a civil action in a United States District Court or in
1124 any other court of competent jurisdiction.

1125 (b) The court may:

1126 1. Grant temporary or permanent injunctions on terms as it
 1127 may deem reasonable to prevent or restrain violations of this
 1128 section; and

1129 2. Direct the recovery of full costs, including awarding
 1130 reasonable attorney fees, to the party who prevails.

1131 (9) All work in the authority's rights-of-way under this
 1132 section must comply with the 2017 edition of the Florida
 1133 Department of Transportation Utility Accommodation Manual.

1134 Section 3. Nothing in this act shall be construed to delay
 1135 the issuance of permits for other utility work, including, but
 1136 not limited to, permits related to electricity or gas work in
 1137 the rights-of-way.

1138 Section 4. This act shall take effect July 1, 2019.