



296256

LEGISLATIVE ACTION

Senate

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House

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The Committee on Appropriations (Hutson) recommended the following:

1           **Senate Substitute for Amendment (500128) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Paragraph (b) of subsection (2) of section  
7 202.20, Florida Statutes, is amended to read:

8           202.20 Local communications services tax conversion rates.—

9           (2)

10          (b) Except as otherwise provided in this subsection,



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

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

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

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

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

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

33 e. Actual permit fees relating to placing or maintaining  
34 facilities in or on public roads or rights-of-way, collected  
35 from providers of long-distance, cable, and mobile  
36 communications services for the fiscal year ending September 30,  
37 1999; however, if a municipality or charter county elects the  
38 option to charge permit fees pursuant to s. 337.401(3)(c)  
39 ~~337.401(3)(c)1.a.~~, such fees shall not be included as a replaced



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40 revenue source.

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

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

49 337.401 Use of right-of-way for utilities subject to  
50 regulation; permit; fees.—

51 (3) (a) Because of the unique circumstances applicable to  
52 providers of communications services, including, but not limited  
53 to, the circumstances described in paragraph (e) and the fact  
54 that federal and state law require the nondiscriminatory  
55 treatment of providers of telecommunications services, and  
56 because of the desire to promote competition among providers of  
57 communications services, it is the intent of the Legislature  
58 that municipalities and counties treat providers of  
59 communications services in a nondiscriminatory and competitively  
60 neutral manner when imposing rules or regulations governing the  
61 placement or maintenance of communications facilities in the  
62 public roads or rights-of-way. Rules or regulations imposed by a  
63 municipality or county relating to providers of communications  
64 services placing or maintaining communications facilities in its  
65 roads or rights-of-way must be generally applicable to all  
66 providers of communications services, taking into account the  
67 distinct engineering, construction, operation, maintenance,  
68 public works, and safety requirements of the provider's



69 facilities, and, notwithstanding any other law, may not require  
70 a provider of communications services to apply for or enter into  
71 an individual license, franchise, or other agreement with the  
72 municipality or county as a condition of placing or maintaining  
73 communications facilities in its roads or rights-of-way. In  
74 addition to other reasonable rules or regulations that a  
75 municipality or county may adopt relating to the placement or  
76 maintenance of communications facilities in its roads or rights-  
77 of-way under this subsection or subsection (7), a municipality  
78 or county may require a provider of communications services that  
79 places or seeks to place facilities in its roads or rights-of-  
80 way to register with the municipality or county. To register, a  
81 provider of communications services may be required only to  
82 provide its name ~~and to provide the name of the registrant;~~ the  
83 name, address, and telephone number of a contact person for the  
84 registrant; the number of the registrant's current certificate  
85 of authorization issued by the Florida Public Service  
86 Commission, the Federal Communications Commission, or the  
87 Department of State; a statement of whether the registrant is a  
88 pass-through provider as defined in s. 337.401(6)(a)1.; the  
89 registrant's federal employer identification number; and any  
90 required proof of insurance or self-insuring status adequate to  
91 defend and cover claims. A municipality or county may not  
92 require a registrant to renew a registration more frequently  
93 than every 5 years but may require during this period that a  
94 registrant update the registration information provided under  
95 this subsection within 90 days after a change in such  
96 information. A municipality or county may not require the  
97 registrant to provide an inventory of communications facilities,



98 maps, locations of such facilities, or other information by a  
99 registrant as a condition of registration, renewal, or for any  
100 other purpose; provided, however, that a municipality or county  
101 may require as part of a permit application that the applicant  
102 identify at-grade communications facilities within 50 feet of  
103 the proposed installation location for the placement of at-grade  
104 communications facilities. A municipality or county may not  
105 require a provider to pay any fee, cost, or other charge for  
106 registration or renewal thereof. It is the intent of the  
107 Legislature that the placement, operation, maintenance,  
108 upgrading, and extension of communications facilities not be  
109 unreasonably interrupted or delayed through the permitting or  
110 other local regulatory process. Except as provided in this  
111 chapter or otherwise expressly authorized by chapter 202,  
112 chapter 364, or chapter 610, a municipality or county may not  
113 adopt or enforce any ordinance, regulation, or requirement as to  
114 the placement or operation of communications facilities in a  
115 right-of-way by a communications services provider authorized by  
116 state or local law to operate in a right-of-way; regulate any  
117 communications services; or impose or collect any tax, fee,  
118 cost, charge, or exaction for the provision of communications  
119 services over the communications services provider's  
120 communications facilities in a right-of-way.

121 (b) Registration described in paragraph (a) does not  
122 establish a right to place or maintain, or priority for the  
123 placement or maintenance of, a communications facility in roads  
124 or rights-of-way of a municipality or county. Each municipality  
125 and county retains the authority to regulate and manage  
126 municipal and county roads or rights-of-way in exercising its



127 police power, subject to the limitations imposed in this section  
128 and chapters 202 and 610. Any rules or regulations adopted by a  
129 municipality or county which govern the occupation of its roads  
130 or rights-of-way by providers of communications services must be  
131 related to the placement or maintenance of facilities in such  
132 roads or rights-of-way, must be reasonable and  
133 nondiscriminatory, and may include only those matters necessary  
134 to manage the roads or rights-of-way of the municipality or  
135 county.

136 (c) Any municipality or county that, as of January 1, 2019,  
137 elected to require permit fees from any provider of  
138 communications services that uses or occupies municipal or  
139 county roads or rights-of-way pursuant to former paragraph (c)  
140 or paragraph (j), Florida Statutes 2018, may continue to require  
141 and collect such fees. A municipality or county that elected as  
142 of January 1, 2019, to require permit fees may elect to forego  
143 such fees as provided herein. A municipality or county that  
144 elected as of January 1, 2019, not to require permit fees may  
145 not elect to impose permit fees.

146 ~~1. It is the intention of the state to treat all providers~~  
147 ~~of communications services that use or occupy municipal or~~  
148 ~~charter county roads or rights-of-way for the provision of~~  
149 ~~communications services in a nondiscriminatory and competitively~~  
150 ~~neutral manner with respect to the payment of permit fees.~~  
151 ~~Certain providers of communications services have been granted~~  
152 ~~by general law the authority to offset permit fees against~~  
153 ~~franchise or other fees while other providers of communications~~  
154 ~~services have not been granted this authority. In order to treat~~  
155 ~~all providers of communications services in a nondiscriminatory~~



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156 ~~and competitively neutral manner with respect to the payment of~~  
157 ~~permit fees, each municipality and charter county shall make an~~  
158 ~~election under either sub-subparagraph a. or sub-subparagraph b.~~  
159 ~~and must inform the Department of Revenue of the election by~~  
160 ~~certified mail by July 16, 2001. Such election shall take effect~~  
161 ~~October 1, 2001.~~

162       ~~a. (I) The municipality or charter county may require and~~  
163 ~~collect permit fees from any providers of communications~~  
164 ~~services that use or occupy municipal or county roads or rights-~~  
165 ~~of-way. All fees authorized ~~permitted~~ under this paragraph ~~sub-~~~~

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



185 that may be required for service drop lines not required to be  
186 noticed under s. 556.108(5) ~~s. 556.108(5)(a)2.~~ or for any  
187 activity that does not require the physical disturbance of the  
188 roads or rights-of-way or does not impair access to or full use  
189 of the roads or rights-of-way, including, but not limited to,  
190 the performance of service restoration work on existing  
191 facilities, extensions of such facilities for providing  
192 communications services to customers, and the placement of micro  
193 wireless facilities in accordance with subparagraph (7)(e)3.

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

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

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





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

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

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

229 a. ~~The noncharter county may elect to require and collect~~  
230 ~~permit fees from any providers of communications services that~~  
231 ~~use or occupy noncharter county roads or rights-of-way. All fees~~  
232 ~~permitted under this sub-subparagraph must be reasonable and~~  
233 ~~commensurate with the direct and actual cost of the regulatory~~  
234 ~~activity, including issuing and processing permits, plan~~  
235 ~~reviews, physical inspection, and direct administrative costs;~~  
236 ~~must be demonstrable; and must be equitable among users of the~~  
237 ~~roads or rights-of-way. A fee permitted under this sub-~~  
238 ~~subparagraph may not: be offset against the tax imposed under~~  
239 ~~chapter 202; include the costs of roads or rights-of-way~~  
240 ~~acquisition or roads or rights-of-way rental; include any~~  
241 ~~general administrative, management, or maintenance costs of the~~  
242 ~~roads or rights-of-way; or be based on a percentage of the value~~



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

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

264 2. ~~If a noncharter county elects to not require permit fees~~  
265 ~~operate under this sub-subparagraph, the total rate for the~~  
266 ~~local communications services tax as computed under s. 202.20~~  
267 ~~for that noncharter county may be increased by ordinance or~~  
268 ~~resolution by an amount not to exceed a rate of 0.24 percent, to~~  
269 ~~replace the revenue the noncharter county would otherwise have~~  
270 ~~received from permit fees for providers of communications~~  
271 ~~services. If a noncharter county elects to increase its rate~~



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272 ~~effective October 1, 2001, the noncharter county shall inform~~  
273 ~~the department of such increased rate by certified mail~~  
274 ~~postmarked on or before July 16, 2001.~~

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

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

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

299 ~~(e) The authority of municipalities and counties to require~~  
300 ~~franchise fees from providers of communications services, with~~



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301 respect to the provision of communications services, is  
302 specifically preempted by the state because of unique  
303 circumstances applicable to providers of communications services  
304 when compared to other utilities occupying municipal or county  
305 roads or rights-of-way. Providers of communications services may  
306 provide similar services in a manner that requires the placement  
307 of facilities in municipal or county roads or rights-of-way or  
308 in a manner that does not require the placement of facilities in  
309 such roads or rights-of-way. Although similar communications  
310 services may be provided by different means, the state desires  
311 to treat providers of communications services in a  
312 nondiscriminatory manner and to have the taxes, franchise fees,  
313 and other fees, costs, and financial or regulatory exactions  
314 paid by or imposed on providers of communications services be  
315 competitively neutral. Municipalities and counties retain all  
316 existing authority, if any, to collect franchise fees from users  
317 or occupants of municipal or county roads or rights-of-way other  
318 than providers of communications services, and the provisions of  
319 this subsection shall have no effect upon this authority. The  
320 provisions of this subsection do not restrict the authority, if  
321 any, of municipalities or counties or other governmental  
322 entities to receive reasonable rental fees based on fair market  
323 value for the use of public lands and buildings on property  
324 outside the public roads or rights-of-way for the placement of  
325 communications antennas and towers.

326 (f) Except as expressly allowed or authorized by general  
327 law and except for the rights-of-way permit fees subject to  
328 paragraph (c), a municipality or county may not levy on a  
329 provider of communications services a tax, fee, or other charge



330 or imposition for operating as a provider of communications  
331 services within the jurisdiction of the municipality or county  
332 which is in any way related to using its roads or rights-of-way.  
333 A municipality or county may not require or solicit in-kind  
334 compensation, except as otherwise provided in s. 202.24(2)(c)8.,  
335 provided that the in-kind compensation is not a franchise fee  
336 under federal law. Nothing in this paragraph impairs the  
337 authority of a municipality or county to request public,  
338 educational, or governmental access channels pursuant to ~~or~~ s.  
339 610.109. Nothing in this paragraph shall impair any ordinance or  
340 agreement in effect on May 22, 1998, or any voluntary agreement  
341 entered into subsequent to that date, which provides for or  
342 allows in-kind compensation by a telecommunications company.

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



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

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



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388 given at least 60 days advance written notice of any changes to  
389 the rules and regulations.

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

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

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

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

415 ~~2.a. If a noncharter county changes its election under this~~  
416 ~~paragraph in order to exercise its authority to require and~~



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417 ~~collect permit fees in accordance with this subsection, the rate~~  
418 ~~of the local communications services tax imposed by such~~  
419 ~~jurisdiction pursuant to ss. 202.19 and 202.20 shall~~  
420 ~~automatically be reduced by the percentage, if any, by which~~  
421 ~~such rate was increased pursuant to sub-subparagraph (c)2.b.~~

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

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

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





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

450           (6)

451           (d) The amounts charged pursuant to this subsection shall  
452 be based on the linear miles of roads or rights-of-way where a  
453 communications facility is placed, not based on a summation of  
454 the lengths of individual cables, conduits, strands, or fibers.  
455 The amounts referenced in this subsection may be charged only  
456 once annually and only to one person annually for any  
457 communications facility. A municipality or county shall  
458 discontinue charging such amounts to a person that has ceased to  
459 be a pass-through provider. Any annual amounts charged shall be  
460 reduced for a prorated portion of any 12-month period during  
461 which the person remits taxes imposed by the municipality or  
462 county pursuant to chapter 202. Any excess amounts paid to a  
463 municipality or county shall be refunded to the person upon  
464 written notice of the excess to the municipality or county. A  
465 municipality or county may require a pass-through provider to  
466 provide an annual notarized statement identifying the total  
467 number of linear miles of pass-through facilities in the  
468 municipality's or county's rights-of-way. Upon request from a  
469 municipality or county, a pass-through provider must provide  
470 reasonable access to maps of pass-through facilities located in  
471 the rights-of-way of the municipality or county making the  
472 request. The scope of the request must be limited to only those  
473 maps of pass-through facilities from which the calculation of  
474 the linear miles of pass-through facilities in the rights-of-way



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475 can be determined. The request must be accompanied by an  
476 affidavit that the person making the request is authorized by  
477 the municipality or county to review tax information related to  
478 the revenue and mileage calculations for pass-through providers.  
479 A request may not be made more than once annually to a pass-  
480 through provider.

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

495 (f) The charges under this subsection do not apply to  
496 communications facilities placed in a municipality's or county's  
497 rights-of-way prior to the effective date of this subsection  
498 with permission from the municipality or county, if any was  
499 required, except to the extent the facilities of a pass-through  
500 provider were subject to per linear foot or mile charges in  
501 effect as of October 1, 2001, in which case the municipality or  
502 county may only impose on a pass-through provider charges  
503 consistent with paragraph (b) or paragraph (c) for such



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504 facilities. Notwithstanding the foregoing, this subsection does  
505 not impair any written agreement between a pass-through provider  
506 and a municipality or county imposing per linear foot or mile  
507 charges for communications facilities placed in municipal or  
508 county roads or rights-of-way that is in effect prior to the  
509 effective date of this subsection. Upon the termination or  
510 expiration of any such written agreement, any charges imposed  
511 ~~must shall~~ be consistent with this section ~~paragraph (b) or~~  
512 ~~paragraph (c). Notwithstanding the foregoing, until October 1,~~  
513 ~~2005, this subsection shall not affect a municipality or county~~  
514 ~~continuing to impose charges in excess of the charges authorized~~  
515 ~~in this subsection on facilities of a pass-through provider that~~  
516 ~~is not a dealer of communications services in the state under~~  
517 ~~chapter 202, but only to the extent such charges were imposed by~~  
518 ~~municipal or county ordinance or resolution adopted prior to~~  
519 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~  
520 ~~shall be consistent with paragraph (b) or paragraph (c).~~

521 (7)

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

523 1. "Antenna" means communications equipment that transmits  
524 or receives electromagnetic radio frequency signals used in  
525 providing wireless services.

526 2. "Applicable codes" means uniform building, fire,  
527 electrical, plumbing, or mechanical codes adopted by a  
528 recognized national code organization or local amendments to  
529 those codes enacted solely to address threats of destruction of  
530 property or injury to persons, and includes the National  
531 Electric Safety Code and the 2017 edition of the Florida  
532 Department of Transportation Utility Accommodation Manual ~~or~~



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533 ~~local codes or ordinances adopted to implement this subsection.~~  
534 ~~The term includes objective design standards adopted by~~  
535 ~~ordinance that may require a new utility pole that replaces an~~  
536 ~~existing utility pole to be of substantially similar design,~~  
537 ~~material, and color or that may require reasonable spacing~~  
538 ~~requirements concerning the location of ground-mounted~~  
539 ~~equipment. The term includes objective design standards adopted~~  
540 ~~by ordinance that may require a small wireless facility to meet~~  
541 ~~reasonable location context, color, stealth, and concealment~~  
542 ~~requirements; however, such design standards may be waived by~~  
543 ~~the authority upon a showing that the design standards are not~~  
544 ~~reasonably compatible for the particular location of a small~~  
545 ~~wireless facility or that the design standards impose an~~  
546 ~~excessive expense. The waiver shall be granted or denied within~~  
547 ~~45 days after the date of the request.~~

548 3. "Applicant" means a person who submits an application  
549 and is a wireless provider.

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

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

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



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562 pole used to support municipally owned or operated electric  
563 distribution facilities, or a utility pole located in the right-  
564 of-way within:

565 a. A retirement community that:

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

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

569 (III) Has underground utilities for electric transmission  
570 or distribution.

571 b. A municipality that:

572 (I) Is located on a coastal barrier island as defined in s.  
573 161.053(1) (b)3.;

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

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

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

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

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

586 9. "Micro wireless facility" means a small wireless  
587 facility having dimensions no larger than 24 inches in length,  
588 15 inches in width, and 12 inches in height and an exterior  
589 antenna, if any, no longer than 11 inches.

590 10. "Small wireless facility" means a wireless facility



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591 that meets the following qualifications:

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

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

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

615 12. "Wireless facility" means equipment at a fixed location  
616 which enables wireless communications between user equipment and  
617 a communications network, including radio transceivers,  
618 antennas, wires, coaxial or fiber-optic cable or other cables,  
619 regular and backup power supplies, and comparable equipment,



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620 regardless of technological configuration, and equipment  
621 associated with wireless communications. The term includes small  
622 wireless facilities. The term does not include:

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

625 b. Wireline backhaul facilities; or

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

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

636 14. "Wireless provider" means a wireless infrastructure  
637 provider or a wireless services provider.

638 15. "Wireless services" means any services provided using  
639 licensed or unlicensed spectrum, whether at a fixed location or  
640 mobile, using wireless facilities.

641 16. "Wireless services provider" means a person who  
642 provides wireless services.

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



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649 than 5 feet in height.

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

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

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

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

675 3. An authority may not:

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





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

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

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

694           e. Require a meeting before filing an application;

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

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

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

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



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

732           5. An authority shall limit the height of a small wireless  
733 facility to 10 feet above the utility pole or structure upon  
734 which the small wireless facility is to be collocated. Unless  
735 waived by an authority, the height for a new utility pole is



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

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

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

758         8. An application must be processed on a nondiscriminatory  
759 basis. A complete application is deemed approved if an authority  
760 fails to approve or deny the application within 60 days after  
761 receipt of the application. If an authority does not use the 30-  
762 day negotiation period provided in subparagraph 4., the parties  
763 may mutually agree to extend the 60-day application review  
764 period. The authority shall grant or deny the application at the



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765 end of the extended period. A permit issued pursuant to an  
766 approved application shall remain effective for 1 year unless  
767 extended by the authority.

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

790 10. An applicant seeking to collocate small wireless  
791 facilities within the jurisdiction of a single authority may, at  
792 the applicant's discretion, file a consolidated application and  
793 receive a single permit for the collocation of up to 30 small



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794 wireless facilities. If the application includes multiple small  
795 wireless facilities, an authority may separately address small  
796 wireless facility collocations for which incomplete information  
797 has been received or which are denied.

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

804 a. Materially interferes with the safe operation of traffic  
805 control equipment.

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

808 c. Materially interferes with compliance with the Americans  
809 with Disabilities Act or similar federal or state standards  
810 regarding pedestrian access or movement.

811 d. Materially fails to comply with the 2017 ~~2010~~ edition of  
812 the Florida Department of Transportation Utility Accommodation  
813 Manual.

814 e. Fails to comply with applicable codes.

815 f. Fails to comply with objective design standards  
816 authorized under paragraph (r).

817 12. An authority may adopt by ordinance provisions for  
818 insurance coverage, indemnification, ~~performance bonds, security~~  
819 ~~funds~~, force majeure, abandonment, authority liability, or  
820 authority warranties. Such provisions must be reasonable and  
821 nondiscriminatory. An authority may require a construction bond  
822 to secure restoration of the postconstruction rights-of-way to



823 the preconstruction condition. However, such bond must be time-  
824 limited to not more than 18 months after the construction to  
825 which the bond applies is completed. For any financial  
826 obligation required by an authority allowed under this section,  
827 the authority shall accept a letter of credit or similar  
828 financial instrument issued by any financial institution that is  
829 authorized to do business within the United States, provided  
830 that a claim against the financial instrument may be made by  
831 electronic means, including by facsimile. A provider of  
832 communications services may add an authority to any existing  
833 bond, insurance policy, or other relevant financial instrument,  
834 and the authority must accept such proof of coverage without any  
835 conditions other than consent to venue for purposes of any  
836 litigation to which the authority is a party. An authority may  
837 not require a communications services provider to indemnify it  
838 for liabilities not caused by the provider, including  
839 liabilities arising from the authority's negligence, gross  
840 negligence, or willful conduct.

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

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



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

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

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

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

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

878  
879 Notwithstanding this paragraph, an authority may require a  
880 right-of-way permit for work that involves excavation, closure



881 of a sidewalk, or closure of a vehicular lane or parking lane,  
882 unless the provider is performing service restoration on an  
883 existing facility and the work is done in compliance with the  
884 2017 edition of the Florida Department of Transportation Utility  
885 Accommodation Manual. An authority may require notice of such  
886 work within 30 days after restoration and may require an after-  
887 the-fact permit for work which would otherwise have required a  
888 permit.

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

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

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

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

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

909 5. A person owning or controlling an authority utility pole





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

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

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

928 c. For an authority utility pole that does not support an  
929 aerial facility used to provide communications services or  
930 electric service, the authority shall provide a good faith  
931 estimate for any make-ready work necessary to enable the pole to  
932 support the requested collocation, including necessary pole  
933 replacement, within 60 days after receipt of a complete  
934 application. Make-ready work, including any pole replacement,  
935 must be completed within 60 days after written acceptance of the  
936 good faith estimate by the applicant. Alternatively, an  
937 authority may require the applicant seeking to collocate a small  
938 wireless facility to provide a make-ready estimate at the



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939 applicant's expense for the work necessary to support the small  
940 wireless facility, including pole replacement, and perform the  
941 make-ready work. If pole replacement is required, the scope of  
942 the make-ready estimate is limited to the design, fabrication,  
943 and installation of a utility pole that is substantially similar  
944 in color and composition. The authority may not condition or  
945 restrict the manner in which the applicant obtains, develops, or  
946 provides the estimate or conducts the make-ready work subject to  
947 usual construction restoration standards for work in the right-  
948 of-way. The replaced or altered utility pole shall remain the  
949 property of the authority.

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

958 (g) For any applications filed before the effective date of  
959 ordinances implementing this subsection, an authority may apply  
960 current ordinances relating to placement of communications  
961 facilities in the right-of-way related to registration,  
962 permitting, insurance coverage, indemnification, ~~performance~~  
963 ~~bonds, security funds,~~ force majeure, abandonment, authority  
964 liability, or authority warranties. Permit application  
965 requirements and small wireless facility placement requirements,  
966 including utility pole height limits, that conflict with this  
967 subsection must ~~shall~~ be waived by the authority. An authority



968 may not institute, either expressly or de facto, a moratorium,  
969 zoning-in-progress, or other mechanism that would prohibit or  
970 delay the filing, receiving, or processing of registrations,  
971 applications, or issuing of permits or other approvals for the  
972 collocation of small wireless facilities or the installation,  
973 modification, or replacement of utility poles used to support  
974 the collocation of small wireless facilities.

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

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

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

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

993 2. For small wireless facilities installed before an  
994 authority adopts requirements that public utility lines be  
995 placed underground, an authority adopting such requirements  
996 must:



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997           a. Allow a wireless provider to maintain the small wireless  
998 facilities in place subject to any applicable pole attachment  
999 agreement with the pole owner; or  
1000           b. Allow the wireless provider to replace the associated  
1001 pole within 50 feet of the prior location in accordance with  
1002 paragraph (r). A wireless provider shall, in relation to a small  
1003 wireless facility, utility pole, or wireless support structure  
1004 in the public rights-of-way, comply with nondiscriminatory  
1005 undergrounding requirements of an authority that prohibit above-  
1006 ground structures in public rights-of-way. Any such requirements  
1007 may be waived by the authority.  
1008           (r) An authority may require wireless providers to comply  
1009 with objective design standards adopted by ordinance. The  
1010 ordinance may only require:  
1011           1. A new utility pole that replaces an existing utility  
1012 pole to be of substantially similar design, material, and color;  
1013           2. Reasonable spacing requirements concerning the location  
1014 of a ground-mounted component of a small wireless facility which  
1015 does not exceed 15 feet from the associated support structure;  
1016 or  
1017           3. A small wireless facility to meet reasonable location  
1018 context, color, camouflage, and concealment requirements,  
1019 subject to the limitations in this subsection; and  
1020           4. A new utility pole used to support a small wireless  
1021 facility to meet reasonable location context, color, and  
1022 material of the predominant utility pole type at the proposed  
1023 location of the new utility pole.  
1024  
1025 Such design standards under this paragraph may be waived by the



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1026 authority upon a showing that the design standards are not  
1027 reasonably compatible for the particular location of a small  
1028 wireless facility or utility pole or are technically infeasible  
1029 or that the design standards impose an excessive expense. The  
1030 waiver must be granted or denied within 45 days after the date  
1031 of the request.

1032 (8) (a) Any person aggrieved by a violation of this section  
1033 may bring a civil action in a United States District Court or in  
1034 any other court of competent jurisdiction.

1035 (b) The court may:

1036 1. Grant temporary or permanent injunctions on terms as it  
1037 may deem reasonable to prevent or restrain violations of this  
1038 section; and

1039 2. Direct the recovery of full costs, including awarding  
1040 reasonable attorney fees, to the party who prevails.

1041 (9) All work in the authority's rights-of-way under this  
1042 section must comply with the 2017 edition of the Florida  
1043 Department of Transportation Utility Accommodation Manual.

1044 Section 3. Nothing in this act shall be construed to delay  
1045 the issuance of permits for other utility work, including, but  
1046 not limited to, permits related to electricity or gas work in  
1047 the rights-of-way.

1048 Section 4. This act shall take effect July 1, 2019.

1049  
1050 ===== T I T L E A M E N D M E N T =====

1051 And the title is amended as follows:

1052 Delete everything before the enacting clause  
1053 and insert:

1054 A bill to be entitled



1055 An act relating to communications services; amending  
1056 s. 202.20, F.S.; conforming a cross-reference;  
1057 amending s. 337.401, F.S.; revising legislative  
1058 intent; specifying limitations and prohibitions on  
1059 municipalities and counties relating to registrations  
1060 and renewals of communications service providers;  
1061 authorizing municipalities and counties to require  
1062 certain information as part of a registration;  
1063 prohibiting municipalities and counties from requiring  
1064 a payment of fees, costs, or charges for provider  
1065 registration or renewal; prohibiting municipalities  
1066 and counties from adopting or enforcing certain  
1067 ordinances, regulations, or requirements; specifying  
1068 limitations on municipal and county authority to  
1069 regulate and manage municipal and county roads or  
1070 rights-of-way; prohibiting certain municipalities and  
1071 counties from electing to impose permit fees;  
1072 providing retroactive applicability; authorizing  
1073 certain municipalities and counties to continue to  
1074 require and collect such fees; deleting obsolete  
1075 provisions; specifying activities for which permit  
1076 fees may not be imposed; deleting certain provisions  
1077 relating to municipality, charter county, and  
1078 noncharter county elections to impose, or not to  
1079 impose, permit fees; requiring that enforcement of  
1080 certain ordinances must be suspended until certain  
1081 conditions are met; revising legislative intent  
1082 relating to the imposition of certain fees, costs, and  
1083 exactions on providers; specifying a condition for



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1084 certain in-kind compensation; revising items over  
1085 which municipalities and counties may not exercise  
1086 regulatory control; authorizing municipalities and  
1087 counties to require a right-of-way permit for certain  
1088 purposes; providing requirements for processing  
1089 certain permit applications; prohibiting  
1090 municipalities and counties from certain actions  
1091 relating to certain aerial or underground  
1092 communications facilities; specifying limitations and  
1093 requirements for certain municipal and county rules  
1094 and regulations; revising definitions for the Advanced  
1095 Wireless Infrastructure Deployment Act; prohibiting  
1096 certain actions by an authority relating to certain  
1097 utility poles; prohibiting authorities from requiring  
1098 permit applicants to provide certain information,  
1099 except under certain circumstances; adding prohibited  
1100 acts by authorities relating to small wireless  
1101 facilities, application requirements, public  
1102 notification and public meetings, and the placement of  
1103 certain facilities; revising applicability of  
1104 authority rules and regulations governing the  
1105 placement of utility poles in the public rights-of-  
1106 way; providing construction relating to judicial  
1107 review of certain application denials; specifying  
1108 grounds for an authority's denial of a proposed  
1109 collocation of a small wireless facility or placement  
1110 of a utility pole in the public rights-of-way;  
1111 deleting an authority's authorization to adopt  
1112 ordinances for performance bonds and security funds;



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1113 authorizing an authority to require a construction  
1114 bond, subject to certain conditions; requiring  
1115 authorities to accept certain financial instruments  
1116 for certain financial obligations; authorizing  
1117 providers to add authorities to certain financial  
1118 instruments; prohibiting an authority from requiring a  
1119 provider to indemnify an authority for certain  
1120 liabilities; prohibiting an authority from requiring a  
1121 permit, approval, fees, charges, costs, or exactions  
1122 for certain activities; authorizing and limiting  
1123 filings an authority may require relating to micro  
1124 wireless facility equipment; providing an exception to  
1125 a certain right-of-way permit for certain service  
1126 restoration work; providing conditions under which a  
1127 wireless provider must comply with certain  
1128 requirements of an authority that prohibit new utility  
1129 poles used to support small wireless facilities in  
1130 certain areas; providing that an authority may require  
1131 wireless providers to comply with certain objective  
1132 design standards adopted by ordinance; authorizing an  
1133 authority to waive such design standards under certain  
1134 circumstances; providing a requirement for the waiver;  
1135 revising an authority's authorization to apply certain  
1136 ordinances to applications filed before a certain  
1137 timeframe; authorizing a civil action for violations;  
1138 providing actions a court may take; requiring the work  
1139 of certain authority rights-of-way to comply with a  
1140 specified document; providing a statement of  
1141 legislative intent; providing an effective date.