

1 A bill to be entitled
2 An act relating to the wireless emergency
3 telephone system; amending s. 11.45, F.S.;
4 removing the annual audit of the Wireless
5 Emergency Telephone System Fund from the duties
6 of the Auditor General; amending s. 365.172,
7 F.S.; adding definitions relating to wireless
8 telephone communications; revising duties of
9 the Wireless 911 Board; providing for an
10 executive director, services of an attorney,
11 and the appointment of a subcommittee;
12 requiring a report by the subcommittee;
13 providing legislative intent regarding the
14 emergency wireless telephone system; providing
15 standards for local governments to follow when
16 regulating the placement, construction, or
17 modification of a wireless communications
18 facility; directing local governments to grant
19 or deny properly completed applications within
20 specified time periods; providing procedures
21 for a provider of wireless communications
22 services to submit an application for local
23 approval; directing local governments to notify
24 a provider of the deficiencies in an
25 application; directing local governments to
26 notify a provider whether the resubmission of
27 information properly completes the application;
28 permitting local governments to continue
29 requesting information until the application
30 deficiencies are cured; providing for a limited
31 review by a local government of an accessory

1 wireless communications facility; prohibiting
2 local governments from imposing certain
3 restrictions on wireless communications
4 facilities; revising provisions for lease of
5 state-owned property by a wireless provider;
6 providing that a person who is adversely
7 affected by a decision of a local government
8 relating to a wireless communications facility
9 may bring an action within a specified period;
10 providing for the computation of the time
11 period; providing that the governing authority
12 of an airport is not required to make available
13 any site, space, or facility owned or
14 controlled by the airport to a wireless service
15 provider for the location or collocation of any
16 tower or wireless communication facility;
17 creating s. 253.0342, F.S.; providing process
18 for lease of non-transportation state-owned
19 lands by a wireless provider; amending s.
20 365.173, F.S.; directing how a county may use
21 funds derived from the E911 fee; requiring the
22 board of county commissioners to appropriate
23 the funds to the proper uses; removing the
24 requirement that the Auditor General annually
25 audit the E911 fund; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsection (2) of section 11.45, Florida
31 Statutes, is amended to read:

1 11.45 Definitions; duties; authorities; reports;
2 rules.--

3 (2) DUTIES.--The Auditor General shall:

4 (a) Conduct audits of records and perform related
5 duties as prescribed by law, concurrent resolution of the
6 Legislature, or as directed by the Legislative Auditing
7 Committee.

8 (b) Annually conduct a financial audit of state
9 government.

10 (c) Annually conduct financial audits of all
11 universities and district boards of trustees of community
12 colleges.

13 (d) Annually conduct financial audits of the accounts
14 and records of all district school boards in counties with
15 populations of fewer than 150,000, according to the most
16 recent federal decennial statewide census.

17 ~~(e) Annually conduct an audit of the Wireless~~
18 ~~Emergency Telephone System Fund as described in s. 365.173.~~

19 (e)(f) At least every 2 years, conduct operational
20 audits of the accounts and records of state agencies and
21 universities. In connection with these audits, the Auditor
22 General shall give appropriate consideration to reports issued
23 by state agencies' inspectors general or universities'
24 inspectors general and the resolution of findings therein.

25 (f)(g) At least every 2 years, conduct a performance
26 audit of the local government financial reporting system,
27 which, for the purpose of this chapter, means any statutory
28 provisions related to local government financial reporting.
29 The purpose of such an audit is to determine the accuracy,
30 efficiency, and effectiveness of the reporting system in
31 achieving its goals and to make recommendations to the local

1 governments, the Governor, and the Legislature as to how the
2 reporting system can be improved and how program costs can be
3 reduced. The local government financial reporting system
4 should provide for the timely, accurate, uniform, and
5 cost-effective accumulation of financial and other information
6 that can be used by the members of the Legislature and other
7 appropriate officials to accomplish the following goals:

8 1. Enhance citizen participation in local government;

9 2. Improve the financial condition of local

10 governments;

11 3. Provide essential government services in an
12 efficient and effective manner; and

13 4. Improve decisionmaking on the part of the
14 Legislature, state agencies, and local government officials on
15 matters relating to local government.

16 ~~(g)(h)~~ Once every 3 years, conduct performance audits
17 of the Department of Revenue's administration of the ad
18 valorem tax laws as described in s. 195.096.

19 ~~(h)(i)~~ Once every 3 years, conduct financial audits of
20 the accounts and records of all district school boards in
21 counties with populations of 125,000 or more, according to the
22 most recent federal decennial statewide census.

23 ~~(i)(j)~~ Once every 3 years, review a sample of each
24 state agency's internal audit reports to determine compliance
25 with current Standards for the Professional Practice of
26 Internal Auditing or, if appropriate, government auditing
27 standards.

28 ~~(j)(k)~~ Conduct audits of local governmental entities
29 when determined to be necessary by the Auditor General, when
30 directed by the Legislative Auditing Committee, or when
31 otherwise required by law. No later than 18 months after the

1 release of the audit report, the Auditor General shall perform
2 such appropriate followup procedures as he or she deems
3 necessary to determine the audited entity's progress in
4 addressing the findings and recommendations contained within
5 the Auditor General's previous report. The Auditor General
6 shall provide a copy of his or her determination to each
7 member of the audited entity's governing body and to the
8 Legislative Auditing Committee.

9
10 The Auditor General shall perform his or her duties
11 independently but under the general policies established by
12 the Legislative Auditing Committee. This subsection does not
13 limit the Auditor General's discretionary authority to conduct
14 other audits or engagements of governmental entities as
15 authorized in subsection (3).

16 Section 2. Subsections (3), (6), and (11) and
17 paragraph (a) of subsection (8) of section 365.172, Florida
18 Statutes, are amended, present subsection (13) of that section
19 is redesignated as subsection (14), and a new subsection (13)
20 is added to that section, to read:

21 365.172 Wireless emergency telephone number "E911."--

22 (3) DEFINITIONS.--As used in this section and ss.

23 365.173 and 365.174, the term:

24 (a) "Active prepaid wireless telephone" means a
25 prepaid wireless telephone that has been used by the customer
26 during the month to complete a telephone call for which the
27 customer's card or balance was decremented.

28 (b) "Administrative review" means the nondiscretionary
29 review conducted by local governmental staff for compliance
30 with local government ordinances, but does not include a
31 public hearing or review of public input.

1 ~~(c)(b)~~ "Answering point" means the public safety
2 agency that receives incoming 911 calls and dispatches
3 appropriate public safety agencies to respond to ~~the such~~
4 calls.

5 ~~(d)(e)~~ "Automatic location identification" means the
6 capability of the E911 service which enables the automatic
7 display of information that defines the approximate geographic
8 location of the wireless telephone used to place a 911 call.

9 ~~(e)(d)~~ "Automatic number identification" means the
10 capability of the E911 service which enables the automatic
11 display of the 10-digit service number used to place a 911
12 call.

13 ~~(f)(e)~~ "Board" means the board of directors of the
14 Wireless 911 Board.

15 ~~(g)(f)~~ "Office" means the State Technology Office.

16 ~~(h)~~ "Building-permit review" means a review for
17 compliance with building construction standards adopted by the
18 local government under chapter 553 and does not include a
19 review for compliance with land development regulations.

20 ~~(i)~~ "Collocation" means the situation when a second or
21 subsequent wireless provider uses an existing structure to
22 locate a second or subsequent antenna. The term includes the
23 ground, platform, or roof installation of equipment
24 enclosures, cabinets, or buildings, and cables, brackets, and
25 other equipment associated with the location and operation of
26 the antennas.

27 ~~(j)(g)~~ "E911" is the designation for a wireless
28 enhanced 911 system or wireless enhanced 911 service that is
29 an emergency telephone system or service that provides a
30 subscriber with wireless 911 service and, in addition, directs
31 911 calls to appropriate public safety answering points by

1 selective routing based on the geographical location from
2 which the call originated, or as otherwise provided in the
3 state plan under s. 365.171, and that provides for automatic
4 number identification and automatic location-identification
5 features in accordance with the requirements of the order.

6 (k) "Existing structure" means a structure that exists
7 at the time an application for permission to place antennas on
8 a structure is filed with a local government. The term
9 includes any structure that can support the attachment of
10 antennas, including, but not limited to, towers, buildings,
11 utility structures, light poles, water towers, clock towers,
12 bell towers, and steeples.

13 (l)(h) "Fee" means the E911 fee imposed under
14 subsection (8).

15 (m)(i) "Fund" means the Wireless Emergency Telephone
16 System Fund established in s. 365.173 and maintained under
17 this section for the purpose of recovering the costs
18 associated with providing 911 service or E911 service,
19 including the costs of implementing the order.

20 (n) "Historic building, structure, or district" means
21 any building, structure, or district that has been officially
22 designated as a historic building, historic structure, or
23 historic district through a federal, state, or local
24 designation program.

25 (o) "Land-development regulation" means any ordinance
26 enacted by a local governing body for the regulation of any
27 aspect of development, including an ordinance governing
28 zoning, subdivisions, landscaping, tree protection, or signs,
29 or any other ordinance concerning any aspect of the
30 development of land. The term does not include any
31

1 building-construction standard adopted under and in compliance
2 with chapter 553.

3 ~~(p)(j)~~ "Local exchange carrier" means a "competitive
4 local exchange telecommunications company" or a "local
5 exchange telecommunications company" as defined in s. 364.02.

6 ~~(q)(k)~~ "Local government" means any municipality,
7 county, or political subdivision or agency of a municipality,
8 county, or political subdivision.

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

12 ~~(s)(m)~~ "Order" means:

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

15 a. Order adopted on June 12, 1996, with an effective
16 date of October 1, 1996, the amendments to s. 20.03 and the
17 creation of s. 20.18 of Title 47 of the Code of Federal
18 Regulations adopted by the Federal Communications Commission
19 pursuant to the ~~such~~ order.

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

22 c. Order No. FCC DA 98-2323 adopted on November 13,
23 1998.

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

25 2. Orders and rules subsequently adopted by the
26 Federal Communications Commission relating to the provision of
27 wireless 911 services.

28 ~~(t)(o)~~ "Prepaid wireless telephone service" means
29 wireless telephone service that is activated in advance by
30 payment for a finite dollar amount of service or for a finite
31 set of minutes that terminate either upon use by a customer

1 and delivery by the wireless provider of an agreed-upon amount
2 of service corresponding to the total dollar amount paid in
3 advance or within a certain period of time following the
4 initial purchase or activation, unless additional payments are
5 made.

6 ~~(u)(n)~~ "Provider" or "wireless provider" means a
7 person or entity who provides service and either:

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

11 ~~(v)(p)~~ "Public agency" means the state and any
12 municipality, county, municipal corporation, or other
13 governmental entity, public district, or public authority
14 located in whole or in part within this state which provides,
15 or has authority to provide, firefighting, law enforcement,
16 ambulance, medical, or other emergency services.

17 ~~(w)(q)~~ "Public safety agency" means a functional
18 division of a public agency which provides firefighting, law
19 enforcement, medical, or other emergency services.

20 ~~(x)(r)~~ "Rural county" means any county that has a
21 population of fewer than 75,000.

22 ~~(y)(s)~~ "Service" means "commercial mobile radio
23 service" as provided under ss. 3(27) and 332(d) of the Federal
24 Telecommunications Act of 1996, 47 U.S.C., ss. 151 et seq.,
25 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.
26 103-66, August 10, 1993, 107 Stat. 312. The term "service"
27 includes the term "wireless" and service provided by any
28 wireless real-time two-way wire communication device,
29 including radio-telephone communications used in cellular
30 telephone service; personal communications service; or the
31 functional or competitive equivalent of a radio-telephone

1 communications line used in cellular telephone service, a
2 personal communications service, or a network radio access
3 line. The term does not include wireless providers that offer
4 mainly dispatch service in a more localized, noncellular
5 configuration; providers offering only data, one-way, or
6 stored-voice services on an interconnected basis; providers of
7 air-to-ground services; or public coast stations.

8 ~~(z)~~~~(t)~~ "Service number" means the unique 10-digit
9 wireless telephone number assigned to a service subscriber.

10 ~~(aa)~~~~(u)~~ "Sufficient positive balance" means a dollar
11 amount greater than or equal to the monthly wireless surcharge
12 amount.

13 ~~(bb)~~ "Tower" means any structure designed primarily to
14 support a wireless provider's antenna.

15 ~~(cc)~~ "Wireless communications facility" means any
16 equipment or facility used to provide service, and includes,
17 but is not limited to, antennas, towers, equipment enclosures,
18 cabling, antenna brackets, and other equipment.

19 ~~(dd)~~ "Wireless communications site" means the area on
20 the roof, structure, or ground which is designed, intended to
21 be used, or is used for the location of a wireless
22 communications facility, and any fencing and landscaping
23 provided in association with the wireless communications
24 facility.

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

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

- 1 (a) The board shall:
- 2 1. Administer the E911 fee.
- 3 2. Implement, maintain, and oversee the fund.
- 4 3. Review and oversee the disbursement of the revenues
- 5 deposited into the fund as provided in s. 365.173. The board
- 6 may establish a schedule for implementing wireless E911
- 7 service by service area, and prioritize disbursements of
- 8 revenues from the fund to providers and rural counties as
- 9 provided in s. 365.173(2)(b) and (c) pursuant to the schedule,
- 10 in order to implement E911 services in the most efficient and
- 11 cost-effective manner.
- 12 4. Review documentation submitted by providers which
- 13 reflects current and projected funds derived from the E911
- 14 fee, and the expenses incurred and expected to be incurred, in
- 15 order to comply with the E911 service requirements contained
- 16 in the order for the purposes of:
- 17 a. Ensuring that providers receive fair and equitable
- 18 distributions of funds from the fund.
- 19 b. Ensuring that providers are not provided
- 20 disbursements from the fund which exceed the costs of
- 21 providing E911 service, including the costs of complying with
- 22 the order.
- 23 c. Ascertaining the projected costs of compliance with
- 24 the requirements of the order and projected collections of the
- 25 E911 fee.
- 26 d. Implementing changes to the allocation percentages
- 27 or reducing the E911 fee under paragraph (8)(c).
- 28 5. Review and approve or reject, in whole or in part,
- 29 applications submitted by providers for recovery of moneys
- 30 deposited into the fund.
- 31

1 6. Hire and retain employees, including an independent
2 executive director who shall possess experience in the area of
3 telecommunications and emergency 911 issues, for the purposes
4 of performing the technical and administrative functions for
5 the board.

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

9 8. Take all necessary and reasonable steps by July 1,
10 2000, to secure appropriate information and reports from
11 providers and otherwise perform all of the functions that
12 would be performed by an independent accounting firm prior to
13 completing the request-for-proposals process under subsection
14 (7).

15 9. Sue and be sued, and appear and defend in all
16 actions and proceedings, in its corporate name to the same
17 extent as a natural person.

18 10. Adopt, use, and alter a common corporate seal.

19 11. Elect or appoint the officers and agents that are
20 required by the affairs of the board.

21 12. The board may adopt rules under ss. 120.536(1) and
22 120.54 to implement this section and ss. 365.173 and 365.174.

23 13. Provide coordination, support, and technical
24 assistance to counties to promote the deployment of advanced
25 911 and E911 systems in the state.

26 14. Provide coordination and support for educational
27 opportunities related to 911 issues for the 911 community in
28 this state.

29 15. Act as an advocate for issues related to 911
30 system functions, features, and operations to improve the
31

1 delivery of 911 services to the residents of and visitors to
2 this state.

3 16. Coordinate input from this state at national
4 forums and associations, to ensure that policies related to
5 911 systems and services are consistent with the policies of
6 the 911 community in this state.

7 17. Work cooperatively with the system director
8 established in s. 365.171(5) to enhance the state of 911
9 services in this state and to provide unified leadership for
10 all 911 issues through planning and coordination.

11 18. Do all acts and things necessary or convenient to
12 carry out the powers granted in this section, including but
13 not limited to, consideration of emerging technology and
14 related cost savings.

15 19. By July 1, 2005, secure the services of an
16 independent, private attorney via invitation to bid, request
17 for proposals, invitation to negotiate, or professional
18 contracts for legal services already established at the
19 Division of Purchasing of the Department of Management
20 Services.

21 20. No later than August 1, 2004, establish a
22 subcommittee responsible for analyzing the cost and
23 effectiveness of a nonemergency 311 system, including the
24 potential to improve the overall efficiency of an existing 911
25 system or reduce 911 call processing times. The subcommittee
26 shall report its findings and recommendations to the board by
27 December 31, 2004.

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

31

1 (c) By February 28 of each year, the board shall
2 prepare a report for submission by the office to the Governor,
3 the President of the Senate, and the Speaker of the House of
4 Representatives which reflects, for the immediately preceding
5 calendar year, the quarterly and annual receipts and
6 disbursements of moneys in the fund, the purposes for which
7 disbursements of moneys from the fund have been made, and the
8 availability and status of implementation of E911 service in
9 this state.

10 (d) By February 28, 2001, the board shall undertake
11 and complete a study for submission by the office to the
12 Governor, the President of the Senate, and the Speaker of the
13 House of Representatives which addresses:

14 1. The total amount of E911 fee revenues collected by
15 each provider, the total amount of expenses incurred by each
16 provider to comply with the order, and the amount of moneys on
17 deposit in the fund, all as of December 1, 2000.

18 2. Whether the amount of the E911 fee and the
19 allocation percentages set forth in s. 365.173 should be
20 adjusted to comply with the requirements of the order, and, if
21 so, a recommended adjustment to the E911 fee.

22 3. Any other issues related to providing wireless E911
23 services.

24 (8) WIRELESS E911 FEE.--

25 (a) Each home service provider shall collect a monthly
26 fee imposed on each customer whose place of primary use is
27 within this state. For purposes of this section, the state and
28 local governments are not customers. The rate of the fee shall
29 be 50 cents per month per each service number, beginning
30 August 1, 1999. The fee shall apply uniformly and be imposed
31 throughout the state.

1 (11) FACILITATING E911 SERVICE IMPLEMENTATION.--In
2 order to balance the public need for reliable E911 services
3 through reliable wireless systems with the public interest
4 served by governmental zoning and land development regulations
5 and notwithstanding any other law or local ordinance to the
6 contrary, the following standards shall apply to a local
7 government's regulation of the placement, construction, or
8 modification of a wireless communications facility:

9 (a)1. Collocation ~~Colocation~~ among wireless telephone
10 ~~service~~ providers is encouraged by the state. To further
11 facilitate agreements among providers for collocation
12 ~~colocation~~ of their facilities, any antennae ~~and related~~
13 ~~equipment to service the antennae~~ that is being collocated
14 ~~colocated~~ on an existing above-ground structure and the
15 related equipment to service the antenna is not subject to
16 land development regulation ~~pursuant to s. 163.3202~~, provided
17 the height of the existing structure is not increased.
18 However, construction of the antennae and related equipment is
19 subject to local building regulations and any existing permits
20 or agreements for such property, buildings, or structures.
21 Nothing herein shall relieve the permitholder for or owner of
22 the existing structure from ~~of~~ compliance with any applicable
23 condition or requirement contained in ~~of~~ a permit, agreement,
24 ~~of~~ land development regulation, including any aesthetic
25 requirements, or law.

26 2. An existing tower, including a nonconforming tower,
27 may be modified without increasing the height in order to
28 permit collocation. The modification shall be subject only to
29 administrative review and to building-permit review.

30 (b)1. A local government is limited when evaluating a
31 wireless provider's application for placement of a wireless

1 communications facility to issues concerning land development
2 and zoning. A local government may not request information on
3 or review, consider, or evaluate a wireless provider's
4 business need for a specific location for a wireless
5 communications site or the need for wireless service to be
6 provided from a particular site unless the wireless provider
7 voluntarily offers this information to the local government. A
8 local government may not request information on or review,
9 consider, or evaluate the wireless provider's service quality
10 or the network design of the wireless service unless the
11 wireless provider voluntarily offers the information to the
12 local government or unless the information or materials are
13 directly related to an identified land development or zoning
14 issue.

15 2. The setback or distance separation required of a
16 tower may not exceed the minimum distance necessary to satisfy
17 the structural safety or aesthetic concerns that are protected
18 by the setback or distance separation.

19 3. A local government must provide a reasonable
20 opportunity for placing some form or type of antenna when a
21 wireless provider has demonstrated that it is necessary to
22 comply with the requirements to provide E911 service.

23 4. A local government may impose a fee, surety, or
24 insurance requirement on a wireless provider when applying to
25 place, construct, or modify a wireless communications facility
26 only if a similar fee, surety, or insurance requirement is
27 also imposed on applicants seeking similar types of zoning,
28 land use, or building-permit review. Fees for review of
29 applications for wireless communications facilities by
30 consultants or experts who are engaged to review general
31 zoning and land use matters on behalf of the local government

1 may be recovered, but only if the recovery is routinely sought
2 from applicants seeking a similar level of review for zoning
3 or land-development approvals, and any fees must be
4 reasonable.

5 ~~(c)(b)~~ Local governments may ~~shall~~ not require
6 wireless providers to provide evidence of a wireless
7 communications facility's compliance with federal regulations,
8 except evidence of compliance with applicable Federal Aviation
9 Administration requirements under 14 C.F.R. s. 77, as amended.
10 However, local governments may request ~~shall receive~~ evidence
11 of proper Federal Communications Commission licensure or other
12 evidence of Federal Communications Commission authorized
13 spectrum use from a wireless provider and may request the
14 Federal Communications Commission to provide information as to
15 a wireless provider's compliance with federal regulations, as
16 authorized by federal law.

17 ~~(d)(e)~~1. A local government shall grant or deny each a
18 properly completed application for a collocation under
19 subparagraph (11)(a)1. of this section reviewed through
20 administrative review or an application reviewed through
21 building-permit review a permit, including permits under
22 paragraph(a), for the collocation of a wireless communications
23 facility on property, buildings, or structures within the
24 local government's jurisdiction within 45 business days after
25 the date the properly completed application is determined to
26 be properly completed initially submitted in accordance with
27 this paragraph the applicable local government application
28 procedures, provided that such permit complies with applicable
29 federal regulations and applicable local zoning or land
30 development regulations, including any aesthetic requirements.
31 ~~Local building regulations shall apply. If administrative~~

1 reviews are required from multiple departments of the local
2 government, such reviews shall be concurrent and all within
3 the 45-business-day timeframe.

4 2. A local government shall grant or deny each a
5 properly completed application for a wireless communications
6 facility not reviewed through subparagraph (1)(d)1. of this
7 section ~~a permit for the siting of a new wireless tower or~~
8 ~~antenna on property, buildings, or structures within the local~~
9 ~~government's jurisdiction~~ within 90 business days after the
10 date the ~~properly completed~~ application is determined to be
11 properly completed initially submitted in accordance with this
12 paragraph ~~the applicable local government application~~
13 ~~procedures~~, provided that such permit complies with applicable
14 federal regulations and applicable local zoning or land
15 development regulations, including any aesthetic requirements.
16 Local building regulations shall apply. If the local
17 government review of the wireless communications facility also
18 includes applications for administrative review, each shall be
19 within the applicable timeframe indicated in this section.

20 3.a. An application is deemed submitted or resubmitted
21 on the date the application is received by the local
22 government. The local government shall notify the ~~permit~~
23 applicant within 20 business days after the date the
24 application is initially submitted as to whether the
25 application is, for administrative purposes only, properly
26 completed and has been properly submitted. However, ~~the such~~
27 determination shall not be deemed as an approval of the
28 application. If the application is not completed in compliance
29 with the local government's regulations, the ~~Such~~ notification
30 must ~~shall~~ indicate with specificity any deficiencies in the
31 required documents or deficiencies in the content of the

1 required documents which, if cured, ~~shall~~ make the application
2 properly completed. Upon resubmission of information to cure
3 the stated deficiencies, the local government shall notify the
4 applicant within 20 business days after the additional
5 information is submitted whether the application is properly
6 completed or if there are any remaining deficiencies that must
7 be cured. Any deficiencies in document type or content not
8 specified by the local government shall not render an
9 application incomplete. Notwithstanding this sub-subparagraph,
10 if a specified deficiency is not properly cured when the
11 applicant resubmits its application to comply with the notice
12 of deficiencies, the local government may continue to request
13 the information until such time as the specified deficiency is
14 cured.

15 b. If the local government fails to grant or deny a
16 properly completed application for a wireless communications
17 facility ~~permit which has been properly submitted~~ within the
18 timeframes set forth in this paragraph, the application
19 ~~paragraph, the permit~~ shall be deemed automatically approved
20 and the applicant ~~provider~~ may proceed with placement of such
21 facilities without interference or penalty. The timeframes
22 specified in subparagraph ~~subparagraphs 1. and 2.~~ shall be
23 extended only to the extent that the application ~~permit~~ has
24 not been granted or denied because the local government's
25 procedures generally applicable to all applications ~~permits,~~
26 require action by the governing body and such action has not
27 taken place within the timeframes specified in subparagraph
28 ~~subparagraphs 1. and 2.~~ Under such circumstances, the local
29 government must act to either grant or deny the application
30 ~~permit~~ at its next regularly scheduled meeting or, otherwise,
31

1 the application ~~permit~~ shall be deemed to be automatically
2 approved.

3 c. To be effective, a waiver of the timeframes set
4 forth in this paragraph herein must be voluntarily agreed to
5 by the applicant and the local government. A local government
6 may request, but not require, a waiver of the timeframes by
7 the applicant ~~an entity seeking a permit~~, except that, with
8 respect to a specific permit, a one-time waiver may be
9 required in the case of a declared local, state, or federal
10 emergency that directly affects the administration of all
11 permitting activities of the local government.

12 ~~(d) Any additional wireless communications facilities,~~
13 ~~such as communication cables, adjacent accessory structures,~~
14 ~~or adjacent accessory equipment used in the provision of~~
15 ~~cellular, enhanced specialized mobile radio, or personal~~
16 ~~communications services, required within the existing secured~~
17 ~~equipment compound within the existing site shall be deemed a~~
18 ~~permitted use or activity. Local building and land development~~
19 ~~regulations, including any aesthetic requirements, shall~~
20 ~~apply.~~

21 (e) The replacement of or modification to a wireless
22 communications facility, except a tower, that results in a
23 wireless communications facility of similar size, type, and
24 appearance and the replacement or modification of equipment
25 that is not visible from outside the wireless communications
26 site are subject only to building-permit review or
27 administrative review.

28 (f)1.(e) The use of state government-owned property
29 for wireless communications facilities is encouraged. Any
30 other provision of law to the contrary notwithstanding, except
31 as provided in s. 253.0342, the Department of Management

1 Services shall negotiate, in the name of the state, leases for
2 wireless communications facilities that provide access to
3 state government-owned property not acquired for
4 transportation purposes, and the Department of Transportation
5 shall negotiate, in the name of the state, leases for wireless
6 communications facilities that provide access to property
7 acquired for state rights-of-way.

8 2. On property acquired for transportation purposes,
9 leases shall be granted in accordance with s. 337.251. On
10 other state government-owned property, leases shall be granted
11 on a space available, ~~first come, first served~~ basis as
12 determined by the Department of Management Services in
13 accordance with s. 253.0342. Payments required by state
14 government under a lease must be reasonable and must reflect
15 the market rate. ~~for the use of the state government owned~~
16 ~~property.~~ Lease payments shall be deposited in the General
17 Revenue Fund. Leases in existence on or before January 1, 2004
18 on lands titled in the name of the Board of Trustees of the
19 Internal Improvement Trust Fund or lands titled in the name of
20 other state agencies or water management districts shall be
21 excluded from the lease payment provisions of this section.
22 The Department of Management Services and the Department of
23 Transportation are authorized to adopt rules for the terms and
24 conditions and granting of any such leases.

25 3. Local government zoning and land use regulations,
26 unless otherwise expressly exempted by general law, shall
27 apply to any private communication towers located on lands
28 titled in the name of the Board of Trustees of the Internal
29 Improvement Trust Fund or lands titled in the name of other
30 state agencies or water management districts. Any other
31 communication facility located on lands titled in the name of

1 the Board of Trustees of the Internal Improvement Trust Fund
2 or lands titled in the name of other state agencies or water
3 management districts shall be subject to applicable zoning and
4 land use requirements. Local government shall review the
5 placement, construction or modification of a wireless
6 communications facility on lands titled in the name of the
7 Board of Trustees of the Internal Improvement Trust Fund or
8 lands titled in the name of other state agencies or water
9 management districts unless otherwise expressly exempted by
10 general law. If a wireless provider applies to enter into a
11 lease to use state government-owned property for a wireless
12 communications facility, the Department of Management Services
13 or the Department of Transportation, as applicable, shall not
14 review or consider any zoning or land use issues.

15 4. The Department of Management Services or the
16 Department of Transportation, as applicable, shall grant or
17 deny each properly completed application for a wireless
18 communications facility on state government-owned property
19 within 90 business days after the date the application is
20 determined to be properly completed. The Department of
21 Management Services or the Department of Transportation, as
22 applicable, shall notify the applicant within 40 business days
23 after the date the application is initially submitted as to
24 whether the application is properly completed and has been
25 properly submitted. If the application is not complete in
26 accordance within the applicable application review
27 procedures, the notification shall indicate with specificity
28 any deficiencies which, if cured, shall make the application
29 properly completed. Upon resubmission of information to cure
30 the stated deficiencies, the Department of Management Services
31 or the Department of Transportation, as applicable, shall

1 notify the applicant within 20 business days after the
2 additional information was submitted whether the application
3 is properly completed or if there are any remaining
4 deficiencies which must be cured. To be effective, a waiver of
5 any timeframe set forth herein must be voluntarily agreed to
6 by the applicant and the Department of Management Services or
7 the Department of Transportation, as applicable. If the
8 Department of Management Services or the Department of
9 Transportation, as applicable, fails to grant or deny a
10 properly completed application within the timeframes set forth
11 in this subsection and the timeframe has not been voluntarily
12 waived, the application shall be deemed automatically approved
13 and the applicant may proceed with placement of such
14 facilities without interference or penalty.

15 (g) Any person adversely affected by any action or
16 failure to act by a local government which is inconsistent
17 with this subsection may bring an action in a court of
18 competent jurisdiction within 30 days after the action or the
19 failure to act. The court shall consider the matter on an
20 expedited basis.

21 ~~(f) Any wireless telephone service provider may report~~
22 ~~to the board no later than September 1, 2003, the specific~~
23 ~~locations or general areas within a county or municipality~~
24 ~~where the provider has experienced unreasonable delay to~~
25 ~~locate wireless telecommunications facilities necessary to~~
26 ~~provide the needed coverage for compliance with federal Phase~~
27 ~~II E911 requirements using its own network. The provider shall~~
28 ~~also provide this information to the specifically identified~~
29 ~~county or municipality no later than September 1, 2003. Unless~~
30 ~~the board receives no report that unreasonable delays have~~
31 ~~occurred, the board shall, no later than September 30, 2003,~~

1 ~~establish a subcommittee responsible for developing a balanced~~
2 ~~approach between the ability of providers to locate wireless~~
3 ~~facilities necessary to comply with federal Phase II E911~~
4 ~~requirements using the carrier's own network and the desire of~~
5 ~~counties and municipalities to zone and regulate land uses to~~
6 ~~achieve public welfare goals. If a subcommittee is~~
7 ~~established, it shall include representatives from the Florida~~
8 ~~Telecommunications Industry Association, the Florida~~
9 ~~Association of Counties, and the Florida League of Cities. The~~
10 ~~subcommittee shall be charged with developing recommendations~~
11 ~~for the board and any specifically identified municipality or~~
12 ~~county to consider regarding actions to be taken for~~
13 ~~compliance for federal Phase II E911 requirements. In the~~
14 ~~annual report due to the Governor and the Legislature by~~
15 ~~February 28, 2004, the board shall include any recommendations~~
16 ~~developed by the subcommittee to address compliance with~~
17 ~~federal Phase II E911 requirements.~~

18 (13) PRIOR APPROVAL REQUIREMENT.--It is the intent of
19 this act to assure the safety of employees, passengers, and
20 freight at airports, as defined in s. 330.27(2) and not to
21 require the placement at any airport of any wireless
22 communication facility unless approved by the airport.
23 Therefore, this section does not require the governing
24 authority of any airport to make available any site, space, or
25 facility owned or controlled by such airport to a service
26 provider for the location or collocation of any tower or
27 wireless communication facility, except on such terms and with
28 such limitation as the governing authority of such airport may
29 deem safe and appropriate. This section also does not affect
30 an airport governing authority's power or authority to manage,
31 control, or provide communications services, which include,

1 but are not limited to, wired, cellular, wireless, and
2 Internet services, information services, and data-related
3 services for any facility owned or controlled by the airport.
4 This section does not affect an airport governing authority's
5 power or authority to recover costs or generate revenue from
6 communications services provided on the airport.

7 Section 3. Section 253.0342, Florida Statutes, is
8 created to read:

9 253.0342 Use of state or water management district
10 lands for wireless communications facilities--

11 (1) Upon a request by the Department of Management
12 Services for the siting of proposed wireless communications
13 facilities as defined in s. 367.172(3), in a specific
14 geographic region, the Division of State Lands shall provide a
15 list of lands titled in the name of the Board of Trustees of
16 the Internal Improvement Trust Fund and lands titled in the
17 name of other state agencies or water management districts for
18 placement of these wireless communications facilities in that
19 region.

20 (2) Upon receipt of the list referred to in s.
21 253.0342(1), the Department of Management Services shall
22 contact the lead managing agency for lands titled in the name
23 of the Board of Trustees of the Internal Improvement Trust
24 Fund or the site owner for lands titled in the name of other
25 state agencies or water management districts, to obtain a
26 determination of whether the requested site is suitable for
27 placement of these wireless facilities.

28 (3) Consideration of suitability by the lead managing
29 agency or the site owner shall include, but not be limited to,
30 whether the proposed use will interfere with existing or
31 designated uses (including conservation uses), leases, or the

1 public health and safety. Consideration shall first be given
2 to collocating any proposed facility with existing linear
3 facilities, buildings or other structures. A determination
4 regarding suitability of a site shall be made in writing.

5 (4) Upon a determination that a site is both available
6 and suitable for lease, the Department of Management Services
7 is authorized to negotiate a proposed lease agreement with the
8 wireless provider for the use of state-owned lands titled in
9 the name of the Board of Trustees of the Internal Improvement
10 Trust Fund and for lands titled in the name of other state
11 agencies or water management districts for the placement of
12 wireless communications facilities. A copy of any proposed
13 lease agreement shall be provided to the lead managing agency
14 or site owner.

15 (5)(a) Lease agreements proposed by the Department of
16 Management Services for lands titled to the Board of Trustees
17 of the Internal Improvement Trust Fund shall be submitted to
18 the Division of State Lands as the designated representative
19 of the Board of Trustees of the Internal Improvement Trust
20 Fund for action by the board. The board may delegate the
21 approval or denial of proposed leases on categories or classes
22 of property to the Secretary of the Department of
23 Environmental Protection subject to terms and conditions
24 established by the board. Any proposed lease agreement must be
25 placed on the board's agenda or must be approved or denied by
26 the Secretary within 60 days of receipt from the Department of
27 Management Services. Such action shall constitute a final
28 order.

29 (b) Lease agreements proposed by the Department of
30 Management Services for land titled to a water management
31 district must be submitted to the governing board of the

1 appropriate water management district for its approval or
2 denial. The governing board must agenda any proposed lease
3 agreement within 60 days of receipt from the Department of
4 Management Services. Such action by the governing board shall
5 constitute an order of the agency.

6 (c) Lease agreements proposed by the Department of
7 Management Services for lands titled in the name of a state
8 agency shall be approved or denied by the secretary or
9 executive director of the agency within 60 days. Such action
10 by the secretary or executive director shall constitute an
11 order of the agency.

12 (6) All leases entered into under this section shall
13 restrict use of sites by wireless providers to those uses
14 directly related to provisions of wireless communications
15 service, including provisions for removal of any towers,
16 antennae or appurtenances of the wireless provider and any
17 needed site restoration. Use of the site by the wireless
18 provider shall be carried out and maintained in a manner
19 consistent with existing and designated uses (including
20 conservation uses), land management plans, leases, applicable
21 rules, and the public health and safety.

22 (7) Upon the approval by the lead managing agency or
23 site owner for the use of the property or facility for the
24 wireless communications facilities and upon approval of the
25 proposed lease agreement, the Department of Management
26 Services shall enter into the lease agreement with the
27 wireless provider. A copy of the executed lease agreement
28 shall be provided to the lead managing agency and site owner.

29 Section 4. Paragraph (a) of subsection (2) and
30 subsection (3) of section 365.173, Florida Statutes, are
31 amended to read:

1 365.173 Wireless Emergency Telephone System Fund.--

2 (2) Subject to any modifications approved by the board
3 pursuant to s. 365.172(8)(c), the moneys in the fund shall be
4 distributed and used only as follows:

5 (a) Forty-four percent of the moneys shall be
6 distributed each month to counties, based on the total number
7 of wireless subscriber billing addresses in each county, for
8 payment of:

9 1. Recurring costs of providing 911 or E911 service,
10 as provided by s. 365.171(13)(a)6.

11 2. Costs to comply with the requirements for E911
12 service contained in the order and any future rules related to
13 the order.

14
15 Any county that receives funds under this paragraph shall
16 establish a fund to be used exclusively for the receipt and
17 expenditure of the revenues collected under this paragraph.
18 All fees placed in the fund, and any interest accrued, shall
19 be used solely for costs described in subparagraphs 1 and 2.
20 The money collected and interest earned in this fund shall be
21 appropriated for these purposes by the county commissioners
22 and incorporated into the annual county budget. The fund shall
23 be included within the financial audit performed in accordance
24 with s. 218.39. A county may carry forward the, for up to 3
25 ~~successive calendar years, up to 30 percent of the total funds~~
26 ~~disbursed to the county by the board during a calendar year~~
27 ~~for expenditures for capital outlay, capital improvements, or~~
28 ~~equipment replacement, if the ~~such~~ expenditures are made for~~
29 ~~the purposes specified in this paragraph.~~

30 ~~(3) The Auditor General shall annually audit the fund~~
31 ~~to ensure that moneys in the fund are being managed in~~

1 ~~accordance with this section and s. 365.172. The Auditor~~
2 ~~General shall provide a report of the annual audit to the~~
3 ~~board.~~

4 Section 5. This act shall take effect July 1, 2004.
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