

601-2587A-07

Proposed Committee Substitute by the Committee on General Government Appropriations

1                                   A bill to be entitled

2           An act relating to emergency communications

3           systems; amending s. 365.171, F.S.;

4           redesignating the Florida Emergency Telephone

5           Act as the "Florida Emergency Communications

6           Number E911 State Plan Act"; providing

7           legislative intent; redefining the term

8           "office" to mean the Technology Program

9           designated by the Secretary of Management

10          Services; revising the duties of the office

11          regarding the state E911 system plan; revising

12          provisions for content of the plan; designating

13          the secretary as the director of the statewide

14          emergency communications number E911 system;

15          removing a provision authorizing the director

16          to employ certain persons; directing the Public

17          Service Commission to adopt rules relating to

18          coin-free 911 calls to be followed by the

19          telecommunications industry; requiring approval

20          of the office for establishing or expanding an

21          emergency communications number E911 system;

22          removing a provision for existing emergency

23          telephone service; authorizing the secretary of

24          the department to apply for and accept federal

25          funding assistance; removing provisions

26          relating to imposition and collection of the

27          911 fee and to the indemnification of local

28          telephone companies; removing a penalty for

29          reporting false information that may result in

30          an emergency response; amending s. 365.172,

31          F.S.; redesignating the Wireless Emergency

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1           Communications Act as the "Emergency  
2           Communications Number E911 Act"; providing  
3           legislative intent; revising definitions;  
4           providing for administration of the fees  
5           collected; redesignating the Wireless 911 Board  
6           as the E911 Board; revising membership, powers,  
7           duties, and responsibilities of the board;  
8           redesignating the Wireless E911 Fee as the E911  
9           Fee; requiring a study relating to collecting  
10          the fee on the sale of prepaid wireless  
11          service; revising provisions for use of revenue  
12          collected; providing for certain disbursements;  
13          providing for rates and collection from  
14          consumers of voice communication services;  
15          providing for the authorized use of the fees  
16          collected; providing for indemnification and  
17          limitation of liability for local exchange  
18          carriers; providing penalties for the misuse of  
19          the E911 system; authorizing additional  
20          positions and providing appropriations;  
21          providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. Section 365.171, Florida Statutes, is  
26 amended to read:

27           365.171 Emergency communications ~~telephone~~ number E911  
28 state plan. ~~"911."~~

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

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1           (2) LEGISLATIVE INTENT.--It is the intent of the  
2 Legislature that the communications number "911" be the  
3 designated emergency communications number. A public safety  
4 agency may not advertise or otherwise promote the use of any  
5 communications number for emergency response services other  
6 than "911." It is further the intent of the Legislature to  
7 ~~establish and~~ implement and continually update a cohesive  
8 statewide emergency communications ~~telephone~~ number "E911"  
9 ~~"911"~~ plan for enhanced 911 services which will provide  
10 citizens with rapid direct access to public safety agencies by  
11 ~~accessing dialing the telephone number~~ "911" with the  
12 objective of reducing the response time to situations  
13 requiring law enforcement, fire, medical, rescue, and other  
14 emergency services.

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

16           (a) "Office" means the Technology Program within the  
17 Department of Management Services, as designated by the  
18 secretary of the department ~~State Technology Office.~~

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

21           (c) "Public agency" means the state and any city,  
22 county, city and county, municipal corporation, chartered  
23 organization, public district, or public authority located in  
24 whole or in part within this state which provides, or has  
25 authority to provide, firefighting, law enforcement,  
26 ambulance, medical, or other emergency services.

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

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

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1 emergency communications E911 ~~telephone number "911"~~ system  
2 plan. The plan shall provide for:

3 (a) The ~~establishment of the~~ public agency emergency  
4 ~~telephone~~ communications requirements for each entity of local  
5 government in the state.

6 (b) A system to meet specific local government  
7 requirements. Such system shall include law enforcement,  
8 firefighting, and emergency medical services and may include  
9 other emergency services such as poison control, suicide  
10 prevention, and emergency management services.

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

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

16 ~~(e) A firm implementation schedule which shall include~~  
17 ~~the installation of the "911" system in a local community~~  
18 ~~within 24 months after the designated agency of the local~~  
19 ~~government gives a firm order to the telephone utility for a~~  
20 ~~"911" system.~~

21  
22 The office shall be responsible for the implementation and  
23 coordination of such plan. The office shall adopt any  
24 necessary rules and schedules related to public agencies for  
25 implementing and coordinating the ~~such~~ plan, pursuant to  
26 chapter 120. ~~The public agency designated in the plan shall~~  
27 ~~order such system within 6 months after publication date of~~  
28 ~~the plan if the public agency is in receipt of funds~~  
29 ~~appropriated by the Legislature for the implementation and~~  
30 ~~maintenance of the "911" system. Any jurisdiction which has~~  
31 ~~utilized local funding as of July 1, 1976, to begin the~~

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1 ~~implementation of the state plan as set forth in this section~~  
2 ~~shall be eligible for at least a partial reimbursement of its~~  
3 ~~direct cost when, and if, state funds are available for such~~  
4 ~~reimbursement.~~

5 (5) SYSTEM DIRECTOR.--The secretary of the department  
6 ~~director of the office~~ or his or her designee is designated as  
7 the director of the statewide emergency communications  
8 ~~telephone~~ number E911 "911" system and, for the purpose of  
9 carrying out the provisions of this section, is authorized to  
10 coordinate the activities of the system with state, county,  
11 local, and private agencies. ~~The director is authorized to~~  
12 ~~employ not less than five persons, three of whom will be at~~  
13 ~~the professional level, one at the secretarial level, and one~~  
14 ~~to fill a fiscal position, for the purpose of carrying out the~~  
15 ~~provisions of this section.~~ The director in implementing the  
16 system shall consult, cooperate, and coordinate with local law  
17 enforcement agencies.

18 (6) REGIONAL SYSTEMS.--~~Nothing in This section does~~  
19 not shall be construed to prohibit or discourage the formation  
20 of multijurisdictional or regional systems; and any system  
21 established pursuant to this section may include the  
22 jurisdiction, or any portion thereof, of more than one public  
23 agency. It is the intent of the Legislature that E911 service  
24 be available throughout the state. Expenditure by counties of  
25 the E911 fee authorized and imposed under s. 365.172 should  
26 support this intent to the greatest extent feasible within the  
27 context of local service needs and fiscal capability. This  
28 section does not prohibit two or more counties from  
29 establishing a combined emergency E911 communications service  
30 by an interlocal agreement and using the fees authorized and  
31 imposed by s. 365.172 for such combined E911 service.

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1           (7) TELECOMMUNICATIONS ~~TELEPHONE~~ INDUSTRY  
 2 COORDINATION.--The office shall coordinate with the Florida  
 3 Public Service Commission which shall encourage the Florida  
 4 telecommunications ~~telephone~~ industry to activate facility  
 5 modification plans for a timely E911 ~~"911"~~ implementation.

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

12           (9) SYSTEM APPROVAL.--No emergency communications  
 13 ~~telephone~~ number E911 ~~"911"~~ system shall be established and no  
 14 present system shall be expanded without prior approval of the  
 15 office.

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

20           ~~(11) EXISTING EMERGENCY TELEPHONE SERVICE.--Any~~  
 21 ~~emergency telephone number established by any local government~~  
 22 ~~or state agency prior to July 1, 1974, using a number other~~  
 23 ~~than "911" shall be changed to "911" on the same~~  
 24 ~~implementation schedule provided in paragraph (4)(e).~~

25           ~~(11)(12)~~ FEDERAL ASSISTANCE.--The secretary of the  
 26 department ~~office~~ or his or her designee may apply for and  
 27 accept federal funding assistance in the development and  
 28 implementation of a statewide emergency communications  
 29 ~~telephone~~ number E911 ~~"911"~~ system.

30           ~~(13) "911" FEE.--~~

31           ~~(a) Following approval by referendum as set forth in~~

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1 ~~paragraph (b), or following approval by a majority vote of its~~  
2 ~~board of county commissioners, a county may impose a "911" fee~~  
3 ~~to be paid by the local exchange subscribers within its~~  
4 ~~boundaries served by the "911" service. Proceeds from the~~  
5 ~~"911" fee shall be used only for "911" expenditures as set~~  
6 ~~forth in subparagraph 6. The manner of imposing and collecting~~  
7 ~~said payment shall be as follows:~~

8         1. ~~At the request of the county subscribing to "911"~~  
9 ~~service, the telephone company shall, insofar as is~~  
10 ~~practicable, bill the "911" fee to the local exchange~~  
11 ~~subscribers served by the "911" service, on an individual~~  
12 ~~access line basis, at a rate not to exceed 50 cents per month~~  
13 ~~per line (up to a maximum of 25 access lines per account bill~~  
14 ~~rendered). However, the fee may not be assessed on any pay~~  
15 ~~telephone in this state. A county collecting the fee for the~~  
16 ~~first time may collect the fee for no longer than 36 months~~  
17 ~~without initiating the acquisition of its "911" equipment.~~

18         2. ~~Fees collected by the telephone company pursuant to~~  
19 ~~subparagraph 1. shall be returned to the county, less the~~  
20 ~~costs of administration retained pursuant to paragraph (c).~~  
21 ~~The county shall provide a minimum of 90 days' written notice~~  
22 ~~to the telephone company prior to the collection of any "911"~~  
23 ~~fees.~~

24         3. ~~Any county that currently has an operational "911"~~  
25 ~~system or that is actively pursuing the implementation of a~~  
26 ~~"911" system shall establish a fund to be used exclusively for~~  
27 ~~receipt and expenditure of "911" fee revenues collected~~  
28 ~~pursuant to this section. All fees placed in said fund, and~~  
29 ~~any interest accrued thereupon, shall be used solely for "911"~~  
30 ~~costs described in subparagraph 6. The money collected and~~  
31 ~~interest earned in this fund shall be appropriated for "911"~~

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~~1 purposes by the county commissioners and incorporated into the  
 2 annual county budget. Such fund shall be included within the  
 3 financial audit performed in accordance with s. 218.39. A  
 4 report of the audit shall be forwarded to the office within 60  
 5 days of its completion. A county may carry forward on an  
 6 annual basis unspent moneys in the fund for expenditures  
 7 allowed by this section, or it may reduce its fee. However, in  
 8 no event shall a county carry forward more than 10 percent of  
 9 the "911" fee billed for the prior year. The amount of moneys  
 10 carried forward each year may be accumulated in order to allow  
 11 for capital improvements described in this subsection. The  
 12 carryover shall be documented by resolution of the board of  
 13 county commissioners expressing the purpose of the carryover  
 14 or by an adopted capital improvement program identifying  
 15 projected expansion or replacement expenditures for "911"  
 16 equipment and service features, or both. In no event shall the  
 17 "911" fee carryover surplus moneys be used for any purpose  
 18 other than for the "911" equipment, service features, and  
 19 installation charges authorized in subparagraph 6. Nothing in  
 20 this section shall prohibit a county from using other sources  
 21 of revenue for improvements, replacements, or expansions of  
 22 its "911" system. A county may increase its fee for purposes  
 23 authorized in this section. However, in no case shall the fee  
 24 exceed 50 cents per month per line. All current "911" fees  
 25 shall be reported to the office within 30 days of the start of  
 26 each county's fiscal period. Any fee adjustment made by a  
 27 county shall be reported to the office. A county shall give  
 28 the telephone company a 90-day written notice of such fee  
 29 adjustment.~~

~~30 4. The telephone company shall have no obligation to  
 31 take any legal action to enforce collection of the "911" fee.~~

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1 ~~The telephone company shall provide quarterly to the county a~~  
2 ~~list of the names, addresses, and telephone numbers of any and~~  
3 ~~all subscribers who have identified to the telephone company~~  
4 ~~their refusal to pay the "911" fee.~~

5 ~~5. The county subscribing to "911" service shall~~  
6 ~~remain liable to the telephone company for any "911" service,~~  
7 ~~equipment, operation, or maintenance charge owed by the county~~  
8 ~~to the telephone company.~~

9  
10 ~~As used in this paragraph, "telephone company" means an~~  
11 ~~exchange telephone service provider of "911" service or~~  
12 ~~equipment to any county within its certificated area.~~

13 ~~6. It is the intent of the Legislature that the "911"~~  
14 ~~fee authorized by this section to be imposed by counties will~~  
15 ~~not necessarily provide the total funding required for~~  
16 ~~establishing or providing the "911" service. For purposes of~~  
17 ~~this section, "911" service includes the functions of database~~  
18 ~~management, call taking, location verification, and call~~  
19 ~~transfer. The following costs directly attributable to the~~  
20 ~~establishment and/or provision of "911" service are eligible~~  
21 ~~for expenditure of moneys derived from imposition of the "911"~~  
22 ~~fee authorized by this section: the acquisition,~~  
23 ~~implementation, and maintenance of Public Safety Answering~~  
24 ~~Point (PSAP) equipment and "911" service features, as defined~~  
25 ~~in the Florida Public Service Commission's lawfully approved~~  
26 ~~"911" and related tariffs and/or the acquisition,~~  
27 ~~installation, and maintenance of other "911" equipment,~~  
28 ~~including call answering equipment, call transfer equipment,~~  
29 ~~ANI controllers, ALI controllers, ANI displays, ALI displays,~~  
30 ~~station instruments, "911" telecommunications systems,~~  
31 ~~teleprinters, logging recorders, instant playback recorders,~~

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1 ~~telephone devices for the deaf (TDD) used in the "911" system,~~  
2 ~~PSAP backup power systems, consoles, automatic call~~  
3 ~~distributors, and interfaces (hardware and software) for~~  
4 ~~computer aided dispatch (CAD) systems; salary and associated~~  
5 ~~expenses for "911" call takers for that portion of their time~~  
6 ~~spent taking and transferring "911" calls; salary and~~  
7 ~~associated expenses for a county to employ a full-time~~  
8 ~~equivalent "911" coordinator position and a full-time~~  
9 ~~equivalent staff assistant position per county for the portion~~  
10 ~~of their time spent administrating the "911" system; training~~  
11 ~~costs for PSAP call takers in the proper methods and~~  
12 ~~techniques used in taking and transferring "911" calls; and~~  
13 ~~expenses required to develop and maintain all information (ALI~~  
14 ~~and ANI databases and other information source repositories)~~  
15 ~~necessary to properly inform call takers as to location~~  
16 ~~address, type of emergency, and other information directly~~  
17 ~~relevant to the "911" call taking and transferring function.~~  
18 ~~No wireless telephone service provider shall be required to~~  
19 ~~participate in any pilot project or to otherwise implement a~~  
20 ~~nonemergency "311" system or similar nonemergency system. The~~  
21 ~~"911" fee revenues shall not be used to pay for any item not~~  
22 ~~listed, including, but not limited to, any capital or~~  
23 ~~operational costs for emergency responses which occur after~~  
24 ~~the call transfer to the responding public safety entity and~~  
25 ~~the costs for constructing buildings, leasing buildings,~~  
26 ~~maintaining buildings, or renovating buildings, except for~~  
27 ~~those building modifications necessary to maintain the~~  
28 ~~security and environmental integrity of the PSAP and "911"~~  
29 ~~equipment rooms.~~

30           7. ~~It is the goal of the Legislature that enhanced~~  
31 ~~"911" service be available throughout the state. Expenditure~~

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1 ~~by counties of the "911" fees authorized by this section~~  
 2 ~~should support this goal to the greatest extent feasible~~  
 3 ~~within the context of local service needs and fiscal~~  
 4 ~~capability. Nothing in this section shall be construed to~~  
 5 ~~prohibit two or more counties from establishing a combined~~  
 6 ~~emergency "911" telephone service by interlocal agreement and~~  
 7 ~~utilizing the "911" fees authorized by this section for such~~  
 8 ~~combined "911" service.~~

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

13  
 14       ~~.... I am in favor of the "911" emergency telephone~~  
 15 ~~system fee.~~

16       ~~.... I am against the "911" emergency telephone system~~  
 17 ~~fee.~~

18  
 19 ~~If a majority of the electors voting on the question approve~~  
 20 ~~the fee, it may be imposed by the county.~~

21       ~~(c) Any county imposing a "911" fee in accordance with~~  
 22 ~~the provisions of this subsection shall allow the telephone~~  
 23 ~~company to retain as an administrative fee an amount equal to~~  
 24 ~~1 percent of the total "911" fee collected by the telephone~~  
 25 ~~company.~~

26       ~~(14) INDEMNIFICATION AND LIMITATION OF LIABILITY.--All~~  
 27 ~~local governments are authorized to undertake to indemnify the~~  
 28 ~~telephone company against liability in accordance with the~~  
 29 ~~telephone company's lawfully filed tariffs. Regardless of any~~  
 30 ~~indemnification agreement, a telephone company or commercial~~  
 31 ~~mobile radio service provider as defined in s. 364.02 shall~~

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1 ~~not be liable for damages resulting from or in connection with~~  
 2 ~~"911" service or identification of the telephone number,~~  
 3 ~~address, or name associated with any person accessing "911"~~  
 4 ~~service, unless the telephone company or commercial radio~~  
 5 ~~service provider acted with malicious purpose or in a manner~~  
 6 ~~exhibiting wanton and willful disregard of human rights,~~  
 7 ~~safety, or property in providing such services.~~

8       (12)(15) CONFIDENTIALITY OF RECORDS.--Any record,  
 9 recording, or information, or portions thereof, obtained by a  
 10 public agency or a public safety agency for the purpose of  
 11 providing services in an emergency and which reveals the name,  
 12 address, telephone number, or personal information about, or  
 13 information which may identify any person requesting emergency  
 14 service or reporting an emergency by accessing an emergency  
 15 communications E911 ~~telephone number "911"~~ system is  
 16 confidential and exempt from the provisions of s. 119.07(1)  
 17 and s. 24(a), Art. I of the State Constitution, except that  
 18 such record or information may be disclosed to a public safety  
 19 agency. The exemption applies only to the name, address,  
 20 telephone number or personal information about, or information  
 21 which may identify any person requesting emergency services or  
 22 reporting an emergency while such information is in the  
 23 custody of the public agency or public safety agency providing  
 24 emergency services. A telecommunications ~~telephone~~ company or  
 25 commercial mobile radio service provider shall not be liable  
 26 for damages to any person resulting from or in connection with  
 27 such telephone company's or commercial mobile radio service  
 28 provider's provision of any lawful assistance to any  
 29 investigative or law enforcement officer of the State of  
 30 Florida or political subdivisions thereof, of the United  
 31 States, or of any other state or political subdivision

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1 thereof, in connection with any lawful investigation or other  
2 law enforcement activity by such law enforcement officer  
3 unless the telecommunications ~~telephone~~ company or commercial  
4 mobile radio service provider acted in a wanton and willful  
5 manner.

6 ~~(16) FALSE "911" CALLS.--Whoever accesses the number  
7 "911" for the purpose of making a false alarm or complaint or  
8 reporting false information which could result in the  
9 emergency response of any public safety agency is guilty of a  
10 misdemeanor of the first degree, punishable as provided in s.  
11 775.082 or s. 775.083.~~

12 Section 2. Section 365.172, Florida Statutes, is  
13 amended to read:

14 365.172 ~~Wireless~~ Emergency communications ~~telephone~~  
15 number "E911."--

16 (1) SHORT TITLE.--This section may be cited as the  
17 "~~Wireless~~ Emergency Communications Number E911 Act."

18 (2) ~~FINDINGS, PURPOSE, AND LEGISLATIVE INTENT.--The~~  
19 ~~Legislature finds and declares that:~~

20 ~~(a) The mobile nature of wireless communications~~  
21 ~~service creates complexities for providing 911 emergency~~  
22 ~~services.~~

23 ~~(b) Wireless telephone service providers are required~~  
24 ~~by the Federal Communications Commission to provide wireless~~  
25 ~~enhanced 911 (E911) service in the form of automatic location~~  
26 ~~identification and automatic number identification pursuant to~~  
27 ~~the terms and conditions set forth in an order issued by the~~  
28 ~~Federal Communications Commission.~~

29 ~~(c) Wireless telephone service providers and counties~~  
30 ~~that operate 911 and E911 systems require adequate funding to~~  
31 ~~recover the costs of designing, purchasing, installing,~~

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1 ~~testing, and operating enhanced facilities, systems, and~~  
 2 ~~services necessary to comply with the requirements for E911~~  
 3 ~~services mandated by the Federal Communications Commission and~~  
 4 ~~to maximize the availability of E911 services throughout this~~  
 5 ~~state.~~

6 ~~(d) The revenues generated by the E911 fee imposed~~  
 7 ~~under this section are required to fund the efforts of the~~  
 8 ~~counties, the Wireless 911 Board under the State Technology~~  
 9 ~~Office, and commercial mobile radio service providers to~~  
 10 ~~improve the public health, safety, and welfare and serve a~~  
 11 ~~public purpose by providing emergency telephone assistance~~  
 12 ~~through wireless communications.~~

13 ~~(e) It is necessary and beneficial to levy a fee on~~  
 14 ~~wireless services and to create the Wireless 911 Board to~~  
 15 ~~administer fee proceeds as provided in this section.~~

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

17 ~~(a)1. Establish and implement a comprehensive~~  
 18 ~~statewide emergency telecommunications ~~telephone~~ number system~~  
 19 ~~that will provide users of voice communications services~~  
 20 ~~within the state ~~wireless telephone users with rapid direct~~~~  
 21 ~~access to public safety agencies by accessing ~~dialing~~ the~~  
 22 ~~telephone number "911."~~

23 ~~(b)2. Provide funds to counties ~~local governments~~ to~~  
 24 ~~pay certain costs associated with their E911 or the cost of~~  
 25 ~~installing and operating wireless 911 systems, to contract for~~  
 26 ~~E911 services, and to reimburse wireless telephone service~~  
 27 ~~providers for costs incurred to provide 911 or E911 ~~enhanced~~~~  
 28 ~~911 services.~~

29 ~~(c)3. Levy a reasonable fee on users of voice~~  
 30 ~~communications services, unless otherwise provided in this~~  
 31 ~~section, ~~subscribers of wireless telephone service to~~~~

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1 accomplish these purposes.

2 (d) Provide for an E911 board to administer the fee,  
3 with oversight by the office, in a manner that is  
4 competitively and technologically neutral as to all voice  
5 communications services providers.

6 (e) Ensure that the fee established is used  
7 exclusively for recovery by wireless providers and by counties  
8 for costs associated with developing and maintaining E911  
9 systems and networks in a manner that is competitively and  
10 technologically neutral as to all voice communications  
11 services providers.

12  
13 It is further the intent of the Legislature that the fee  
14 authorized or imposed by this section not necessarily provide  
15 the total funding required for establishing or providing E911  
16 service.

17 (3) DEFINITIONS.--Only as used in this section and ss.  
18 365.171, 365.173, and 365.174, the term:

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

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

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

28 (c) "Automatic location identification" means the  
29 capability of the E911 service which enables the automatic  
30 display of information that defines the approximate geographic  
31 location of the wireless telephone, or the location of the

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1 address of the wireline telephone, used to place a 911 call.

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

6 (e) "Board" or E911 Board means the board of directors  
 7 of the E911 ~~Wireless 911~~ Board established in subsection (5).

8 (f) "Building permit review" means a review for  
 9 compliance with building construction standards adopted by the  
 10 local government under chapter 553 and does not include a  
 11 review for compliance with land development regulations.

12 (g) "Collocation" means the situation when a second or  
 13 subsequent wireless provider uses an existing structure to  
 14 locate a second or subsequent antennae. The term includes the  
 15 ground, platform, or roof installation of equipment  
 16 enclosures, cabinets, or buildings, and cables, brackets, and  
 17 other equipment associated with the location and operation of  
 18 the antennae.

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

22 (i) "E911" is the designation for an ~~a wireless~~  
 23 enhanced 911 system or ~~wireless~~ enhanced 911 service that is  
 24 an emergency telephone system or service that provides a  
 25 subscriber with ~~wireless~~ 911 service and, in addition, directs  
 26 911 calls to appropriate public safety answering points by  
 27 selective routing based on the geographical location from  
 28 which the call originated, or as otherwise provided in the  
 29 state plan under s. 365.171, and that provides for automatic  
 30 number identification and automatic location-identification  
 31 features. E911 service provided by a wireless provider means

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1 E911 as defined in the order ~~in accordance with the~~  
2 ~~requirements of the order.~~

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

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

10 (l) "Fund" means the ~~Wireless~~ Emergency Communications  
11 Number E911 Telephone System Fund established in s. 365.173  
12 and maintained under this section for the purpose of  
13 recovering the costs associated with providing 911 service or  
14 E911 service, including the costs of implementing the order.  
15 The fund shall be segregated into wireless and nonwireless  
16 categories.

17 (m) "Historic building, structure, site, object, or  
18 district" means any building, structure, site, object, or  
19 district that has been officially designated as a historic  
20 building, historic structure, historic site, historic object,  
21 or historic district through a federal, state, or local  
22 designation program.

23 (n) "Land development regulations" means any ordinance  
24 enacted by a local government for the regulation of any aspect  
25 of development, including an ordinance governing zoning,  
26 subdivisions, landscaping, tree protection, or signs, the  
27 local government's comprehensive plan, or any other ordinance  
28 concerning any aspect of the development of land. The term  
29 does not include any building construction standard adopted  
30 under and in compliance with chapter 553.

31 (o) "Local exchange carrier" means a "competitive

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1 local exchange telecommunications company" or a "local  
2 exchange telecommunications company" as defined in s. 364.02.

3 (p) "Local government" means any municipality, county,  
4 or political subdivision or agency of a municipality, county,  
5 or political subdivision.

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

8 ~~(q)(r)~~ "Mobile telephone number" or "MTN" means the  
9 telephone number assigned to a wireless telephone at the time  
10 of initial activation.

11 (r) "Nonwireless category" means the revenues to the  
12 fund received from voice communications services providers  
13 other than wireless providers.

14 (s) "Office" means the Technology Program within the  
15 Department of Management Services, as designated by the  
16 secretary of the department ~~State Technology Office.~~

17 (t) "Order" means:

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

20 a. Order adopted on June 12, 1996, with an effective  
21 date of October 1, 1996, the amendments to s. 20.03 and the  
22 creation of s. 20.18 of Title 47 of the Code of Federal  
23 Regulations adopted by the Federal Communications Commission  
24 pursuant to such order.

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

27 c. Order No. FCC DA 98-2323 adopted on November 13,  
28 1998.

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

30 2. Orders and rules subsequently adopted by the  
31 Federal Communications Commission relating to the provision of

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1 ~~wireless~~ 911 services, including Order Number FCC-05-116,  
2 adopted May 19, 2005.

3 (u) "Prepaid calling arrangements" has the same  
4 meaning as defined in s. 212.05(1)(e) ~~wireless telephone~~  
5 ~~service" means wireless telephone service that is activated in~~  
6 ~~advance by payment for a finite dollar amount of service or~~  
7 ~~for a finite set of minutes that terminate either upon use by~~  
8 ~~a customer and delivery by the wireless provider of an~~  
9 ~~agreed-upon amount of service corresponding to the total~~  
10 ~~dollar amount paid in advance or within a certain period of~~  
11 ~~time following the initial purchase or activation, unless~~  
12 ~~additional payments are made.~~

13 ~~(v) "Provider" or "wireless provider" means a person~~  
14 ~~or entity who provides service and either:~~  
15 1. ~~Is subject to the requirements of the order; or~~  
16 2. ~~Elects to provide wireless 911 service or E911~~  
17 ~~service in this state.~~

18 ~~(v)(w)~~ "Public agency" means the state and any  
19 municipality, county, municipal corporation, or other  
20 governmental entity, public district, or public authority  
21 located in whole or in part within this state which provides,  
22 or has authority to provide, firefighting, law enforcement,  
23 ambulance, medical, or other emergency services.

24 ~~(w)(x)~~ "Public safety agency" means a functional  
25 division of a public agency which provides firefighting, law  
26 enforcement, medical, or other emergency services.

27 ~~(x)(y)~~ "Rural county" means any county that has a  
28 population of fewer than 75,000.

29 (y) "Service identifier" means the service number,  
30 access line, or other unique subscriber identifier assigned to  
31 a subscriber and established by the Federal Communications

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1 Commission for purposes of routing calls whereby the  
 2 subscriber has access to the E911 system.

3 ~~(z) "Service" means "commercial mobile radio service"~~  
 4 ~~as provided under ss. 3(27) and 332(d) of the Federal~~  
 5 ~~Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,~~  
 6 ~~and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.~~  
 7 ~~103-66, August 10, 1993, 107 Stat. 312. The term "service"~~  
 8 ~~includes the term "wireless" and service provided by any~~  
 9 ~~wireless real-time two-way wire communication device,~~  
 10 ~~including radio-telephone communications used in cellular~~  
 11 ~~telephone service; personal communications service; or the~~  
 12 ~~functional or competitive equivalent of a radio-telephone~~  
 13 ~~communications line used in cellular telephone service, a~~  
 14 ~~personal communications service, or a network radio access~~  
 15 ~~line. The term does not include wireless providers that offer~~  
 16 ~~mainly dispatch service in a more localized, noncellular~~  
 17 ~~configuration; providers offering only data, one-way, or~~  
 18 ~~stored-voice services on an interconnected basis; providers of~~  
 19 ~~air-to-ground services; or public coast stations.~~

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

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

25 ~~(z)(cc) "Tower" means any structure designed primarily~~  
 26 ~~to support a wireless provider's antennae.~~

27 (aa) "Voice communications services" means two-way  
 28 voice service, through the use of any technology, which  
 29 actually provides access to E911 services, and includes  
 30 communications services, as defined in s. 202.11, which  
 31 actually provide access to E911 services and which are

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1 required to be included in the provision of E911 services  
 2 pursuant to orders and rules adopted by the Federal  
 3 Communications Commission. The term includes  
 4 voice-over-Internet-protocol service. For the purposes of this  
 5 section, the term "voice-over-Internet-protocol service" or  
 6 "VoIP service" means interconnected VoIP services having the  
 7 following characteristics:

8 1. The service enables real-time, two-way voice  
 9 communications;

10 2. The service requires a broadband connection from  
 11 the user's locations;

12 3. The service requires IP-compatible customer  
 13 premises equipment; and

14 4. The service offering allows users generally to  
 15 receive calls that originate on the public switched telephone  
 16 network and to terminate calls on the public switched  
 17 telephone network.

18 (bb) "Voice communications services provider" or  
 19 "provider" means any person or entity providing voice  
 20 communications services, except that the term does not include  
 21 any person or entity that resells voice communications service  
 22 and was assessed the fee by its resale supplier.

23 (cc) "Wireless 911 system" or "wireless 911 service"  
 24 means an emergency telephone system or service that provides a  
 25 subscriber with the ability to reach an answering point by  
 26 accessing the digits "911."

27 (dd) "Wireless category" means the revenues to the  
 28 fund received from a wireless provider.

29 (ee)~~(dd)~~ "Wireless communications facility" means any  
 30 equipment or facility used to provide service and may include,  
 31 but is not limited to, antennae, towers, equipment enclosures,

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1 cabling, antenna brackets, and other such equipment. Placing a  
2 wireless communications facility on an existing structure does  
3 not cause the existing structure to become a wireless  
4 communications facility.

5 (ff) "Wireless provider" means a person who provides  
6 wireless service and:

- 7 1. Is subject to the requirements of the order; or
- 8 2. Elects to provide wireless 911 service or E911  
9 service in this state.

10 (gg) "Wireless service" means "commercial mobile radio  
11 service" as provided under ss. 3(27) and 332(d) of the Federal  
12 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,  
13 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.  
14 103-66, August 10, 1993, 107 Stat. 312. The term includes  
15 service provided by any wireless real-time two-way wire  
16 communication device, including radio-telephone communications  
17 used in cellular telephone service; personal communications  
18 service; or the functional or competitive equivalent of a  
19 radio-telephone communications line used in cellular telephone  
20 service, a personal communications service, or a network radio  
21 access line. The term does not include wireless providers that  
22 offer mainly dispatch service in a more localized, noncellular  
23 configuration; providers offering only data, one-way, or  
24 stored-voice services on an interconnected basis; providers of  
25 air-to-ground services; or public coast stations.

26 ~~(ee) "Wireless 911 system" or "wireless 911 service"~~  
27 ~~means an emergency telephone system or service that provides a~~  
28 ~~subscriber with the ability to reach an answering point by~~  
29 ~~dialing the digits "911." A wireless 911 system is~~  
30 ~~complementary to a wired 911 system as provided for in s.~~  
31 ~~365.171.~~

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

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

6           (a) The E911 ~~Wireless 911~~ Board is established to  
 7 administer, with oversight by the office, the fee imposed  
 8 under subsection (8), including receiving revenues derived  
 9 from the fee; distributing portions of the ~~such~~ revenues to  
 10 wireless providers, counties, and the office; accounting for  
 11 receipts, distributions, and income derived by the funds  
 12 maintained in the fund; and providing annual reports to the  
 13 Governor and the Legislature for submission by the office on  
 14 amounts collected and expended, the purposes for which  
 15 expenditures have been made, and the status of ~~wireless~~ E911  
 16 service in this state. In order to advise and assist the  
 17 office in carrying out the purposes of this section, the  
 18 board, which shall have the power of a body corporate, has  
 19 ~~shall have~~ the powers enumerated in subsection (6).

20           (b) The board shall consist of nine ~~seven~~ members, one  
 21 of whom must be the system director designated under s.  
 22 365.171(5), or his or her designee, who shall serve as the  
 23 chair of the board. The remaining eight ~~six~~ members of the  
 24 board shall be appointed by the Governor and must be composed  
 25 of four ~~three~~ county 911 coordinators, consisting of a  
 26 representative from a rural county, a representative from a  
 27 medium county, a representative from a large county, and an  
 28 at-large representative recommended by the Florida Association  
 29 of Counties in consultation with the county 911 coordinators;  
 30 two local exchange carrier members, one of which must be the  
 31 local exchange carrier having the greatest number of access

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1 lines in the state; and two ~~three~~ members from the wireless  
 2 telecommunications industry recommended by the Florida  
 3 Telecommunications Industry Association in consultation with  
 4 the wireless telecommunications industry. In recommending  
 5 members from the wireless telecommunications industry,  
 6 consideration must be given to wireless providers who are not  
 7 affiliated with local exchange carriers. Not more than one  
 8 member may be appointed to represent any single provider on  
 9 the board.

10 (c) The system director, designated under s.  
 11 365.171(5), or his or her designee, must be a permanent member  
 12 of the board. Each of the remaining eight ~~six~~ members of the  
 13 board shall be appointed to a 4-year term and may not be  
 14 appointed to more than two successive terms. However, for the  
 15 purpose of staggering terms, two of the original board members  
 16 shall be appointed to terms of 4 years, two shall be appointed  
 17 to terms of 3 years, and four ~~two~~ shall be appointed to terms  
 18 of 2 years, as designated by the Governor. A vacancy on the  
 19 board shall be filled in the same manner as the original  
 20 appointment.

21 (d) The first vacancy in a wireless provider  
 22 representative position occurring after July 1, 2007, must be  
 23 filled by appointment of a local exchange company  
 24 representative. Until the appointment is made, there shall be  
 25 only one local exchange company representative serving on the  
 26 board, notwithstanding any other provision to the contrary.

27 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.--

28 (a) The board shall:

- 29 1. Administer the E911 fee.
- 30 2. Implement, maintain, and oversee the fund.
- 31 3. Review and oversee the disbursement of the revenues

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1 deposited into the fund as provided in s. 365.173.

2       a. The board may establish a schedule for implementing  
 3 wireless E911 service by service area, and prioritize  
 4 disbursements of revenues from the fund to providers and rural  
 5 counties as provided in s. 365.173(2)(c) ~~s. 365.173(2)(b)~~ and  
 6 ~~(f)~~ ~~(c)~~ pursuant to the schedule, in order to implement E911  
 7 services in the most efficient and cost-effective manner.

8       b. Revenues in the fund ~~collected and deposited into~~  
 9 ~~the fund for distribution as provided in s. 365.173(2)(b), but~~  
 10 which have not been disbursed because sworn invoices as  
 11 required by s. 365.173(2)(c) ~~s. 365.173(2)(b)~~ have not been  
 12 submitted to the board, may be used ~~utilized~~ by the board as  
 13 needed to provide grants to ~~rural counties and loans to medium~~  
 14 counties for the purpose of upgrading E911 systems. The  
 15 counties must use the funds only for capital expenditures  
 16 directly attributable to establishing and provisioning E911  
 17 services, which may include next-generation deployment. Prior  
 18 to the distribution of grants, the board shall provide 90  
 19 days' written notice to all counties and publish  
 20 electronically an approved application process. County grant  
 21 applications shall be prioritized based on the availability of  
 22 funds, current system life expectancy, system replacement  
 23 needs, and Phase II compliance per the Federal Communications  
 24 Commission. No grants will be available to any county for  
 25 next-generation deployment until all counties are Phase II  
 26 complete. Grants provided to rural counties would be in  
 27 ~~addition to disbursements provided under s. 365.173(2)(c).~~  
 28 ~~Loans provided to medium counties shall be based on county~~  
 29 ~~hardship criteria as determined and approved by the board.~~  
 30 ~~Revenues utilized for this purpose shall be fully repaid to~~  
 31 ~~the fund in a manner and under a timeframe as determined and~~

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1 ~~approved by the board.~~ The board shall take all actions within  
 2 its authority to ensure that county recipients of such grants  
 3 use ~~and loans utilize~~ these funds only for the purpose under  
 4 which they have been provided and may take any actions within  
 5 its authority to secure county repayment of grant ~~and loan~~  
 6 revenues upon determination that the funds were not used  
 7 ~~utilized~~ for the purpose under which they were provided.

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

11 d. By September 1, 2007, the board shall authorize the  
 12 transfer of up to \$15 million to the counties from existing  
 13 money within the fund established under s. 365.173(1). The  
 14 money shall be disbursed equitably to all of the counties  
 15 using a timeframe and distribution methodology established by  
 16 the board before September 1, 2007, in order to prevent a loss  
 17 to the counties in the ordinary and expected time value of  
 18 money caused by any timing delay in remittance to the counties  
 19 of wireline fees caused by the one-time transfer of collecting  
 20 wireline fees by the counties to the board. All disbursements  
 21 for this purpose must be returned to the fund from future  
 22 remittances by the nonwireless category.

23 e. After taking the action required in  
 24 sub-subparagraphs a.-d., the board may review and, with all  
 25 members participating in the vote, adjust the percentage  
 26 allocations or adjust the amount of the fee, or both, under  
 27 paragraph (8)(h), and, if the board determines that the  
 28 revenues in the wireless category exceed the amount needed to  
 29 reimburse wireless providers for the cost to implement E911  
 30 services, the board may transfer revenue to the counties from  
 31 the existing funds within the wireless category. The board

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1 shall disburse the funds equitably to all counties using a  
2 timeframe and distribution methodology established by the  
3 board.

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

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

11 b. Ensuring that wireless providers are not provided  
12 disbursements from the fund which exceed the costs of  
13 providing E911 service, including the costs of complying with  
14 the order.

15 c. Ascertaining the projected costs of compliance with  
16 the requirements of the order and projected collections of the  
17 ~~E911~~ fee.

18 d. Implementing changes to the allocation percentages  
19 or adjusting ~~reducing~~ the ~~E911~~ fee under paragraph (8)(i)  
20 ~~(8)(c)~~.

21 5. Meet monthly in the most efficient and  
22 cost-effective manner, including telephonically when  
23 practical, for the business to be conducted, to review and  
24 approve or reject, in whole or in part, applications submitted  
25 by wireless providers for recovery of moneys deposited into  
26 the wireless category, and to authorize the transfer of, and  
27 distribute, the fee allocation to the counties fund.

28 6. Hire and retain employees, which may include an  
29 independent executive director who shall possess experience in  
30 the area of telecommunications and emergency 911 issues, for  
31 the purposes of performing the technical and administrative

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1 functions for the board.

2           7. Make and enter into contracts, pursuant to chapter  
3 287, and execute other instruments necessary or convenient for  
4 the exercise of the powers and functions of the board.

5           ~~8. Take all necessary and reasonable steps by July 1,~~  
6 ~~2000, to secure appropriate information and reports from~~  
7 ~~providers and otherwise perform all of the functions that~~  
8 ~~would be performed by an independent accounting firm prior to~~  
9 ~~completing the request for proposals process under subsection~~  
10 ~~(7).~~

11           ~~8.9.~~ Sue and be sued, and appear and defend in all  
12 actions and proceedings, in its corporate name to the same  
13 extent as a natural person.

14           ~~9.10.~~ Adopt, use, and alter a common corporate seal.

15           ~~10.11.~~ Elect or appoint the officers and agents that  
16 are required by the affairs of the board.

17           ~~11.12.~~ The board may adopt rules under ss. 120.536(1)  
18 and 120.54 to implement this section and ss. 365.173 and  
19 365.174.

20           ~~12.13.~~ Provide coordination, support, and technical  
21 assistance to counties to promote the deployment of advanced  
22 911 and E911 systems in the state.

23           ~~13.14.~~ Provide coordination and support for  
24 educational opportunities related to E911 ~~911~~ issues for the  
25 E911 ~~911~~ community in this state.

26           ~~14.15.~~ Act as an advocate for issues related to E911  
27 ~~911~~ system functions, features, and operations to improve the  
28 delivery of E911 ~~911~~ services to the residents of and visitors  
29 to this state.

30           ~~15.16.~~ Coordinate input from this state at national  
31 forums and associations, to ensure that policies related to

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1 E911 ~~911~~ systems and services are consistent with the policies  
2 of the E911 ~~911~~ community in this state.

3 ~~16.17.~~ Work cooperatively with the system director  
4 established in s. 365.171(5) to enhance the state of E911 ~~911~~  
5 services in this state and to provide unified leadership for  
6 all E911 ~~911~~ issues through planning and coordination.

7 ~~17.18.~~ Do all acts and things necessary or convenient  
8 to carry out the powers granted in this section in a manner  
9 that is competitively and technologically neutral as to all  
10 voice communications services providers, including, but not  
11 limited to, consideration of emerging technology and related  
12 cost savings, while taking into account embedded costs in  
13 current systems.

14 ~~18.19.~~ Have the authority to secure the services of an  
15 independent, private attorney via invitation to bid, request  
16 for proposals, invitation to negotiate, or professional  
17 contracts for legal services already established at the  
18 Division of Purchasing of the Department of Management  
19 Services.

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

23 (c) By February 28 of each year, the board shall  
24 prepare a report for submission by the office to the Governor,  
25 the President of the Senate, and the Speaker of the House of  
26 Representatives which addresses for the immediately preceding  
27 calendar year: ~~reflects, for the immediately preceding~~  
28 ~~calendar year, the quarterly and annual receipts and~~  
29 ~~disbursements of moneys in the fund, the purposes for which~~  
30 ~~disbursements of moneys from the fund have been made, and the~~  
31 ~~availability and status of implementation of E911 service in~~

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1 ~~this state.~~

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

6 1. The annual receipts, including the total amount of  
7 ~~E911~~ fee revenues collected by each provider, the total  
8 disbursements of money in the fund, including the amount of  
9 fund-reimbursed expenses incurred by each wireless provider to  
10 comply with the order, and the amount of moneys on deposit in  
11 the fund, ~~all as of December 1, 2000.~~

12 2. Whether the amount of the ~~E911~~ fee and the  
13 allocation percentages set forth in s. 365.173 have been or  
14 should be adjusted to comply with the requirements of the  
15 order or other provisions of this chapter, and the reasons for  
16 making or not making, if so, a recommended adjustment to the  
17 ~~E911~~ fee.

18 3. Any other issues related to providing ~~wireless~~ E911  
19 services.

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

21 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING  
22 FIRM.--

23 (a) The board shall issue a request for proposals as  
24 provided in chapter 287 for the purpose of retaining an  
25 independent accounting firm. The independent accounting firm  
26 shall perform all material administrative and accounting tasks  
27 and functions required for administering the ~~E911~~ fee. The  
28 request for proposals must include, but need not be limited  
29 to:

30 1. A description of the scope and general requirements  
31 of the services requested.

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

5           3. A description of information to be provided by the  
 6 proposer, including the proposer's background and  
 7 qualifications and the proposed cost of the services to be  
 8 provided.

9           (b) The board shall establish a committee to review  
 10 requests for proposals which must include the statewide E911  
 11 ~~911~~ system director designated under s. 365.171(5), or his or  
 12 her designee, and two members of the board, one of whom is a  
 13 county 911 coordinator and one of whom represents a voice  
 14 communications services provider ~~the wireless~~  
 15 ~~telecommunications industry~~. The review committee shall review  
 16 the proposals received by the board and recommend an  
 17 independent accounting firm to the board for final selection.  
 18 By agreeing to serve on the review committee, each member of  
 19 the review committee shall verify that he or she does not have  
 20 any interest or employment, directly or indirectly, with  
 21 potential proposers which conflicts in any manner or degree  
 22 with his or her performance on the committee.

23           (c) After July 1, 2004, the board may secure the  
 24 services of an independent accounting firm via invitation to  
 25 bid, request for proposals, invitation to negotiate, or  
 26 professional contracts already established at the Division of  
 27 Purchasing, Department of Management Services, for certified  
 28 public accounting firms, or the board may hire and retain  
 29 professional accounting staff to accomplish these functions.

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

31           (a) Each voice communications services ~~home service~~

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1 provider shall collect the ~~a monthly fee described in this~~  
 2 ~~subsection imposed on each customer whose place of primary use~~  
 3 ~~is within this state. Each provider, as part of its monthly~~  
 4 ~~billing process, shall bill the fee as follows. The fee shall~~  
 5 ~~not be assessed on any pay telephone in the state.~~

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

9 2. Except in the case of prepaid wireless service,  
 10 each wireless provider shall bill the fee to a subscriber on a  
 11 per-service-identifier basis for service identifiers whose  
 12 primary place of use is within this state. Before July 1,  
 13 2009, the fee shall not be assessed on or collected from a  
 14 provider with respect to an end user's service if that end  
 15 user's service is a prepaid calling arrangement that is  
 16 subject to s. 212.05(1)(e).

17 a. The board shall conduct a study to determine  
 18 whether it is feasible to collect E911 fees from the sale of  
 19 prepaid wireless service. If, based on the findings of the  
 20 study, the board determines that a fee should not be collected  
 21 from the sale of prepaid wireless service, it shall report its  
 22 findings and recommendation to the Governor, the President of  
 23 the Senate, and the Speaker of the House of Representatives by  
 24 December 31, 2008. If the board determines that a fee should  
 25 be collected from the sale of prepaid wireless service, the  
 26 board shall collect the fee beginning July 1, 2009.

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

28 (I) "Prepaid wireless service" means the right to  
 29 access telecommunications services that must be paid for in  
 30 advance and is sold in predetermined units or dollars enabling  
 31 the originator to make calls such that the number of units or

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1 dollars declines with use in a known amount.

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

5 c. The study must include an evaluation of methods by  
6 which E911 fees may be collected from end users and purchasers  
7 of prepaid wireless service on an equitable, efficient,  
8 competitively neutral, and nondiscriminatory basis and must  
9 consider whether the collection of fees on prepaid wireless  
10 service would constitute an efficient use of public funds  
11 given the technological and practical considerations of  
12 collecting the fee based on the varying methodologies prepaid  
13 wireless service providers and their agents use in marketing  
14 prepaid wireless service.

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

20 e. No later than 90 days after this section becomes  
21 law, the board shall require all prepaid wireless service  
22 providers, including resellers, to provide the board with  
23 information that the board determines is necessary to  
24 discharge its duties under this section, including information  
25 necessary for its recommendation, such as total retail and  
26 reseller prepaid wireless service sales.

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

30 g. The study shall be conducted by an entity competent  
31 and knowledgeable in matters of state taxation policy if the

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1 board does not possess that expertise. The study must be paid  
2 from the moneys distributed to the board for administrative  
3 purposes under s. 365.173(2)(e) but may not exceed \$250,000.

4 3. All voice communications services providers not  
5 addressed under subparagraphs 1. and 2. shall bill the fee on  
6 a per-service-identifier basis for service identifiers whose  
7 primary place of use is within the state up to a maximum of 25  
8 service identifiers for each account bill rendered.

9  
10 The provider may list the fee as a separate entry on each  
11 bill, in which case the fee must be identified as a fee for  
12 E911 services. A provider shall remit the fee to the board  
13 only if the fee is paid by the subscriber. If a provider  
14 receives a partial payment for a monthly bill from a  
15 subscriber, the amount received shall first be applied to the  
16 payment due the provider for providing voice communications  
17 service.

18 (b) A provider is not obligated to take any legal  
19 action to enforce collection of the fees for which any  
20 subscriber is billed. A county subscribing to 911 service  
21 remains liable to the provider delivering the 911 service or  
22 equipment for any 911 service, equipment, operation, or  
23 maintenance charge owed by the county to the provider.

24 (c) For purposes of this section, the state and local  
25 governments are not subscribers customers.

26 (d) Each provider may retain 1 percent of the amount  
27 of the fees collected as reimbursement for the administrative  
28 costs incurred by the provider to bill, collect, and remit the  
29 fee. The remainder shall be delivered to the board and  
30 deposited by the board into the fund. The board shall  
31 distribute the remainder pursuant to s. 365.173.

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1           (e) Effective September 1, 2007, voice communications  
 2 services providers billing the fee to subscribers shall  
 3 deliver revenues from the fee to the board within 60 days  
 4 after the end of the month in which the fee was billed,  
 5 together with a monthly report of the number of service  
 6 identifiers in each county. Each wireless provider and other  
 7 applicable provider identified in subparagraph (a)3. shall  
 8 report the number of service identifiers for subscribers whose  
 9 place of primary use is in each county. All provider  
 10 subscriber information provided to the board is subject to s.  
 11 365.174. If a provider chooses to remit any fee amounts to the  
 12 board before they are paid by the subscribers, a provider may  
 13 apply to the board for a refund of, or may take a credit for,  
 14 any such fees remitted to the board which are not collected by  
 15 the provider within 6 months following the month in which the  
 16 fees are charged off for federal income tax purposes as bad  
 17 debt.

18           (f) The rate of the fee shall be set by the board  
 19 after considering the factors set forth in paragraphs (h) and  
 20 (i), but may not exceed ~~shall be~~ 50 cents per month per each  
 21 service identifier ~~number, beginning August 1, 1999.~~ The fee  
 22 shall apply uniformly and be imposed throughout the state,  
 23 except for those counties that, before July 1, 2007, had  
 24 adopted an ordinance or resolution establishing a fee less  
 25 than 50 cents per month per access line. In those counties the  
 26 fee established by ordinance may be changed only to the  
 27 uniform statewide rate no sooner than 30 days after  
 28 notification is made by the county's board of county  
 29 commissioners to the board.

30           (g) It is the intent of the Legislature that all  
 31 revenue from the fee be used as specified in s.

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1 365.173(2)(a)-(h).

2 (h) No later than November 1, 2007, the board may  
3 adjust the allocation percentages for distribution of the fund  
4 as provided in s. 365.173. When setting the percentages and  
5 contemplating any adjustments to the fee, the board shall  
6 consider the following:

7 1. The revenues currently allocated for wireless  
8 service provider costs for implementing E911 service and  
9 projected costs for implementing E911 service, including  
10 recurring costs for Phase I and Phase II and the effect of new  
11 technologies;

12 2. The appropriate level of funding needed to fund the  
13 rural grant program provided for in s. 365.173(2)(f); and

14 3. The need to fund statewide, regional, and county  
15 grants in accordance with sub-subparagraph (6)(a)3.b.

16 ~~(b) The fee is established to ensure full recovery for~~  
17 ~~providers and for counties, over a reasonable period, of the~~  
18 ~~costs associated with developing and maintaining an E911~~  
19 ~~system on a technologically and competitively neutral basis.~~

20 ~~(i)(c) After July 1, 2001, The board may adjust the~~  
21 ~~allocation percentages or adjust provided in s. 365.173 or~~  
22 ~~reduce the amount of the fee, or both, if necessary to ensure~~  
23 ~~full cost recovery or prevent overrecovery of costs incurred~~  
24 ~~in the provision of E911 service, including costs incurred or~~  
25 ~~projected to be incurred to comply with the order. Any new~~  
26 ~~allocation percentages or reduced or increased fee may not be~~  
27 ~~adjusted for 1 year. The fee may not exceed 50 cents per month~~  
28 ~~per each service identifier number. The board-established fee,~~  
29 ~~and any board-adjustment of the fee, shall be uniform~~  
30 ~~throughout the state, except for the counties identified in~~  
31 ~~paragraph (f). No less than 90 days before the effective date~~

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1 of any adjustment to the fee, the board shall provide written  
2 notice of the adjusted fee amount and effective date to each  
3 voice communications services provider from which the board is  
4 then receiving the fee.

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

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

9 (l) For purposes of this section, the definitions  
10 contained in s. 202.11 and the provisions of s. 202.155 apply  
11 in the same manner and to the same extent as the definitions  
12 and provisions apply to the taxes levied under chapter 202 on  
13 mobile communications services.

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

15 (a) For purposes of this section, E911 service  
16 includes the functions of database management, call taking,  
17 location verification, and call transfer.

18 (b) All costs directly attributable to the  
19 establishment or provision of E911 service and contracting for  
20 E911 services are eligible for expenditure of moneys derived  
21 from imposition of the fee authorized by this section. These  
22 costs include the acquisition, implementation, and maintenance  
23 of Public Safety Answering Point (PSAP) equipment and E911  
24 service features, as defined in the Public Service  
25 Commission's lawfully approved 911 and E911 and related  
26 tariffs or the acquisition, installation, and maintenance of  
27 other E911 equipment, including call answering equipment, call  
28 transfer equipment, ANI controllers, ALI controllers, ANI  
29 displays, ALI displays, station instruments, E911  
30 telecommunications systems, visual call information and  
31 storage devices, recording equipment, telephone devices and

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1 other equipment for the hearing impaired used in the E911  
2 system, PSAP backup power systems, consoles, automatic call  
3 distributors, and interfaces, including hardware and software,  
4 for computer-aided dispatch (CAD) systems, integrated CAD  
5 systems for that portion of the systems used for E911 call  
6 taking, network clocks, salary and associated expenses for  
7 E911 call takers for that portion of their time spent taking  
8 and transferring E911 calls, salary and associated expenses  
9 for a county to employ a full-time equivalent E911 coordinator  
10 position and a full-time equivalent mapping or geographical  
11 data position and a staff assistant position per county for  
12 the portion of their time spent administrating the E911  
13 system, training costs for PSAP call takers, supervisors, and  
14 managers in the proper methods and techniques used in taking  
15 and transferring E911 calls, costs to train and educate PSAP  
16 employees regarding E911 service or E911 equipment, and  
17 expenses required to develop and maintain all information,  
18 including ALI and ANI databases and other information source  
19 repositories, necessary to properly inform calltakers as to  
20 location address, type of emergency, and other information  
21 directly relevant to the E911 call-taking and transferring  
22 function. Moneys derived from the fee may also be used for  
23 next-generation E911 network services, next-generation E911  
24 database services, next-generation E911 equipment, and  
25 wireless E911 routing systems.

26 (c) The moneys may not be used to pay for any item not  
27 listed in this subsection, including, but not limited to, any  
28 capital or operational costs for emergency responses which  
29 occur after the call transfer to the responding public safety  
30 entity and the costs for constructing, leasing, maintaining,  
31 or renovating buildings, except for those building

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1 modifications necessary to maintain the security and  
2 environmental integrity of the PSAP and E911 equipment rooms.

3 (10) LIABILITY OF COUNTIES.--A county subscribing to  
4 911 service remains liable to the local exchange carrier for  
5 any 911 service, equipment, operation, or maintenance charge  
6 owed by the county to the local exchange carrier. As used in  
7 this subsection, the term "local exchange carrier" means a  
8 local exchange telecommunications service provider of 911  
9 service or equipment to any county within its certificated  
10 area.

11 (11) INDEMNIFICATION AND LIMITATION OF  
12 LIABILITY.--Local governments are authorized to undertake to  
13 indemnify local exchange carriers against liability in  
14 accordance with the lawfully filed tariffs of the company.  
15 Notwithstanding an indemnification agreement, a voice  
16 communications services provider is not liable for damages  
17 resulting from or in connection with 911 or E911 service, or  
18 for identification of the telephone number, or address, or  
19 name associated with any person accessing 911 or E911 service,  
20 unless the voice communications services provider acted with  
21 malicious purpose or in a manner exhibiting wanton and willful  
22 disregard of the rights, safety, or property of a person when  
23 providing such services. A voice communications services  
24 provider is not liable for damages to any person resulting  
25 from or in connection with the provider's provision of any  
26 lawful assistance to any investigative or law enforcement  
27 officer of the United States, this state, or a political  
28 subdivision thereof, or of any other state or political  
29 subdivision thereof, in connection with any lawful  
30 investigation or other law enforcement activity by such law  
31 enforcement officer.

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

2           ~~(a) Each provider, as a part of its monthly billing~~  
3 ~~process, shall collect the fee imposed under subsection (8).~~  
4 ~~The provider may list the fee as a separate entry on each~~  
5 ~~bill, in which case the fee must be identified as a fee for~~  
6 ~~911 services. A provider shall remit the fee only if the fee~~  
7 ~~is paid by the subscriber. If a provider receives a partial~~  
8 ~~payment for a monthly bill from a subscriber, the amount~~  
9 ~~received shall first be applied to the payment due the~~  
10 ~~provider for the provision of telecommunications service.~~

11           ~~(b) In the case of prepaid wireless telephone service,~~  
12 ~~the monthly wireless 911 surcharge imposed by subsection (8)~~  
13 ~~shall be remitted based upon each prepaid wireless telephone~~  
14 ~~associated with this state, for each wireless service customer~~  
15 ~~that has a sufficient positive balance as of the last day of~~  
16 ~~each month. The surcharge shall be remitted in any manner~~  
17 ~~consistent with the wireless provider's existing operating or~~  
18 ~~technological abilities, such as customer address, location~~  
19 ~~associated with the MTN, or reasonable allocation method based~~  
20 ~~upon other comparable relevant data. The surcharge amount or~~  
21 ~~an equivalent number of minutes may be reduced from the~~  
22 ~~prepaid subscriber's account since a direct billing may not be~~  
23 ~~possible. However, collection of the wireless 911 surcharge in~~  
24 ~~the manner of a reduction of value or minutes from the prepaid~~  
25 ~~subscriber's account does not constitute a reduction in the~~  
26 ~~sales price for purposes of taxes that are collected at the~~  
27 ~~point of sale.~~

28           ~~(c) A provider is not obligated to take any legal~~  
29 ~~action to enforce collection of the fees for which any~~  
30 ~~subscriber is billed. The provider shall provide to the board~~  
31 ~~each quarter a list of the names, addresses, and service~~

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1 ~~numbers of all subscribers who have indicated to the provider~~  
2 ~~their refusal to pay the fee.~~

3 ~~(d) Each provider may retain 1 percent of the amount~~  
4 ~~of the fees collected as reimbursement for the administrative~~  
5 ~~costs incurred by the provider to bill, collect, and remit the~~  
6 ~~fee. The remainder shall be delivered to the board and~~  
7 ~~deposited in the fund. The board shall distribute the~~  
8 ~~remainder pursuant to s. 365.173.~~

9 ~~(e) Each provider shall deliver revenues from the fee~~  
10 ~~to the board within 60 days after the end of the month in~~  
11 ~~which the fee was billed, together with a monthly report of~~  
12 ~~the number of wireless customers whose place of primary use is~~  
13 ~~in each county. A provider may apply to the board for a refund~~  
14 ~~of, or may take a credit for, any fees remitted to the board~~  
15 ~~which are not collected by the provider within 6 months~~  
16 ~~following the month in which the fees are charged off for~~  
17 ~~federal income tax purposes as bad debt. The board may waive~~  
18 ~~the requirement that the fees and number of customers whose~~  
19 ~~place of primary use is in each county be submitted to the~~  
20 ~~board each month and authorize a provider to submit the fees~~  
21 ~~and number of customers quarterly if the provider demonstrates~~  
22 ~~that such waiver is necessary and justified.~~

23 ~~(f) For purposes of this section, the definitions~~  
24 ~~contained in s. 202.11 and the provisions of s. 202.155 apply~~  
25 ~~in the same manner and to the same extent as such definitions~~  
26 ~~and provisions apply to the taxes levied pursuant to chapter~~  
27 ~~202 on mobile communications services.~~

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

31 ~~(10) PROVISION OF SERVICES.--In accordance with the~~

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1 ~~order, a provider is not required to provide E911 service~~  
2 ~~until:~~

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

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

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

10 ~~(d) The service area has been scheduled for~~  
11 ~~implementation of E911 service by the board pursuant to~~  
12 ~~subparagraph (6)(a)3. If a county's 911 coordinator requests~~  
13 ~~E911 service from a provider, the coordinator shall also~~  
14 ~~request E911 service from all other providers in the area in a~~  
15 ~~nondiscriminatory and fair manner.~~

16 ~~(12)(11)~~ FACILITATING E911 SERVICE IMPLEMENTATION.--To  
17 balance the public need for reliable E911 services through  
18 reliable wireless systems and the public interest served by  
19 governmental zoning and land development regulations and  
20 notwithstanding any other law or local ordinance to the  
21 contrary, the following standards shall apply to a local  
22 government's actions, as a regulatory body, in the regulation  
23 of the placement, construction, or modification of a wireless  
24 communications facility. This subsection shall not, however,  
25 be construed to waive or alter the provisions of s. 286.011 or  
26 s. 286.0115. For the purposes of this subsection only, "local  
27 government" shall mean any municipality or county and any  
28 agency of a municipality or county only. The term "local  
29 government" does not, however, include any airport, as defined  
30 by s. 330.27(2), even if it is owned or controlled by or  
31 through a municipality, county, or agency of a municipality or

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1 county. Further, notwithstanding anything in this section to  
 2 the contrary, this subsection does not apply to or control a  
 3 local government's actions as a property or structure owner in  
 4 the use of any property or structure owned by such entity for  
 5 the placement, construction, or modification of wireless  
 6 communications facilities. In the use of property or  
 7 structures owned by the local government, however, a local  
 8 government may not use its regulatory authority so as to avoid  
 9 compliance with, or in a manner that does not advance, the  
 10 provisions of this subsection.

11 (a) Collocation among wireless providers is encouraged  
 12 by the state.

13 1.a. Collocations on towers, including nonconforming  
 14 towers, that meet the requirements in sub-sub-subparagraphs  
 15 (I), (II), and (III), are subject to only building permit  
 16 review, which may include a review for compliance with this  
 17 subparagraph. Such collocations are not subject to any design  
 18 or placement requirements of the local government's land  
 19 development regulations in effect at the time of the  
 20 collocation that are more restrictive than those in effect at  
 21 the time of the initial antennae placement approval, to any  
 22 other portion of the land development regulations, or to  
 23 public hearing review. This sub-subparagraph shall not  
 24 preclude a public hearing for any appeal of the decision on  
 25 the collocation application.

26 (I) The collocation does not increase the height of  
 27 the tower to which the antennae are to be attached, measured  
 28 to the highest point of any part of the tower or any existing  
 29 antenna attached to the tower;

30 (II) The collocation does not increase the ground  
 31 space area, commonly known as the compound, approved in the

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1 site plan for equipment enclosures and ancillary facilities;  
2 and

3 (III) The collocation consists of antennae, equipment  
4 enclosures, and ancillary facilities that are of a design and  
5 configuration consistent with all applicable regulations,  
6 restrictions, or conditions, if any, applied to the initial  
7 antennae placed on the tower and to its accompanying equipment  
8 enclosures and ancillary facilities and, if applicable,  
9 applied to the tower supporting the antennae. Such regulations  
10 may include the design and aesthetic requirements, but not  
11 procedural requirements, other than those authorized by this  
12 section, of the local government's land development  
13 regulations in effect at the time the initial antennae  
14 placement was approved.

15 b. Except for a historic building, structure, site,  
16 object, or district, or a tower included in sub-subparagraph  
17 a., collocations on all other existing structures that meet  
18 the requirements in sub-sub-subparagraphs (I)-(IV) shall be  
19 subject to no more than building permit review, and an  
20 administrative review for compliance with this subparagraph.  
21 Such collocations are not subject to any portion of the local  
22 government's land development regulations not addressed  
23 herein, or to public hearing review. This sub-subparagraph  
24 shall not preclude a public hearing for any appeal of the  
25 decision on the collocation application.

26 (I) The collocation does not increase the height of  
27 the existing structure to which the antennae are to be  
28 attached, measured to the highest point of any part of the  
29 structure or any existing antenna attached to the structure;

30 (II) The collocation does not increase the ground  
31 space area, otherwise known as the compound, if any, approved

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1 in the site plan for equipment enclosures and ancillary  
2 facilities;

3 (III) The collocation consists of antennae, equipment  
4 enclosures, and ancillary facilities that are of a design and  
5 configuration consistent with any applicable structural or  
6 aesthetic design requirements and any requirements for  
7 location on the structure, but not prohibitions or  
8 restrictions on the placement of additional collocations on  
9 the existing structure or procedural requirements, other than  
10 those authorized by this section, of the local government's  
11 land development regulations in effect at the time of the  
12 collocation application; and

13 (IV) The collocation consists of antennae, equipment  
14 enclosures, and ancillary facilities that are of a design and  
15 configuration consistent with all applicable restrictions or  
16 conditions, if any, that do not conflict with  
17 sub-sub-subparagraph (III) and were applied to the initial  
18 antennae placed on the structure and to its accompanying  
19 equipment enclosures and ancillary facilities and, if  
20 applicable, applied to the structure supporting the antennae.

21 c. Regulations, restrictions, conditions, or permits  
22 of the local government, acting in its regulatory capacity,  
23 that limit the number of collocations or require review  
24 processes inconsistent with this subsection shall not apply to  
25 collocations addressed in this subparagraph.

26 d. If only a portion of the collocation does not meet  
27 the requirements of this subparagraph, such as an increase in  
28 the height of the proposed antennae over the existing  
29 structure height or a proposal to expand the ground space  
30 approved in the site plan for the equipment enclosure, where  
31 all other portions of the collocation meet the requirements of

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1 this subparagraph, that portion of the collocation only may be  
2 reviewed under the local government's regulations applicable  
3 to an initial placement of that portion of the facility,  
4 including, but not limited to, its land development  
5 regulations, and within the review timeframes of subparagraph  
6 (d)2., and the rest of the collocation shall be reviewed in  
7 accordance with this subparagraph. A collocation proposal  
8 under this subparagraph that increases the ground space area,  
9 otherwise known as the compound, approved in the original site  
10 plan for equipment enclosures and ancillary facilities by no  
11 more than a cumulative amount of 400 square feet or 50 percent  
12 of the original compound size, whichever is greater, shall,  
13 however, require no more than administrative review for  
14 compliance with the local government's regulations, including,  
15 but not limited to, land development regulations review, and  
16 building permit review, with no public hearing review. This  
17 sub-subparagraph shall not preclude a public hearing for any  
18 appeal of the decision on the collocation application.

19         2. If a collocation does not meet the requirements of  
20 subparagraph 1., the local government may review the  
21 application under the local government's regulations,  
22 including, but not limited to, land development regulations,  
23 applicable to the placement of initial antennae and their  
24 accompanying equipment enclosure and ancillary facilities.

25         3. If a collocation meets the requirements of  
26 subparagraph 1., the collocation shall not be considered a  
27 modification to an existing structure or an impermissible  
28 modification of a nonconforming structure.

29         4. The owner of the existing tower on which the  
30 proposed antennae are to be collocated shall remain  
31 responsible for compliance with any applicable condition or

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1 requirement of a permit or agreement, or any applicable  
 2 condition or requirement of the land development regulations  
 3 to which the existing tower had to comply at the time the  
 4 tower was permitted, including any aesthetic requirements,  
 5 provided the condition or requirement is not inconsistent with  
 6 this paragraph.

7           5. An existing tower, including a nonconforming tower,  
 8 may be structurally modified in order to permit collocation or  
 9 may be replaced through no more than administrative review and  
 10 building permit review, and is not subject to public hearing  
 11 review, if the overall height of the tower is not increased  
 12 and, if a replacement, the replacement tower is a monopole  
 13 tower or, if the existing tower is a camouflaged tower, the  
 14 replacement tower is a like-camouflaged tower. This  
 15 subparagraph shall not preclude a public hearing for any  
 16 appeal of the decision on the application.

17           (b)1. A local government's land development and  
 18 construction regulations for wireless communications  
 19 facilities and the local government's review of an application  
 20 for the placement, construction, or modification of a wireless  
 21 communications facility shall only address land development or  
 22 zoning issues. In such local government regulations or review,  
 23 the local government may not require information on or  
 24 evaluate a wireless provider's business decisions about its  
 25 service, customer demand for its service, or quality of its  
 26 service to or from a particular area or site, unless the  
 27 wireless provider voluntarily offers this information to the  
 28 local government. In such local government regulations or  
 29 review, a local government may not require information on or  
 30 evaluate the wireless provider's designed service unless the  
 31 information or materials are directly related to an identified

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1 land development or zoning issue or unless the wireless  
 2 provider voluntarily offers the information. Information or  
 3 materials directly related to an identified land development  
 4 or zoning issue may include, but are not limited to, evidence  
 5 that no existing structure can reasonably be used for the  
 6 antennae placement instead of the construction of a new tower,  
 7 that residential areas cannot be served from outside the  
 8 residential area, as addressed in subparagraph 3., or that the  
 9 proposed height of a new tower or initial antennae placement  
 10 or a proposed height increase of a modified tower, replacement  
 11 tower, or collocation is necessary to provide the provider's  
 12 designed service. Nothing in this paragraph shall limit the  
 13 local government from reviewing any applicable land  
 14 development or zoning issue addressed in its adopted  
 15 regulations that does not conflict with this section,  
 16 including, but not limited to, aesthetics, landscaping, land  
 17 use based location priorities, structural design, and  
 18 setbacks.

19           2. Any setback or distance separation required of a  
 20 tower may not exceed the minimum distance necessary, as  
 21 determined by the local government, to satisfy the structural  
 22 safety or aesthetic concerns that are to be protected by the  
 23 setback or distance separation.

24           3. A local government may exclude the placement of  
 25 wireless communications facilities in a residential area or  
 26 residential zoning district but only in a manner that does not  
 27 constitute an actual or effective prohibition of the  
 28 provider's service in that residential area or zoning  
 29 district. If a wireless provider demonstrates to the  
 30 satisfaction of the local government that the provider cannot  
 31 reasonably provide its service to the residential area or zone

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1 from outside the residential area or zone, the municipality or  
 2 county and provider shall cooperate to determine an  
 3 appropriate location for a wireless communications facility of  
 4 an appropriate design within the residential area or zone. The  
 5 local government may require that the wireless provider  
 6 reimburse the reasonable costs incurred by the local  
 7 government for this cooperative determination. An application  
 8 for such cooperative determination shall not be considered an  
 9 application under paragraph (d).

10           4. A local government may impose a reasonable fee on  
 11 applications to place, construct, or modify a wireless  
 12 communications facility only if a similar fee is imposed on  
 13 applicants seeking other similar types of zoning, land use, or  
 14 building permit review. A local government may impose fees for  
 15 the review of applications for wireless communications  
 16 facilities by consultants or experts who conduct code  
 17 compliance review for the local government but any fee is  
 18 limited to specifically identified reasonable expenses  
 19 incurred in the review. A local government may impose  
 20 reasonable surety requirements to ensure the removal of  
 21 wireless communications facilities that are no longer being  
 22 used.

23           5. A local government may impose design requirements,  
 24 such as requirements for designing towers to support  
 25 collocation or aesthetic requirements, except as otherwise  
 26 limited in this section, but shall not impose or require  
 27 information on compliance with building code type standards  
 28 for the construction or modification of wireless  
 29 communications facilities beyond those adopted by the local  
 30 government under chapter 553 and that apply to all similar  
 31 types of construction.

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1           (c) Local governments may not require wireless  
 2 providers to provide evidence of a wireless communications  
 3 facility's compliance with federal regulations, except  
 4 evidence of compliance with applicable Federal Aviation  
 5 Administration requirements under 14 C.F.R. s. 77, as amended,  
 6 and evidence of proper Federal Communications Commission  
 7 licensure, or other evidence of Federal Communications  
 8 Commission authorized spectrum use, but may request the  
 9 Federal Communications Commission to provide information as to  
 10 a wireless provider's compliance with federal regulations, as  
 11 authorized by federal law.

12           (d)1. A local government shall grant or deny each  
 13 properly completed application for a collocation under  
 14 subparagraph (a)1. based on the application's compliance with  
 15 the local government's applicable regulations, as provided for  
 16 in subparagraph (a)1. and consistent with this subsection, and  
 17 within the normal timeframe for a similar building permit  
 18 review but in no case later than 45 business days after the  
 19 date the application is determined to be properly completed in  
 20 accordance with this paragraph.

21           2. A local government shall grant or deny each  
 22 properly completed application for any other wireless  
 23 communications facility based on the application's compliance  
 24 with the local government's applicable regulations, including  
 25 but not limited to land development regulations, consistent  
 26 with this subsection and within the normal timeframe for a  
 27 similar type review but in no case later than 90 business days  
 28 after the date the application is determined to be properly  
 29 completed in accordance with this paragraph.

30           3.a. An application is deemed submitted or resubmitted  
 31 on the date the application is received by the local

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1 government. If the local government does not notify the  
2 applicant in writing that the application is not completed in  
3 compliance with the local government's regulations within 20  
4 business days after the date the application is initially  
5 submitted or additional information resubmitted, the  
6 application is deemed, for administrative purposes only, to be  
7 properly completed and properly submitted. However, the  
8 determination shall not be deemed as an approval of the  
9 application. If the application is not completed in compliance  
10 with the local government's regulations, the local government  
11 shall so notify the applicant in writing and the notification  
12 must indicate with specificity any deficiencies in the  
13 required documents or deficiencies in the content of the  
14 required documents which, if cured, make the application  
15 properly completed. Upon resubmission of information to cure  
16 the stated deficiencies, the local government shall notify the  
17 applicant, in writing, within the normal timeframes of review,  
18 but in no case longer than 20 business days after the  
19 additional information is submitted, of any remaining  
20 deficiencies that must be cured. Deficiencies in document type  
21 or content not specified by the local government do not make  
22 the application incomplete. Notwithstanding this  
23 sub-subparagraph, if a specified deficiency is not properly  
24 cured when the applicant resubmits its application to comply  
25 with the notice of deficiencies, the local government may  
26 continue to request the information until such time as the  
27 specified deficiency is cured. The local government may  
28 establish reasonable timeframes within which the required  
29 information to cure the application deficiency is to be  
30 provided or the application will be considered withdrawn or  
31 closed.

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1           b. If the local government fails to grant or deny a  
2 properly completed application for a wireless communications  
3 facility within the timeframes set forth in this paragraph,  
4 the application shall be deemed automatically approved and the  
5 applicant may proceed with placement of the facilities without  
6 interference or penalty. The timeframes specified in  
7 subparagraph 2. may be extended only to the extent that the  
8 application has not been granted or denied because the local  
9 government's procedures generally applicable to all other  
10 similar types of applications require action by the governing  
11 body and such action has not taken place within the timeframes  
12 specified in subparagraph 2. Under such circumstances, the  
13 local government must act to either grant or deny the  
14 application at its next regularly scheduled meeting or,  
15 otherwise, the application is deemed to be automatically  
16 approved.

17           c. To be effective, a waiver of the timeframes set  
18 forth in this paragraph must be voluntarily agreed to by the  
19 applicant and the local government. A local government may  
20 request, but not require, a waiver of the timeframes by the  
21 applicant, except that, with respect to a specific  
22 application, a one-time waiver may be required in the case of  
23 a declared local, state, or federal emergency that directly  
24 affects the administration of all permitting activities of the  
25 local government.

26           (e) The replacement of or modification to a wireless  
27 communications facility, except a tower, that results in a  
28 wireless communications facility not readily discernibly  
29 different in size, type, and appearance when viewed from  
30 ground level from surrounding properties, and the replacement  
31 or modification of equipment that is not visible from

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1 surrounding properties, all as reasonably determined by the  
 2 local government, are subject to no more than applicable  
 3 building permit review.

4 (f) Any other law to the contrary notwithstanding, the  
 5 Department of Management Services shall negotiate, in the name  
 6 of the state, leases for wireless communications facilities  
 7 that provide access to state government-owned property not  
 8 acquired for transportation purposes, and the Department of  
 9 Transportation shall negotiate, in the name of the state,  
 10 leases for wireless communications facilities that provide  
 11 access to property acquired for state rights-of-way. On  
 12 property acquired for transportation purposes, leases shall be  
 13 granted in accordance with s. 337.251. On other state  
 14 government-owned property, leases shall be granted on a space  
 15 available, first-come, first-served basis. Payments required  
 16 by state government under a lease must be reasonable and must  
 17 reflect the market rate for the use of the state  
 18 government-owned property. The Department of Management  
 19 Services and the Department of Transportation are authorized  
 20 to adopt rules for the terms and conditions and granting of  
 21 any such leases.

22 (g) If any person adversely affected by any action, or  
 23 failure to act, or regulation, or requirement of a local  
 24 government in the review or regulation of the wireless  
 25 communication facilities files an appeal or brings an  
 26 appropriate action in a court or venue of competent  
 27 jurisdiction, following the exhaustion of all administrative  
 28 remedies, the matter shall be considered on an expedited  
 29 basis.

30 ~~(13)(12)~~ MISUSE OF ~~WIRELESS~~ 911 OR E911 SYSTEM;  
 31 PENALTY.--911 and E911 service must be used solely for

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1 emergency communications by the public. Any person who  
 2 accesses the number 911 for the purpose of making a false  
 3 alarm or complaint or reporting false information that could  
 4 result in the emergency response of any public safety agency;  
 5 any person who knowingly uses or attempts to use such service  
 6 for a purpose other than obtaining public safety assistance;  
 7 or any person who knowingly uses or attempts to use such  
 8 service in an effort to avoid any charge for service, commits  
 9 a misdemeanor of the first degree, punishable as provided in  
 10 s. 775.082 or s. 775.083. After being convicted of  
 11 unauthorized use of such service four times, a person who  
 12 continues to engage in such unauthorized use commits a felony  
 13 of the third degree, punishable as provided in s. 775.082, s.  
 14 775.083, or s. 775.084. In addition, if the value of the  
 15 service or the service charge obtained in a manner prohibited  
 16 by this subsection exceeds \$100, the person committing the  
 17 offense commits a felony of the third degree, punishable as  
 18 provided in s. 775.082, s. 775.083, or s. 775.084.

19 ~~(14)(13)~~ STATE LAW NOT PREEMPTED.--This section and  
 20 ss. 365.173 and 365.174 do not alter any state law that  
 21 otherwise regulates voice communications services providers ~~of~~  
 22 ~~telecommunications service.~~

23 Section 3. Two and one-half full-time equivalent  
 24 positions are authorized with an associated salary rate of  
 25 \$151,278, and the sum of \$561,834 in recurring funds is  
 26 appropriated for the 2007-2008 fiscal year from the Emergency  
 27 Communications Number E911 System Fund of the Department of  
 28 Management Services from revenue received pursuant to s.  
 29 365.173, Florida Statutes, for expenditures related to the  
 30 creation of the statewide E911 board.

31 Section 4. For the 2007-2008 fiscal year, the sum of

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1 \$56 million in recurring funds is appropriated from the  
 2 Emergency Communications Number E911 System Fund in the  
 3 Department of Management Services to provide for the  
 4 distribution of nonwireless fees to counties.

5       Section 5. For the 2007-2008 fiscal year, the sum of  
 6 \$12,541,000 in recurring funds is appropriated from the  
 7 Emergency Communications Number E911 System Fund in the  
 8 Department of Management Services to provide for an increase  
 9 in the distribution to counties for wireless fees.

10       Section 6. For the 2007-2008 fiscal year, the sum of  
 11 \$25 million in nonrecurring funds is appropriated from the  
 12 Emergency Communications Number E911 System Fund and placed in  
 13 reserve in the Department of Management Services to provide  
 14 grants to counties pursuant to s. 365.172(6)(a)3.b., Florida  
 15 Statutes. The department is authorized to request the release  
 16 of funds pursuant to the provisions in chapter 216, Florida  
 17 Statutes.

18       Section 7. This act shall take effect upon becoming a  
 19 law.

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