The Committee on Appropriations (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

202.20 Local communications services tax conversion rates.—

(2)

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

1. With respect to municipalities and charter counties and the taxes authorized by s. 202.19(1):
   a. The public service tax on telecommunications authorized by former s. 166.231(9).
   b. Franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.
   c. The public service tax on prepaid calling arrangements.
   d. Franchise fees on dealers of communications services which use the public roads or rights-of-way, up to the limit set forth in s. 337.401. For purposes of calculating rates under this section, it is the legislative intent that charter counties be treated as having had the same authority as municipalities to impose franchise fees on recurring local telecommunication service revenues prior to July 1, 2000. However, the Legislature recognizes that the authority of charter counties to impose such fees is in dispute, and the treatment provided in this section is not an expression of legislative intent that charter counties actually do or do not possess such authority.
   e. Actual permit fees relating to placing or maintaining facilities in or on public roads or rights-of-way, collected from providers of long-distance, cable, and mobile communications services for the fiscal year ending September 30, 1999; however, if a municipality or charter county elects the option to charge permit fees pursuant to s. 337.401(3)(c)
      337.401(3)(e)1.a., such fees shall not be included as a replaced revenue source.
2. With respect to all other counties and the taxes authorized in s. 202.19(1), franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

Section 2. Subsection (3), paragraphs (e) and (f) of subsection (6), and paragraphs (b) through (g) and (i) of subsection (7) of section 337.401, Florida Statutes, are amended, and paragraph (r) of subsection (7) and subsection (8) are added to that section, to read:

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

(3)(a) Because of the unique circumstances applicable to providers of communications services, including, but not limited to, the circumstances described in paragraph (e) and the fact that federal and state law require the nondiscriminatory treatment of providers of telecommunications services, and because of the desire to promote competition among providers of communications services, it is the intent of the Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way. Rules or regulations imposed by a municipality or county relating to providers of communications services placing or maintaining communications facilities in its roads or rights-of-way must be generally applicable to all providers of communications services, taking into account the distinct engineering, construction, operation, maintenance, public works, and safety requirements of the provider’s facilities, and, notwithstanding any other law, may not require
a provider of communications services to apply for or enter into an individual license, franchise, or other agreement with the municipality or county as a condition of placing or maintaining communications facilities in its roads or rights-of-way. In addition to other reasonable rules or regulations that a municipality or county may adopt relating to the placement or maintenance of communications facilities in its roads or rights-of-way under this subsection or subsection (7), a municipality or county may require a provider of communications services that places or seeks to place facilities in its roads or rights-of-way to register with the municipality or county. To register, a provider of communications services only may be required to provide its name and to provide the name of the registrant; the name, address, and telephone number of a contact person for the registrant; the number of the registrant’s current certificate of authorization issued by the Florida Public Service Commission, the Federal Communications Commission, or the Department of State; a statement as to whether the registrant is a pass-through provider as defined in subparagraph (6)(a)1.; and any required proof of insurance or self-insuring status adequate to defend and cover claims. A municipality or county may not require registration renewal more frequently than every 5 years, but may require that a registrant submit any update within 90 days during such period if the registration information provided under this subsection changes. A municipality or county may not require the provision of an inventory of communications facilities, maps, locations of such facilities, or other information by a registrant as a condition of registration, renewal, or for any other purpose; provided, however, that a
municipality or county may require as part of a permit application that the applicant identify at-grade communications facilities within 50 feet of the proposed installation location for the placement of at-grade communications facilities. A municipality or county may not require a provider to pay any fee, cost, or other charge for registration or renewal thereof. It is the intent of the Legislature that the placement, operation, maintenance, upgrading, and extension of communications facilities not be unreasonably interrupted or delayed through the permitting or other local regulatory process. Except as provided in this chapter or otherwise expressly authorized by chapter 202, chapter 364, or chapter 610, a municipality or county may not adopt or enforce any ordinance, regulation, or requirement as to the placement or operation of communications facilities in a right-of-way by a communications services provider authorized by state or local law to operate in a right-of-way; regulate any communications services; or impose or collect any tax, fee, cost, charge, or exaction for the provision of communications services over the communications services provider’s communications facilities in a right-of-way.

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

(c) Any municipality or county that, as of January 1, 2019,
elected to require permit fees from any provider of
communications services that use or occupy municipal or county
roads or rights-of-way pursuant to former paragraph (c) or
former paragraph (j), Florida Statutes 2018, may continue to
require and collect such fees. A municipality or county that
elected as of such date to require permit fees may elect to
forego such fees as provided herein. A municipality or county
that elected as of such date not to require permit fees may not
elect to impose permit fees

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

a.(I) The municipality or charter county may require and
collect permit fees from any providers of communications
services that use or occupy municipal or county roads or rights-
of-way. All fees authorized permitted under this paragraph sub-
subparagraph must be reasonable and commensurate with the direct
and actual cost of the regulatory activity, including issuing
and processing permits, plan reviews, physical inspection, and
direct administrative costs; must be demonstrable; and must be
equitable among users of the roads or rights-of-way. A fee
authorized permitted under this paragraph sub-subparagraph may
not be offset against the tax imposed under chapter 202;
include the costs of roads or rights-of-way acquisition or roads
or rights-of-way rental; include any general administrative,
management, or maintenance costs of the roads or rights-of-way;
or be based on a percentage of the value or costs associated
with the work to be performed on the roads or rights-of-way. In
an action to recover amounts due for a fee not authorized
permitted under this paragraph sub-subparagraph, the prevailing
party may recover court costs and attorney attorney’s fees at
trial and on appeal. In addition to the limitations set forth in
this section, a fee levied by a municipality or charter county
under this paragraph sub-subparagraph may not exceed $100.
However, permit fees may not be imposed with respect to permits
that may be required for service drop lines not required to be
noticed under s. 556.108(5) or for any
activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way, including, but not limited to, any emergency repairs of existing facilities, extensions of such facilities for providing communications services to customers, and the placement of micro wireless facilities in accordance with subparagraph (7)(e)3.

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

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

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

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

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

a. The noncharter county may elect to require and collect
permit fees from any providers of communications services that
use or occupy noncharter county roads or rights-of-way. All fees
permitted under this sub-subparagraph must be reasonable and
commensurate with the direct and actual cost of the regulatory
activity, including issuing and processing permits, plan
reviews, physical inspection, and direct administrative costs;
must be demonstrable; and must be equitable among users of the
roads or rights-of-way. A fee permitted under this sub-
subparagraph may not: be offset against the tax imposed under
chapter 202; include the costs of roads or rights-of-way
acquisition or roads or rights-of-way rental; include any
general administrative, management, or maintenance costs of the
roads or rights-of-way; or be based on a percentage of the value
or costs associated with the work to be performed on the roads
or rights-of-way. In an action to recover amounts due for a fee
not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney’s fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a noncharter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(a)2. or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

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

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

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

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

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

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

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

(g) A municipality or county may not use its authority over the placement of facilities in its roads and rights-of-way as a basis for asserting or exercising regulatory control over a provider of communications services regarding matters within the exclusive jurisdiction of the Florida Public Service Commission or the Federal Communications Commission, including, but not limited to, the operations, systems, equipment, technology, qualifications, services, service quality, service territory, and prices of a provider of communications services. A municipality or county may not require any permit for the maintenance, repair, replacement, extension, or upgrade of existing aerial wireline communications facilities on utility poles or for aerial wireline facilities between existing wireline communications facility attachments on utility poles by a communications services provider. However, a municipality or county may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane, unless the provider is performing service restoration to existing facilities. A permit application required by an authority under this section for the placement of communications
facilities must be processed and acted upon consistent with the

timeframes provided in subparagraphs (7)(d)7.-9. In addition, a

municipality or county may not require any permit or other

approval, fee, charge, or cost, or other exaction for the

maintenance, repair, replacement, extension, or upgrade of

existing aerial lines or underground communications facilities

located on private property outside of the public rights-of-way.

For purposes of this paragraph, an extension of existing

facilities includes an extension from the rights-of-way into a

customer’s private property for the purpose of placing a service

drop or an extension from the rights-of-way into a utility

easement to provide service to a discrete identifiable customer

or group of customers.

(h) A provider of communications services that has obtained

permission to occupy the roads or rights-of-way of an

incorporated municipality pursuant to s. 362.01 or that is

otherwise lawfully occupying the roads or rights-of-way of a

municipality or county shall not be required to obtain consent

to continue such lawful occupation of those roads or rights-of-

way; however, nothing in this paragraph shall be interpreted to

limit the power of a municipality or county to adopt or enforce

reasonable rules or regulations as provided in this section and

consistent with chapters 202, 364, and 610. Any such rules or

regulations must be in writing, and registered providers of

communications services in the municipality or county must be

given at least 60 days’ advance written notice of any changes to

the rules and regulations.

(i) Except as expressly provided in this section, this

section does not modify the authority of municipalities and
counties to levy the tax authorized in chapter 202 or the duties of providers of communications services under ss. 337.402-337.404. This section does not apply to building permits, pole attachments, or private roads, private easements, and private rights-of-way.

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

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

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

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

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

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

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

(k) Notwithstanding the provisions of s. 202.19, when a local communications services tax rate is changed as a result of an election made or changed under this subsection, such rate may not be rounded to tenths.
(6)

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

(f) The charges under this subsection do not apply to communications facilities placed in a municipality’s or county’s rights-of-way prior to the effective date of this subsection with permission from the municipality or county, if any was required, except to the extent the facilities of a pass-through provider were subject to per linear foot or mile charges in effect as of October 1, 2001, in which case the municipality or county may only impose on a pass-through provider charges consistent with paragraph (b) or paragraph (c) for such facilities. Notwithstanding the foregoing, this subsection does not impair any written agreement between a pass-through provider and a municipality or county imposing per linear foot or mile charges for communications facilities placed in municipal or county roads or rights-of-way that is in effect prior to the
effective date of this subsection. Upon the termination or expiration of any such written agreement, any charges imposed must shall be consistent with this section paragraph (b) or paragraph (c). Notwithstanding the foregoing, until October 1, 2005, this subsection shall not affect a municipality or county continuing to impose charges in excess of the charges authorized in this subsection on facilities of a pass-through provider that is not a dealer of communications services in the state under chapter 202, but only to the extent such charges were imposed by municipal or county ordinance or resolution adopted prior to February 1, 2002. Effective October 1, 2005, any charges imposed shall be consistent with paragraph (b) or paragraph (c).

(7)

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

1. “Antenna” means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

2. “Applicable codes” means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons; the National Electric Safety Code; and the 2017 edition of the Department of Transportation Utility Accommodation Manual, or local codes or ordinances adopted to implement this subsection. The term includes objective design standards adopted by ordinance that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location
of ground-mounted equipment. The term includes objective design standards adopted by ordinance that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived by the authority upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.

3. “Applicant” means a person who submits an application and is a wireless provider.

4. “Application” means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities or to place a new utility pole used to support a small wireless facility.

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

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

a. A retirement community that:
   (I) Is deed restricted as housing for older persons as defined in s. 760.29(4)(b);
b. A municipality that:
   (I) Is located on a coastal barrier island as defined in s. 161.053(1)(b)3.;
   (II) Has a land area of less than 5 square miles;
   (III) Has less than 10,000 residents; and
   (IV) Has, before July 1, 2017, received referendum approval to issue debt to finance municipal-wide undergrounding of its utilities for electric transmission or distribution.

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


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

10. “Small wireless facility” means a wireless facility that meets the following qualifications:
   a. Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and
b. All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume.

The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

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

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

   a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
   b. Wireline backhaul facilities; or
c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

13. “Wireless infrastructure provider” means a person who has been certificated under chapter 364 to provide telecommunications service or certificated under chapter 610 to provide cable or video services in this state, or such person’s affiliate, in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

14. “Wireless provider” means a wireless infrastructure provider or a wireless services provider.

15. “Wireless services” means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

16. “Wireless services provider” means a person who provides wireless services.

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

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

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

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

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

3. An authority may not:

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

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

   c. Except as provided in paragraph (7)(i), require a demonstration that collocation of a small wireless facility on an existing structure is not legally or technically possible as
a condition for granting a permit for the collocation of a small wireless facility on a new utility pole;

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

e. Require a meeting before filing an application;

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

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

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

i. Except as provided in paragraph (7)(i), require that any component of a small wireless facility be placed underground.

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

5. An authority shall limit the height of a small wireless facility to 10 feet above the utility pole or structure upon which the small wireless facility is to be collocated. Unless waived by an authority, the height for a new utility pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet,
the authority shall limit the height of the utility pole to 50 feet.

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

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

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

9. An authority must notify the applicant of approval or denial by electronic mail. An authority shall approve a complete
application unless it does not meet the authority’s applicable codes. If the application is denied, the authority must specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the authority denies the application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days after notice of the denial is sent to the applicant. The authority shall approve or deny the revised application within 30 days after receipt or the application is deemed approved. The review of a revised application is Any subsequent review shall be limited to the deficiencies cited in the denial. If an authority provides for administrative review of a denial of an application, the review must be completed and a written decision must be issued within 45 days after a written request for review is received. A denial must specify the specific code provisions on which the denial is based. If the administrative review is not complete within such period, the authority waives any claim regarding the failure to exhaust administrative remedies in any judicial review of the denial of an application.

10. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may, at the applicant’s discretion, file a consolidated application and receive a single permit for the collocation of up to 30 small wireless facilities. If the application includes multiple small wireless facilities, an authority may separately address small wireless facility collocations for which incomplete information has been received or which are denied.
11. An authority may deny an application to place a proposed collocation of a small wireless facility or a utility pole used to support a small wireless facility in the public rights-of-way if the proposed small wireless facility or utility pole collocation:

i. Materially interferes with the safe operation of traffic control equipment.

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

iii. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.


v. Fails to comply with applicable codes.

vi. Fails to comply with objective design standards authorized under paragraph (r).

12. An authority may adopt by ordinance provisions for insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, authority liability, or authority warranties. Such provisions must be reasonable and nondiscriminatory. An authority may require a construction bond to secure restoration of the postconstruction rights-of-way to its preconstruction condition. However, such bond must be time-limited to no more than 1 year after the construction to which the bond applies is completed. For any financial obligation required by an authority and authorized under this section, the authority shall accept a letter of credit or similar financial
instrument issued by any financial institution that is authorized to do business within the United States, provided that a claim against the financial instrument may be made by electronic means, including by facsimile. A provider of communications services may add an authority to any existing bond, insurance policy, or other relevant financial instrument, and the authority must accept such proof of coverage without any conditions other than consent to venue for purposes of any litigation to which the authority is a party. An authority may not require a communications services provider to indemnify it for liabilities not caused by the provider, including liabilities arising from the authority’s negligence, gross negligence, or willful conduct.

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

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

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

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

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

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

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

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane or parking lane, unless the provider is performing service restoration on an existing facility and the work is done in compliance with the 2017 edition of the Department of Transportation Utility Accommodation Manual. An authority may require notice of such work within 30 days after restoration and may require an after-
the-fact permit for work that would otherwise have required a permit.

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

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

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

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

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

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

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

b. For an authority utility pole that supports an aerial facility used to provide communications services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations.

The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested collocation must include pole replacement if necessary.

c. For an authority utility pole that does not support an aerial facility used to provide communications services or electric service, the authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, an authority may require the applicant seeking to collocate a small wireless facility to provide a make-ready estimate at the applicant’s expense for the work necessary to support the small wireless facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a utility pole that is substantially similar in color and composition. The authority may not condition or
restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the authority.

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

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

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

  a. The authority has required all public utility lines to be placed underground at least 3 months before the submission of the application; and

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

  2. A wireless provider may install a new utility pole in the designated area in the right-of-way which otherwise complies with this subsection if it is not reasonably able to provide wireless service by collocating on a remaining utility pole or other structure in the right-of-way.

  3. For small wireless facilities installed before an authority adopts a requirement that public utility lines be placed underground, an authority adopting such requirement shall:

  a. Permit a wireless provider to maintain the small wireless facilities in place, subject to any applicable pole attachment agreement with the pole owner; or

  b. Permit the wireless provider to replace the associated pole within 50 feet of the prior location A wireless provider shall, in relation to a small wireless facility, utility pole,
or wireless support structure in the public rights-of-way, comply with nondiscriminatory undergrounding requirements of an authority that prohibit above-ground structures in public rights-of-way. Any such requirements may be waived by the authority.

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

1. A new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color;
2. Reasonable spacing concerning the location of a ground-mounted component of a small wireless facility which does not exceed 15 feet from the associated support structure;
3. A small wireless facility to meet reasonable location context, color, camouflage, and concealment requirements, subject to the limitations of this subsection; and
4. A new utility pole used to support a small wireless facility to meet reasonable location context, color, and material of the predominant utility pole type at the proposed location of the new utility pole.

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

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

(b) The court may:

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

2. Direct the recovery of full costs, including awarding reasonable attorney fees, to the prevailing party.

Section 3. The Legislature intends that this act not be construed to delay the issuance of permits for other utility work, including, but not limited to, those related to electricity and gas work in the rights-of-way. All utility work under chapter 337, Florida Statutes, must comply with the 2017 edition of the Department of Transportation Utility Accommodation Manual.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled An act relating to communications services; amending s. 202.20, F.S.; conforming a cross-reference; amending s. 337.401, F.S.; revising legislative intent; providing that a municipality or county may only require specified registration information of communications services providers that place or seek to place facilities in roads or rights-of-way; specifying limitations on, and prohibited and
authorized acts by, municipalities and counties
relating to registrations, registration renewals, and
permit applications of communications services
prohibiting municipalities and counties
from certain actions relating to communications
facilities and communications services; prohibiting
municipalities and counties that elected not to
require permit fees as of a certain date from imposing
such fees; deleting provisions relating to such
elections; adding activities for which permit fees may
not be imposed; providing that a municipality’s or
county’s failure to provide a certain notice of
proposed ordinance to the Secretary of State suspends
enforcement of the ordinance for a certain timeframe;
specifying a condition for certain in-kind
compensation required or solicited by municipalities
or counties; specifying prohibited and authorized
permit requirements by municipalities and counties for
certain communications facility activities; specifying
requirements for certain rules and regulations
relating to occupation of roads or rights-of-way;
deleting an obsolete provision; revising definitions
under the Advanced Wireless Infrastructure Deployment
Act; prohibiting authorities from prohibiting,
regulating, or charging for certain activities
relating to certain utility poles; prohibiting
authorities from requiring certain information or
conditions from permit applicants relating to small
wireless facilities and utility poles used to support
such facilities; revising applicability of authority rules or regulations as to utility poles; specifying requirements and procedures for the administrative review of application denials; revising and specifying bases on which authorities may deny applications relating to small wireless facilities and certain utility poles; revising the authority of authorities relating to bonding, security, and indemnification requirements; specifying and revising prohibited acts of authorities relating to permitting requirements and charges; authorizing authorities to require certain filings and notices under certain circumstances; prohibiting certain actions by authorities which would prohibit or delay certain permits or approvals; revising requirements for wireless providers in complying with certain undergrounding requirements; providing an exception; specifying requirements for an authority relating to small wireless facilities installed before the authority adopts a certain requirement; authorizing authorities to require wireless providers to comply with specified objective design standards; authorizing authorities to waive such standards under certain circumstances; requiring that such waiver be granted or denied within a certain timeframe; authorizing a civil remedy for persons aggrieved by certain violations; authorizing the court to grant certain remedies; providing legislative intent; requiring certain utility work to comply with certain standards; providing an effective date.