

1 A bill to be entitled
2 An act relating to communications services; amending
3 s. 202.12, F.S.; reducing the rates of certain
4 communications services taxes; amending s. 202.20,
5 F.S.; conforming a cross-reference; amending s.
6 337.401, F.S.; revising legislative intent; specifying
7 limitations and prohibitions on municipalities and
8 counties relating to registrations and renewals of
9 communications service providers; authorizing
10 municipalities and counties to require certain
11 information as part of a registration; prohibiting
12 municipalities and counties from requiring a payment
13 of fees, costs, or charges for provider registration
14 or renewal; prohibiting municipalities and counties
15 from adopting or enforcing certain ordinances,
16 regulations, or requirements; specifying limitations
17 on municipal and county authority to regulate and
18 manage municipal and county roads or rights-of-way;
19 prohibiting certain municipalities and counties from
20 electing to impose permit fees; providing retroactive
21 applicability; authorizing certain municipalities and
22 counties to continue to require and collect such fees;
23 deleting obsolete provisions; specifying activities
24 for which permit fees may not be imposed; deleting
25 certain provisions relating to municipality, charter

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

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

76 authority to waive such design standards under certain
 77 circumstances; providing a requirement for the waiver;
 78 revising an authority's authorization to apply certain
 79 ordinances to applications filed before a certain
 80 timeframe; prohibiting authorities from certain
 81 actions relating to registrations, applications,
 82 permits, and approvals in relation to small wireless
 83 facilities; deleting a requirement for wireless
 84 providers to comply with certain undergrounding
 85 requirements; authorizing a civil action for
 86 violations; providing actions a court may take;
 87 providing applicability; providing an effective date.

88

89 Be It Enacted by the Legislature of the State of Florida:

90

91 Section 1. Paragraphs (a) and (b) of subsection (1) of
 92 section 202.12, Florida Statutes, are amended to read:

93 202.12 Sales of communications services.—The Legislature
 94 finds that every person who engages in the business of selling
 95 communications services at retail in this state is exercising a
 96 taxable privilege. It is the intent of the Legislature that the
 97 tax imposed by chapter 203 be administered as provided in this
 98 chapter.

99 (1) For the exercise of such privilege, a tax is levied on
 100 each taxable transaction and is due and payable as follows:

101 (a) Except as otherwise provided in this subsection, at
 102 the rate of 3.92 ~~4.92~~ percent applied to the sales price of the
 103 communications service that:

- 104 1. Originates and terminates in this state, or
- 105 2. Originates or terminates in this state and is charged
 106 to a service address in this state,

107
 108 when sold at retail, computed on each taxable sale for the
 109 purpose of remitting the tax due. The gross receipts tax imposed
 110 by chapter 203 shall be collected on the same taxable
 111 transactions and remitted with the tax imposed by this
 112 paragraph. If no tax is imposed by this paragraph due to the
 113 exemption provided under s. 202.125(1), the tax imposed by
 114 chapter 203 shall nevertheless be collected and remitted in the
 115 manner and at the time prescribed for tax collections and
 116 remittances under this chapter.

117 (b) At the rate of 8.07 ~~9.07~~ percent applied to the retail
 118 sales price of any direct-to-home satellite service received in
 119 this state. The proceeds of the tax imposed under this paragraph
 120 shall be accounted for and distributed in accordance with s.
 121 202.18(2). The gross receipts tax imposed by chapter 203 shall
 122 be collected on the same taxable transactions and remitted with
 123 the tax imposed by this paragraph.

124 Section 2. Paragraph (b) of subsection (2) of section
 125 202.20, Florida Statutes, is amended to read:

126 202.20 Local communications services tax conversion
 127 rates.—

128 (2)

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

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

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

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

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

141 d. Franchise fees on dealers of communications services
 142 which use the public roads or rights-of-way, up to the limit set
 143 forth in s. 337.401. For purposes of calculating rates under
 144 this section, it is the legislative intent that charter counties
 145 be treated as having had the same authority as municipalities to
 146 impose franchise fees on recurring local telecommunication
 147 service revenues prior to July 1, 2000. However, the Legislature
 148 recognizes that the authority of charter counties to impose such
 149 fees is in dispute, and the treatment provided in this section
 150 is not an expression of legislative intent that charter counties

151 actually do or do not possess such authority.

152 e. Actual permit fees relating to placing or maintaining
 153 facilities in or on public roads or rights-of-way, collected
 154 from providers of long-distance, cable, and mobile
 155 communications services for the fiscal year ending September 30,
 156 1999; however, if a municipality or charter county elects the
 157 option to charge permit fees pursuant to s. 337.401(3)(c)
 158 ~~337.401(3)(c)1.a.~~, such fees shall not be included as a replaced
 159 revenue source.

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

163 Section 3. Subsection (3), paragraphs (e) and (f) of
 164 subsection (6), and paragraphs (b), (c), (d), (e), (f), (g), and
 165 (i) of subsection (7) of section 337.401, Florida Statutes, are
 166 amended, and subsection (8) is added to that section, to read:

167 337.401 Use of right-of-way for utilities subject to
 168 regulation; permit; fees.—

169 (3) (a) Because of the unique circumstances applicable to
 170 providers of communications services, including, but not limited
 171 to, the circumstances described in paragraph (e) and the fact
 172 that federal and state law require the nondiscriminatory
 173 treatment of providers of telecommunications services, and
 174 because of the desire to promote competition among providers of
 175 communications services, it is the intent of the Legislature

176 that municipalities and counties treat providers of
177 communications services in a nondiscriminatory and competitively
178 neutral manner, taking into account the distinct engineering,
179 construction, operation, maintenance, public works, and safety
180 requirements of the provider's facilities, when imposing rules
181 or regulations governing the placement or maintenance of
182 communications facilities in the public roads or rights-of-way.
183 Rules or regulations imposed by a municipality or county
184 relating to providers of communications services placing or
185 maintaining communications facilities in its roads or rights-of-
186 way must be generally applicable to all providers of
187 communications services and, notwithstanding any other law, may
188 not require a provider of communications services to apply for
189 or enter into an individual license, franchise, or other
190 agreement with the municipality or county as a condition of
191 placing or maintaining communications facilities in its roads or
192 rights-of-way. In addition to other reasonable rules or
193 regulations that a municipality or county may adopt relating to
194 the placement or maintenance of communications facilities in its
195 roads or rights-of-way under this subsection or subsection (7),
196 a municipality or county may require a provider of
197 communications services that places or seeks to place facilities
198 in its roads or rights-of-way to register with the municipality
199 or county. To register, a provider of communications services
200 may only be required to provide its name ~~and to provide the name~~

201 ~~of the registrant~~; the name, address, and telephone number of a
202 contact person for the registrant; the number of the
203 registrant's current certificate of authorization issued by the
204 Florida Public Service Commission, the Federal Communications
205 Commission, or the Department of State; and any required proof
206 of insurance or self-insuring status adequate to defend and
207 cover claims. A municipality or county may not require the
208 provision of an inventory of communications facilities, maps,
209 locations of such facilities, or other information by a
210 registrant as a condition of registration, renewal, or for any
211 other purpose; provided, however, that a municipality or county
212 may require as part of a permit application that the applicant
213 identify at-grade communications facilities within 25 feet of
214 the proposed installation location for the placement of at-grade
215 communications facilities. A municipality or county may not
216 require registration renewal more often than every 5 years. A
217 municipality or county may not require a provider to pay a fee,
218 cost, or other charge for registration or renewal thereof. It is
219 the intent of the Legislature that the placement, operation,
220 maintenance, upgrading, and extension of communications
221 facilities not be unreasonably interrupted or delayed through
222 the permitting or other local regulatory process. Except as
223 provided in this chapter or otherwise expressly authorized by
224 chapter 202, chapter 364, or chapter 610, a municipality or
225 county may not adopt or enforce any ordinance, regulation, or

226 requirement as to the placement or operation of communications
227 facilities in a right-of-way by a communications services
228 provider authorized by state or local law to operate in a right-
229 of-way; regulate any communications services; or impose or
230 collect any tax, fee, cost, charge, or exaction for the
231 provision of communications services over the communications
232 services provider's communications facilities in a right-of-way.

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

248 (c) Any municipality or county that, as of January 1,
249 2019, elected to require permit fees from any provider of
250 communications services that uses or occupies municipal or

251 county roads or rights-of-way pursuant to former paragraph (c)
252 or former paragraph (j), Florida Statutes 2018, may continue to
253 require and collect such fees. A municipality or county that
254 elected as of January 1, 2019, to require permit fees may elect
255 to forego such fees as provided herein. A municipality or county
256 that elected as of January 1, 2019, not to require permit fees
257 may not elect to impose permit fees.

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

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

276 ~~services that use or occupy municipal or county roads or rights-~~
277 ~~of-way.~~ All fees authorized ~~permitted~~ under this paragraph ~~sub-~~
278 ~~subparagraph~~ must be reasonable and commensurate with the direct
279 and actual cost of the regulatory activity, including issuing
280 and processing permits, plan reviews, physical inspection, and
281 direct administrative costs; must be demonstrable; and must be
282 equitable among users of the roads or rights-of-way. A fee
283 authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~ may
284 not~~;~~ be offset against the tax imposed under chapter 202;
285 include the costs of roads or rights-of-way acquisition or roads
286 or rights-of-way rental; include any general administrative,
287 management, or maintenance costs of the roads or rights-of-way;
288 or be based on a percentage of the value or costs associated
289 with the work to be performed on the roads or rights-of-way. In
290 an action to recover amounts due for a fee not authorized
291 ~~permitted~~ under this paragraph ~~sub-subparagraph~~, the prevailing
292 party may recover court costs and attorney ~~attorney's~~ fees at
293 trial and on appeal. In addition to the limitations set forth in
294 this section, a fee levied by a municipality or charter county
295 under this paragraph ~~sub-subparagraph~~ may not exceed \$100.
296 However, permit fees may not be imposed with respect to permits
297 that may be required for service drop lines not required to be
298 noticed under s. 556.108(5) ~~s. 556.108(5)(a)2.~~ or for any
299 activity that does not require the physical disturbance of the
300 roads or rights-of-way or does not impair access to or full use

301 of the roads or rights-of-way, including, but not limited to,
302 any emergency repairs of existing facilities, extensions of such
303 facilities for providing communications services to customers,
304 and the placement of micro wireless facilities under
305 subparagraph (7) (e) 3.

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

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

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

326 increased by ordinance or resolution by an amount not to exceed
327 a rate of 0.12 percent. ~~If a municipality or charter county~~
328 ~~elects to increase its rate effective October 1, 2001, the~~
329 ~~municipality or charter county shall inform the department of~~
330 ~~such increased rate by certified mail postmarked on or before~~
331 ~~July 16, 2001.~~

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

336 2. ~~Each noncharter county shall make an election under~~
337 ~~either sub-subparagraph a. or sub-subparagraph b. and shall~~
338 ~~inform the Department of Revenue of the election by certified~~
339 ~~mail by July 16, 2001. Such election shall take effect October~~
340 ~~1, 2001.~~

341 a. ~~The noncharter county may elect to require and collect~~
342 ~~permit fees from any providers of communications services that~~
343 ~~use or occupy noncharter county roads or rights-of-way. All fees~~
344 ~~permitted under this sub-subparagraph must be reasonable and~~
345 ~~commensurate with the direct and actual cost of the regulatory~~
346 ~~activity, including issuing and processing permits, plan~~
347 ~~reviews, physical inspection, and direct administrative costs;~~
348 ~~must be demonstrable; and must be equitable among users of the~~
349 ~~roads or rights-of-way. A fee permitted under this sub-~~
350 ~~subparagraph may not: be offset against the tax imposed under~~

351 ~~chapter 202; include the costs of roads or rights-of-way~~
352 ~~acquisition or roads or rights-of-way rental; include any~~
353 ~~general administrative, management, or maintenance costs of the~~
354 ~~roads or rights-of-way; or be based on a percentage of the value~~
355 ~~or costs associated with the work to be performed on the roads~~
356 ~~or rights-of-way. In an action to recover amounts due for a fee~~
357 ~~not permitted under this sub-subparagraph, the prevailing party~~
358 ~~may recover court costs and attorney's fees at trial and on~~
359 ~~appeal. In addition to the limitations set forth in this~~
360 ~~section, a fee levied by a noncharter county under this sub-~~
361 ~~subparagraph may not exceed \$100. However, permit fees may not~~
362 ~~be imposed with respect to permits that may be required for~~
363 ~~service drop lines not required to be noticed under s.~~
364 ~~556.108(5)(a)2. or for any activity that does not require the~~
365 ~~physical disturbance of the roads or rights-of-way or does not~~
366 ~~impair access to or full use of the roads or rights-of-way.~~

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

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

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

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

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

401 to any other notice requirements, a county must provide to the
402 Secretary of State, at least 15 days prior to consideration at a
403 public hearing, notice of a proposed ordinance governing a
404 telecommunications company placing or maintaining
405 telecommunications facilities in its roads or rights-of-way. The
406 notice required by this paragraph must be published by the
407 Secretary of State on a designated Internet website. The failure
408 of a municipality or county to provide such notice does not
409 render the ordinance invalid, provided that enforcement of such
410 ordinance must be suspended until the municipality or county
411 provides the required notice and duly considers amendments from
412 affected persons.

413 (e) The authority of municipalities and counties to
414 require franchise fees from providers of communications
415 services, with respect to the provision of communications
416 services, is specifically preempted by the state because of
417 unique circumstances applicable to providers of communications
418 services when compared to other utilities occupying municipal or
419 county roads or rights-of-way. Providers of communications
420 services may provide similar services in a manner that requires
421 the placement of facilities in municipal or county roads or
422 rights-of-way or in a manner that does not require the placement
423 of facilities in such roads or rights-of-way. Although similar
424 communications services may be provided by different means, the
425 state desires to treat providers of communications services in a

426 nondiscriminatory manner and to have the taxes, franchise fees,
427 and other fees, costs, and financial or regulatory exactions
428 paid by or imposed on providers of communications services be
429 competitively neutral. Municipalities and counties retain all
430 existing authority, if any, to collect franchise fees from users
431 or occupants of municipal or county roads or rights-of-way other
432 than providers of communications services, and the provisions of
433 this subsection shall have no effect upon this authority. The
434 provisions of this subsection do not restrict the authority, if
435 any, of municipalities or counties or other governmental
436 entities to receive reasonable rental fees based on fair market
437 value for the use of public lands and buildings on property
438 outside the public roads or rights-of-way for the placement of
439 communications antennas and towers.

440 (f) Except as expressly allowed or authorized by general
441 law and except for the rights-of-way permit fees subject to
442 paragraph (c), a municipality or county may not levy on a
443 provider of communications services a tax, fee, or other charge
444 or imposition for operating as a provider of communications
445 services within the jurisdiction of the municipality or county
446 which is in any way related to using its roads or rights-of-way.
447 A municipality or county may not require or solicit in-kind
448 compensation, except as otherwise provided in s. 202.24(2)(c)8.
449 or s. 610.109, provided that the in-kind compensation is not a
450 franchise fee under federal law. Nothing in this paragraph shall

451 impair any ordinance or agreement in effect on May 22, 1998, or
452 any voluntary agreement entered into subsequent to that date,
453 which provides for or allows in-kind compensation by a
454 telecommunications company.

455 (g) A municipality or county may not use its authority
456 over the placement of facilities in its roads and rights-of-way
457 as a basis for asserting or exercising regulatory control over a
458 provider of communications services regarding matters within the
459 exclusive jurisdiction of the Florida Public Service Commission
460 or the Federal Communications Commission, including, but not
461 limited to, the operations, systems, equipment, technology,
462 qualifications, services, service quality, service territory,
463 and prices of a provider of communications services. A
464 municipality or county may not require a permit for the
465 maintenance, repair, replacement, extension, or upgrade of
466 existing aerial wireline communications facilities on utility
467 poles or for aerial wireline facilities between existing
468 wireline communications facility attachments on utility poles by
469 a communications services provider. However, a municipality or
470 county may require a right-of-way permit for work that involves
471 excavation, closure of a sidewalk, or closure of a vehicular
472 lane, unless the provider is making emergency restoration or
473 repair work to existing facilities. A permit application
474 required by an authority under this section for the placement of
475 communications facilities must be processed and acted upon

476 consistent with the timeframes provided in subparagraphs
477 (7) (d) 7.-9. In addition, a municipality or county may not
478 require any permit or other approval, fee, charge, or cost, or
479 other exaction for the maintenance, repair, replacement,
480 extension, or upgrade of existing aerial or underground
481 communications facilities located on private property outside of
482 the public rights-of-way.

483 (h) A provider of communications services that has
484 obtained permission to occupy the roads or rights-of-way of an
485 incorporated municipality pursuant to s. 362.01 or that is
486 otherwise lawfully occupying the roads or rights-of-way of a
487 municipality or county shall not be required to obtain consent
488 to continue such lawful occupation of those roads or rights-of-
489 way; however, nothing in this paragraph shall be interpreted to
490 limit the power of a municipality or county to adopt or enforce
491 reasonable rules or regulations as provided in this section and
492 consistent with chapters 202, 364, and 610. Any such rules or
493 regulations must be in writing, and providers of communications
494 services in the municipality or county must be given at least 60
495 days advance written notice of any changes to the rules and
496 regulations.

497 (i) Except as expressly provided in this section, this
498 section does not modify the authority of municipalities and
499 counties to levy the tax authorized in chapter 202 or the duties
500 of providers of communications services under ss. 337.402-

501 337.404. This section does not apply to building permits, pole
 502 attachments, or private roads, private easements, and private
 503 rights-of-way.

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

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

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

522 ~~2.a. If a noncharter county changes its election under~~
 523 ~~this paragraph in order to exercise its authority to require and~~
 524 ~~collect permit fees in accordance with this subsection, the rate~~
 525 ~~of the local communications services tax imposed by such~~

526 ~~jurisdiction pursuant to ss. 202.19 and 202.20 shall~~
527 ~~automatically be reduced by the percentage, if any, by which~~
528 ~~such rate was increased pursuant to sub-subparagraph (c)2.b.~~

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

535 ~~3.a. Any change of election pursuant to this paragraph and~~
536 ~~any tax rate change resulting from such change of election shall~~
537 ~~be subject to the notice requirements of s. 202.21; however, no~~
538 ~~such change of election shall become effective prior to January~~
539 ~~1, 2003.~~

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

551 ~~on or before the 20th day of May immediately preceding the~~
552 ~~January 1 on which such change of election becomes effective.~~

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

557 (6)

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

572 (f) The charges under this subsection do not apply to
573 communications facilities placed in a municipality's or county's
574 rights-of-way prior to the effective date of this subsection
575 with permission from the municipality or county, if any was

576 required, except to the extent the facilities of a pass-through
577 provider were subject to per linear foot or mile charges in
578 effect as of October 1, 2001, in which case the municipality or
579 county may only impose on a pass-through provider charges
580 consistent with paragraph (b) or paragraph (c) for such
581 facilities. Notwithstanding the foregoing, this subsection does
582 not impair any written agreement between a pass-through provider
583 and a municipality or county imposing per linear foot or mile
584 charges for communications facilities placed in municipal or
585 county roads or rights-of-way that is in effect prior to the
586 effective date of this subsection. Upon the termination or
587 expiration of any such written agreement, any charges imposed
588 must ~~shall~~ be consistent with this section ~~paragraph (b) or~~
589 ~~paragraph (c). Notwithstanding the foregoing, until October 1,~~
590 ~~2005, this subsection shall not affect a municipality or county~~
591 ~~continuing to impose charges in excess of the charges authorized~~
592 ~~in this subsection on facilities of a pass-through provider that~~
593 ~~is not a dealer of communications services in the state under~~
594 ~~chapter 202, but only to the extent such charges were imposed by~~
595 ~~municipal or county ordinance or resolution adopted prior to~~
596 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~
597 ~~shall be consistent with paragraph (b) or paragraph (c).~~

598 (7)

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

600 1. "Antenna" means communications equipment that transmits

601 or receives electromagnetic radio frequency signals used in
602 providing wireless services.

603 2. "Applicable codes" means uniform building, fire,
604 electrical, plumbing, or mechanical codes adopted by a
605 recognized national code organization or local amendments to
606 those codes enacted solely to address threats of destruction of
607 property or injury to persons, ~~or local codes or ordinances~~
608 ~~adopted to implement this subsection. The term includes~~
609 ~~objective design standards adopted by ordinance that may require~~
610 ~~a new utility pole that replaces an existing utility pole to be~~
611 ~~of substantially similar design, material, and color or that may~~
612 ~~require reasonable spacing requirements concerning the location~~
613 ~~of ground-mounted equipment. The term includes objective design~~
614 ~~standards adopted by ordinance that may require a small wireless~~
615 ~~facility to meet reasonable location context, color, stealth,~~
616 ~~and concealment requirements; however, such design standards may~~
617 ~~be waived by the authority upon a showing that the design~~
618 ~~standards are not reasonably compatible for the particular~~
619 ~~location of a small wireless facility or that the design~~
620 ~~standards impose an excessive expense. The waiver shall be~~
621 ~~granted or denied within 45 days after the date of the request.~~

622 3. "Applicant" means a person who submits an application
623 and is a wireless provider.

624 4. "Application" means a request submitted by an applicant
625 to an authority for a permit to collocate small wireless

626 | facilities or to place a new utility pole used to support a
 627 | small wireless facility.

628 | 5. "Authority" means a county or municipality having
 629 | jurisdiction and control of the rights-of-way of any public
 630 | road. The term does not include the Department of
 631 | Transportation. Rights-of-way under the jurisdiction and control
 632 | of the department are excluded from this subsection.

633 | 6. "Authority utility pole" means a utility pole owned by
 634 | an authority in the right-of-way. The term does not include a
 635 | utility pole owned by a municipal electric utility, a utility
 636 | pole used to support municipally owned or operated electric
 637 | distribution facilities, or a utility pole located in the right-
 638 | of-way within:

639 | a. A retirement community that:

640 | (I) Is deed restricted as housing for older persons as
 641 | defined in s. 760.29(4) (b);

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

643 | (III) Has underground utilities for electric transmission
 644 | or distribution.

645 | b. A municipality that:

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

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

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

650 | (IV) Has, before July 1, 2017, received referendum

651 approval to issue debt to finance municipal-wide undergrounding
 652 of its utilities for electric transmission or distribution.

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

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

660 9. "Micro wireless facility" means a small wireless
 661 facility having dimensions no larger than 24 inches in length,
 662 15 inches in width, and 12 inches in height and an exterior
 663 antenna, if any, no longer than 11 inches.

664 10. "Small wireless facility" means a wireless facility
 665 that meets the following qualifications:

666 a. Each antenna associated with the facility is located
 667 inside an enclosure of no more than 6 cubic feet in volume or,
 668 in the case of antennas that have exposed elements, each antenna
 669 and all of its exposed elements could fit within an enclosure of
 670 no more than 6 cubic feet in volume; and

671 b. All other wireless equipment associated with the
 672 facility is cumulatively no more than 28 cubic feet in volume.
 673 The following types of associated ancillary equipment are not
 674 included in the calculation of equipment volume: electric
 675 meters, concealment elements, telecommunications demarcation

676 boxes, ground-based enclosures, grounding equipment, power
677 transfer switches, cutoff switches, vertical cable runs for the
678 connection of power and other services, and utility poles or
679 other support structures.

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

689 12. "Wireless facility" means equipment at a fixed
690 location which enables wireless communications between user
691 equipment and a communications network, including radio
692 transceivers, antennas, wires, coaxial or fiber-optic cable or
693 other cables, regular and backup power supplies, and comparable
694 equipment, regardless of technological configuration, and
695 equipment associated with wireless communications. The term
696 includes small wireless facilities. The term does not include:
697 a. The structure or improvements on, under, within, or
698 adjacent to the structure on which the equipment is collocated;
699 b. Wireline backhaul facilities; or
700 c. Coaxial or fiber-optic cable that is between wireless

701 structures or utility poles or that is otherwise not immediately
702 adjacent to or directly associated with a particular antenna.

703 13. "Wireless infrastructure provider" means a person who
704 has been certificated under chapter 364 to provide
705 telecommunications service ~~in the state~~ or under chapter 610 to
706 provide cable or video services in this state, or that person's
707 affiliate, and who builds or installs wireless communication
708 transmission equipment, wireless facilities, or wireless support
709 structures but is not a wireless services provider.

710 14. "Wireless provider" means a wireless infrastructure
711 provider or a wireless services provider.

712 15. "Wireless services" means any services provided using
713 licensed or unlicensed spectrum, whether at a fixed location or
714 mobile, using wireless facilities.

715 16. "Wireless services provider" means a person who
716 provides wireless services.

717 17. "Wireless support structure" means a freestanding
718 structure, such as a monopole, a guyed or self-supporting tower,
719 or another existing or proposed structure designed to support or
720 capable of supporting wireless facilities. The term does not
721 include a utility pole, pedestal, or other support structure for
722 ground-based equipment not mounted on a utility pole that are
723 less than 10 feet in height.

724 (c) Except as provided in this subsection, an authority
725 may not prohibit, regulate, or charge for the collocation of

726 | small wireless facilities in the public rights-of-way or for the
 727 | installation, maintenance, modification, operation, or
 728 | replacement of utility poles used for the collocation of small
 729 | wireless facilities in the public rights-of-way.

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

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

739 | 2. An applicant may not be required to provide more
 740 | information to obtain a permit than is necessary to demonstrate
 741 | the applicant's compliance with applicable codes for the
 742 | placement of small wireless facilities in the locations
 743 | identified in the application. An applicant may not be required
 744 | to provide inventories, maps, or locations of communications
 745 | facilities in the right-of-way other than as necessary to avoid
 746 | interference with other at-grade facilities located at the
 747 | specific location proposed for a small wireless facility or
 748 | within 25 feet of such location.

749 | 3. An authority may not:

750 | a. Require the placement of small wireless facilities on

- 751 any specific utility pole or category of poles; ~~or~~
- 752 b. Require the placement of multiple antenna systems on a
753 single utility pole;
- 754 c. Require a demonstration that collocation of a small
755 wireless facility on an existing structure is not legally or
756 technically possible as a condition for granting a permit for
757 the collocation of a small wireless facility on a new utility
758 pole;
- 759 d. Require compliance with an authority's provisions
760 regarding placement of small wireless facilities or new utility
761 poles to support small wireless facilities in rights-of-way
762 under the control of the department unless the authority has
763 received a delegation from the department for the location of
764 the small wireless facility or utility pole, or require such
765 compliance as a condition to receive a permit that is ancillary
766 to the permit for collocation of a small wireless facility,
767 including an electrical permit;
- 768 e. Require a meeting before filing an application;
- 769 f. Require direct or indirect public notification or a
770 public meeting for the placement of communication facilities in
771 the right-of-way;
- 772 g. Limit the size or configuration of a small wireless
773 facility or any of its components if the small wireless facility
774 complies with the size limits in this subsection;
- 775 h. Prohibit the installation of a new utility pole used to

776 support the collocation of a small wireless facility if the
777 installation otherwise meets the requirements of this
778 subsection;

779 i. Require that any component of a small wireless facility
780 be placed underground; or

781 j. Require that any existing communication facility be
782 placed underground, except as provided in ss. 337.403 and
783 337.404.

784 4. Subject to sub-subparagraph (f)6.b., an authority may
785 not limit the placement, by minimum separation distances, of
786 small wireless facilities, utility poles on which small wireless
787 facilities are or will be collocated, or other at-grade
788 communications facilities ~~by minimum separation distances.~~

789 However, within 14 days after the date of filing the
790 application, an authority may request that the proposed location
791 of a small wireless facility be moved to another location in the
792 right-of-way and placed on an alternative authority utility pole
793 or support structure or placed on ~~may place~~ a new utility pole.

794 The authority and the applicant may negotiate the alternative
795 location, including any objective design standards and
796 reasonable spacing requirements for ground-based equipment, for
797 30 days after the date of the request. At the conclusion of the
798 negotiation period, if the alternative location is accepted by
799 the applicant, the applicant must notify the authority of such
800 acceptance and the application shall be deemed granted for any

801 new location for which there is agreement and all other
802 locations in the application. If an agreement is not reached,
803 the applicant must notify the authority of such nonagreement and
804 the authority must grant or deny the original application within
805 90 days after the date the application was filed. A request for
806 an alternative location, an acceptance of an alternative
807 location, or a rejection of an alternative location must be in
808 writing and provided by electronic mail.

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

820 6. ~~Except as provided in subparagraphs 4. and 5.,~~ The
821 installation by a communications services provider of a utility
822 pole in the public rights-of-way, other than a utility pole used
823 ~~designed~~ to support a small wireless facility, is ~~shall be~~
824 subject to authority rules or regulations governing the
825 placement of utility poles in the public rights-of-way and is

826 ~~shall be~~ subject to the application review timeframes in this
827 subsection.

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

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

845 9. An authority must notify the applicant of approval or
846 denial by electronic mail. An authority shall approve a complete
847 application unless it does not meet the authority's applicable
848 codes. If the application is denied, the authority must specify
849 in writing the basis for denial, including the specific code
850 provisions on which the denial was based, and send the

851 documentation to the applicant by electronic mail on the day the
852 authority denies the application. The applicant may cure the
853 deficiencies identified by the authority and resubmit the
854 application within 30 days after notice of the denial is sent to
855 the applicant. The authority shall approve or deny the revised
856 application within 30 days after receipt or the application is
857 deemed approved. The review of a revised application is ~~Any~~
858 ~~subsequent review shall be~~ limited to the deficiencies cited in
859 the denial. The availability of any subsequent review by the
860 authority does not bar review of a denial in a court of
861 competent jurisdiction.

862 10. An applicant seeking to collocate small wireless
863 facilities within the jurisdiction of a single authority may, at
864 the applicant's discretion, file a consolidated application and
865 receive a single permit for the collocation of up to 30 small
866 wireless facilities. If the application includes multiple small
867 wireless facilities, an authority may separately address small
868 wireless facility collocations for which incomplete information
869 has been received or which are denied.

870 11. An authority may deny a proposed collocation of a
871 small wireless facility in the public rights-of-way if the
872 proposed collocation:

873 a. Materially interferes with the safe operation of
874 traffic control equipment.

875 b. Materially interferes with sight lines or clear zones

876 for transportation, pedestrians, or public safety purposes.

877 c. Materially interferes with compliance with the
878 Americans with Disabilities Act or similar federal or state
879 standards regarding pedestrian access or movement.

880 d. Materially fails to comply with the 2010 edition of the
881 Florida Department of Transportation Utility Accommodation
882 Manual.

883 e. Fails to comply with applicable codes.

884 f. Fails to comply with objective design standards
885 authorized under subparagraph (f) 6.

886 12. An authority may adopt by ordinance provisions for
887 insurance coverage, indemnification, ~~performance bonds, security~~
888 ~~funds,~~ force majeure, abandonment, authority liability, or
889 authority warranties. Such provisions must be reasonable and
890 nondiscriminatory. An authority may require a construction bond
891 to secure restoration of the postconstruction rights-of-way to
892 its preconstruction condition. However, such bond may not extend
893 beyond 1 year after the construction to which the bond applies
894 is completed. For any financial obligation required by an
895 authority under this section, the authority shall accept a
896 letter of credit or similar financial instrument issued by any
897 financial institution that is authorized to do business within
898 the United States, provided that a claim against the financial
899 instrument may be made by electronic means, including by
900 facsimile. A provider of communications services may add an

901 authority to any existing bond, insurance policy, or other
 902 relevant financial instrument, and the authority must accept
 903 such proof of coverage without any conditions. An authority may
 904 not require a communications services provider to indemnify it
 905 for liabilities not caused by the provider, including
 906 liabilities arising from the authority's negligence, gross
 907 negligence, or willful conduct.

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

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

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

922 (e) An authority may not require a permit or other
 923 approval or require fees, ~~or~~ other charges, costs, or other
 924 exactions for:

925 1. Routine maintenance or repair work, including, but not

926 limited to, emergency repairs of existing facilities or
927 extensions of such facilities for providing communications
928 services to customers;

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

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

944
945 Notwithstanding this paragraph, an authority may require a
946 right-of-way permit for work that involves excavation, closure
947 of a sidewalk, or closure of a vehicular lane unless the
948 provider is making emergency restoration or repair work to
949 existing facilities.

950 (f) Collocation of small wireless facilities on authority

951 utility poles is subject to the following requirements:

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

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

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

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

970 5. A person owning or controlling an authority utility
971 pole shall offer rates, fees, and other terms that comply with
972 this subsection. By the later of January 1, 2018, or 3 months
973 after receiving a request to collocate its first small wireless
974 facility on a utility pole owned or controlled by an authority,
975 the person owning or controlling the authority utility pole

976 shall make available, through ordinance or otherwise, rates,
977 fees, and terms for the collocation of small wireless facilities
978 on the authority utility pole which comply with this subsection.

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

981 b. For an authority utility pole that supports an aerial
982 facility used to provide communications services or electric
983 service, the parties shall comply with the process for make-
984 ready work under 47 U.S.C. s. 224 and implementing regulations.
985 The good faith estimate of the person owning or controlling the
986 pole for any make-ready work necessary to enable the pole to
987 support the requested collocation must include pole replacement
988 if necessary.

989 c. For an authority utility pole that does not support an
990 aerial facility used to provide communications services or
991 electric service, the authority shall provide a good faith
992 estimate for any make-ready work necessary to enable the pole to
993 support the requested collocation, including necessary pole
994 replacement, within 60 days after receipt of a complete
995 application. Make-ready work, including any pole replacement,
996 must be completed within 60 days after written acceptance of the
997 good faith estimate by the applicant. Alternatively, an
998 authority may require the applicant seeking to collocate a small
999 wireless facility to provide a make-ready estimate at the
1000 applicant's expense for the work necessary to support the small

1001 wireless facility, including pole replacement, and perform the
1002 make-ready work. If pole replacement is required, the scope of
1003 the make-ready estimate is limited to the design, fabrication,
1004 and installation of a utility pole that is substantially similar
1005 in color and composition. The authority may not condition or
1006 restrict the manner in which the applicant obtains, develops, or
1007 provides the estimate or conducts the make-ready work subject to
1008 usual construction restoration standards for work in the right-
1009 of-way. The replaced or altered utility pole shall remain the
1010 property of the authority.

1011 d. An authority may not require more make-ready work than
1012 is required to meet applicable codes or industry standards. Fees
1013 for make-ready work may not include costs related to preexisting
1014 damage or prior noncompliance. Fees for make-ready work,
1015 including any pole replacement, may not exceed actual costs or
1016 the amount charged to communications services providers other
1017 than wireless services providers for similar work and may not
1018 include any consultant fee or expense.

1019 6. An authority may require wireless providers to comply
1020 with objective design standards adopted by ordinance. The
1021 ordinance may require:

1022 a. A new utility pole that replaces an existing utility
1023 pole to be of substantially similar design, material, and color;

1024 b. Reasonable spacing requirements concerning the location
1025 of a ground-mounted component of a small wireless facility which

1026 does not exceed 15 feet from the associated support structure;
 1027 or

1028 c. A small wireless facility to meet reasonable location
 1029 context, color, camouflage, and concealment requirements,
 1030 subject to the limitations in this subsection.

1031
 1032 Such design standards under this subparagraph may be waived by
 1033 the authority upon a showing that the design standards are not
 1034 reasonably compatible for the particular location of a small
 1035 wireless facility or are technically infeasible or that the
 1036 design standards impose an excessive expense. The waiver must be
 1037 granted or denied within 45 days after the date of the request.

1038 (g) For any applications filed before the effective date
 1039 of ordinances implementing this subsection, an authority may
 1040 apply current ordinances relating to placement of communications
 1041 facilities in the right-of-way related to registration,
 1042 permitting, insurance coverage, indemnification, ~~performance~~
 1043 ~~bonds, security funds,~~ force majeure, abandonment, authority
 1044 liability, or authority warranties. Permit application
 1045 requirements and small wireless facility placement requirements,
 1046 including utility pole height limits, that conflict with this
 1047 subsection must ~~shall~~ be waived by the authority. An authority
 1048 may not institute, either expressly or de facto, a moratorium,
 1049 zoning-in-progress, or other mechanism that would prohibit or
 1050 delay the filing, receiving, or processing of registrations,

1051 applications, or issuing of permits or other approvals for the
1052 collocation of small wireless facilities or the installation,
1053 modification, or replacement of utility poles used to support
1054 the collocation of small wireless facilities.

1055 ~~(i) A wireless provider shall, in relation to a small~~
1056 ~~wireless facility, utility pole, or wireless support structure~~
1057 ~~in the public rights-of-way, comply with nondiscriminatory~~
1058 ~~undergrounding requirements of an authority that prohibit above-~~
1059 ~~ground structures in public rights-of-way. Any such requirements~~
1060 ~~may be waived by the authority.~~

1061 (8) (a) A person aggrieved by a violation of this section
1062 may bring a civil action in a United States District Court or in
1063 any other court of competent jurisdiction.

1064 (b) The court may:

1065 1. Grant temporary or permanent injunctions on terms as it
1066 may deem reasonable to prevent or restrain violations of this
1067 section; and

1068 2. Direct the recovery of full costs, including awarding
1069 reasonable attorney fees, to the party who prevails.

1070 Section 4. The taxes imposed by ss. 202.12 and 203.01,
1071 Florida Statutes, as amended by this act, on communications
1072 services shall be applied to communications services reflected
1073 on bills dated on or after October 1, 2020.

1074 Section 5. This act shall take effect July 1, 2019.