

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

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

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

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

87 |

88 | Be It Enacted by the Legislature of the State of Florida:

89 |

90 | Section 1. Paragraph (b) of subsection (2) of section
 91 | 202.20, Florida Statutes, is amended to read:

92 | 202.20 Local communications services tax conversion
 93 | rates.—

94 | (2)

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

100 | 1. With respect to municipalities and charter counties and

101 the taxes authorized by s. 202.19(1):

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

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

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

107 d. Franchise fees on dealers of communications services
108 which use the public roads or rights-of-way, up to the limit set
109 forth in s. 337.401. For purposes of calculating rates under
110 this section, it is the legislative intent that charter counties
111 be treated as having had the same authority as municipalities to
112 impose franchise fees on recurring local telecommunication
113 service revenues prior to July 1, 2000. However, the Legislature
114 recognizes that the authority of charter counties to impose such
115 fees is in dispute, and the treatment provided in this section
116 is not an expression of legislative intent that charter counties
117 actually do or do not possess such authority.

118 e. Actual permit fees relating to placing or maintaining
119 facilities in or on public roads or rights-of-way, collected
120 from providers of long-distance, cable, and mobile
121 communications services for the fiscal year ending September 30,
122 1999; however, if a municipality or charter county elects the
123 option to charge permit fees pursuant to s. 337.401(3)(c)
124 ~~337.401(3)(c)1.a.~~, such fees shall not be included as a replaced
125 revenue source.

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

129 Section 2. Subsection (3), paragraphs (e) and (f) of
130 subsection (6), and paragraphs (b), (c), (d), (e), (f), (g), and
131 (i) of subsection (7) of section 337.401, Florida Statutes, are
132 amended, and subsection (8) is added to that section, to read:

133 337.401 Use of right-of-way for utilities subject to
134 regulation; permit; fees.—

135 (3) (a) Because of the unique circumstances applicable to
136 providers of communications services, including, but not limited
137 to, the circumstances described in paragraph (e) and the fact
138 that federal and state law require the nondiscriminatory
139 treatment of providers of telecommunications services, and
140 because of the desire to promote competition among providers of
141 communications services, it is the intent of the Legislature
142 that municipalities and counties treat providers of
143 communications services in a nondiscriminatory and competitively
144 neutral manner, taking into account the distinct engineering,
145 construction, operation, maintenance, public works, and safety
146 requirements of the provider's facilities, when imposing rules
147 or regulations governing the placement or maintenance of
148 communications facilities in the public roads or rights-of-way.
149 Rules or regulations imposed by a municipality or county
150 relating to providers of communications services placing or

151 maintaining communications facilities in its roads or rights-of-
152 way must be generally applicable to all providers of
153 communications services and, notwithstanding any other law, may
154 not require a provider of communications services to apply for
155 or enter into an individual license, franchise, or other
156 agreement with the municipality or county as a condition of
157 placing or maintaining communications facilities in its roads or
158 rights-of-way. In addition to other reasonable rules or
159 regulations that a municipality or county may adopt relating to
160 the placement or maintenance of communications facilities in its
161 roads or rights-of-way under this subsection or subsection (7),
162 a municipality or county may require a provider of
163 communications services that places or seeks to place facilities
164 in its roads or rights-of-way to register with the municipality
165 or county. To register, a provider of communications services
166 may only be required to provide its name ~~and to provide the name~~
167 ~~of the registrant~~; the name, address, and telephone number of a
168 contact person for the registrant; the number of the
169 registrant's current certificate of authorization issued by the
170 Florida Public Service Commission, the Federal Communications
171 Commission, or the Department of State; and any required proof
172 of insurance or self-insuring status adequate to defend and
173 cover claims. A municipality or county may not require the
174 provision of an inventory of communications facilities, maps,
175 locations of such facilities, or other information by a

176 registrant as a condition of registration, renewal, or for any
177 other purpose; provided, however, that a municipality or county
178 may require as part of a permit application that the applicant
179 identify at-grade communications facilities within 25 feet of
180 the proposed installation location for the placement of at-grade
181 communications facilities. A municipality or county may not
182 require registration renewal more often than every 5 years. A
183 municipality or county may not require a provider to pay a fee,
184 cost, or other charge for registration or renewal thereof. It is
185 the intent of the Legislature that the placement, operation,
186 maintenance, upgrading, and extension of communications
187 facilities not be unreasonably interrupted or delayed through
188 the permitting or other local regulatory process. Except as
189 provided in this chapter or otherwise expressly authorized by
190 chapter 202, chapter 364, or chapter 610, a municipality or
191 county may not adopt or enforce any ordinance, regulation, or
192 requirement as to the placement or operation of communications
193 facilities in a right-of-way by a communications services
194 provider authorized by state or local law to operate in a right-
195 of-way; regulate any communications services; or impose or
196 collect any tax, fee, cost, charge, or exaction for the
197 provision of communications services over the communications
198 services provider's communications facilities in a right-of-way.

199 (b) Registration described in paragraph (a) does not
200 establish a right to place or maintain, or priority for the

201 placement or maintenance of, a communications facility in roads
202 or rights-of-way of a municipality or county. Each municipality
203 and county retains the authority to regulate and manage
204 municipal and county roads or rights-of-way in exercising its
205 police power, subject to the limitations imposed in this section
206 and chapters 202 and 610. Any rules or regulations adopted by a
207 municipality or county which govern the occupation of its roads
208 or rights-of-way by providers of communications services must be
209 related to the placement or maintenance of facilities in such
210 roads or rights-of-way, must be reasonable and
211 nondiscriminatory, and may include only those matters necessary
212 to manage the roads or rights-of-way of the municipality or
213 county.

214 (c) Any municipality or county that, as of January 1,
215 2019, elected to require permit fees from any provider of
216 communications services that uses or occupies municipal or
217 county roads or rights-of-way pursuant to former paragraph (c)
218 or former paragraph (j), Florida Statutes 2018, may continue to
219 require and collect such fees. A municipality or county that
220 elected as of January 1, 2019, to require permit fees may elect
221 to forego such fees as provided herein. A municipality or county
222 that elected as of January 1, 2019, not to require permit fees
223 may not elect to impose permit fees.

224 ~~1. It is the intention of the state to treat all providers~~
225 ~~of communications services that use or occupy municipal or~~

226 ~~charter county roads or rights-of-way for the provision of~~
227 ~~communications services in a nondiscriminatory and competitively~~
228 ~~neutral manner with respect to the payment of permit fees.~~
229 ~~Certain providers of communications services have been granted~~
230 ~~by general law the authority to offset permit fees against~~
231 ~~franchise or other fees while other providers of communications~~
232 ~~services have not been granted this authority. In order to treat~~
233 ~~all providers of communications services in a nondiscriminatory~~
234 ~~and competitively neutral manner with respect to the payment of~~
235 ~~permit fees, each municipality and charter county shall make an~~
236 ~~election under either sub-subparagraph a. or sub-subparagraph b.~~
237 ~~and must inform the Department of Revenue of the election by~~
238 ~~certified mail by July 16, 2001. Such election shall take effect~~
239 ~~October 1, 2001.~~

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

244 ~~subparagraph~~ must be reasonable and commensurate with the direct
245 and actual cost of the regulatory activity, including issuing
246 and processing permits, plan reviews, physical inspection, and
247 direct administrative costs; must be demonstrable; and must be
248 equitable among users of the roads or rights-of-way. A fee
249 authorized ~~permitted~~ under this paragraph ~~sub-subparagraph~~ may
250 ~~not~~ be offset against the tax imposed under chapter 202;

251 include the costs of roads or rights-of-way acquisition or roads
252 or rights-of-way rental; include any general administrative,
253 management, or maintenance costs of the roads or rights-of-way;
254 or be based on a percentage of the value or costs associated
255 with the work to be performed on the roads or rights-of-way. In
256 an action to recover amounts due for a fee not authorized
257 ~~permitted~~ under this paragraph ~~sub-subparagraph~~, the prevailing
258 party may recover court costs and attorney ~~attorney's~~ fees at
259 trial and on appeal. In addition to the limitations set forth in
260 this section, a fee levied by a municipality or charter county
261 under this paragraph ~~sub-subparagraph~~ may not exceed \$100.
262 However, permit fees may not be imposed with respect to permits
263 that may be required for service drop lines not required to be
264 noticed under s. 556.108(5) ~~s. 556.108(5)(a)2.~~ or for any
265 activity that does not require the physical disturbance of the
266 roads or rights-of-way or does not impair access to or full use
267 of the roads or rights-of-way, including, but not limited to,
268 any emergency repairs of existing facilities, extensions of such
269 facilities for providing communications services to customers,
270 and the placement of micro wireless facilities under
271 subparagraph (7)(e)3.

272 ~~(II) To ensure competitive neutrality among providers of~~
273 ~~communications services, for any municipality or charter county~~
274 ~~that elects to exercise its authority to require and collect~~
275 ~~permit fees under this sub-subparagraph, the rate of the local~~

276 ~~communications services tax imposed by such jurisdiction, as~~
277 ~~computed under s. 202.20, shall automatically be reduced by a~~
278 ~~rate of 0.12 percent.~~

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

288 1. ~~If a municipality or charter county elects to not~~
289 ~~require permit fees operate under this sub-subparagraph, the~~
290 ~~total rate for the local communications services tax as computed~~
291 ~~under s. 202.20 for that municipality or charter county may be~~
292 ~~increased by ordinance or resolution by an amount not to exceed~~
293 ~~a rate of 0.12 percent. If a municipality or charter county~~
294 ~~elects to increase its rate effective October 1, 2001, the~~
295 ~~municipality or charter county shall inform the department of~~
296 ~~such increased rate by certified mail postmarked on or before~~
297 ~~July 16, 2001.~~

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

301 ~~subparagraph b.~~

302 ~~2. Each noncharter county shall make an election under~~
303 ~~either sub-subparagraph a. or sub-subparagraph b. and shall~~
304 ~~inform the Department of Revenue of the election by certified~~
305 ~~mail by July 16, 2001. Such election shall take effect October~~
306 ~~1, 2001.~~

307 ~~a. The noncharter county may elect to require and collect~~
308 ~~permit fees from any providers of communications services that~~
309 ~~use or occupy noncharter county roads or rights-of-way. All fees~~
310 ~~permitted under this sub-subparagraph must be reasonable and~~
311 ~~commensurate with the direct and actual cost of the regulatory~~
312 ~~activity, including issuing and processing permits, plan~~
313 ~~reviews, physical inspection, and direct administrative costs;~~
314 ~~must be demonstrable; and must be equitable among users of the~~
315 ~~roads or rights-of-way. A fee permitted under this sub-~~
316 ~~subparagraph may not: be offset against the tax imposed under~~
317 ~~chapter 202; include the costs of roads or rights-of-way~~
318 ~~acquisition or roads or rights-of-way rental; include any~~
319 ~~general administrative, management, or maintenance costs of the~~
320 ~~roads or rights-of-way; or be based on a percentage of the value~~
321 ~~or costs associated with the work to be performed on the roads~~
322 ~~or rights-of-way. In an action to recover amounts due for a fee~~
323 ~~not permitted under this sub-subparagraph, the prevailing party~~
324 ~~may recover court costs and attorney's fees at trial and on~~
325 ~~appeal. In addition to the limitations set forth in this~~

326 ~~section, a fee levied by a noncharter county under this sub-~~
327 ~~subparagraph may not exceed \$100. However, permit fees may not~~
328 ~~be imposed with respect to permits that may be required for~~
329 ~~service drop lines not required to be noticed under s.~~

330 ~~556.108(5)(a)2. or for any activity that does not require the~~
331 ~~physical disturbance of the roads or rights-of-way or does not~~
332 ~~impair access to or full use of the roads or rights-of-way.~~

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

342 2. ~~If a noncharter county elects to~~ not require permit
343 fees ~~operate under this sub-subparagraph,~~ the total rate for the
344 local communications services tax as computed under s. 202.20
345 for that noncharter county may be increased by ordinance or
346 resolution by an amount not to exceed a rate of 0.24 percent, to
347 replace the revenue the noncharter county would otherwise have
348 received from permit fees for providers of communications
349 services. ~~If a noncharter county elects to increase its rate~~
350 ~~effective October 1, 2001, the noncharter county shall inform~~

351 ~~the department of such increased rate by certified mail~~
352 ~~postmarked on or before July 16, 2001.~~

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

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

361 ~~(d) After January 1, 2001,~~ In addition to any other notice
362 requirements, a municipality must provide to the Secretary of
363 State, at least 10 days prior to consideration on first reading,
364 notice of a proposed ordinance governing a telecommunications
365 company placing or maintaining telecommunications facilities in
366 its roads or rights-of-way. ~~After January 1, 2001,~~ In addition
367 to any other notice requirements, a county must provide to the
368 Secretary of State, at least 15 days prior to consideration at a
369 public hearing, notice of a proposed ordinance governing a
370 telecommunications company placing or maintaining
371 telecommunications facilities in its roads or rights-of-way. The
372 notice required by this paragraph must be published by the
373 Secretary of State on a designated Internet website. The failure
374 of a municipality or county to provide such notice does not
375 render the ordinance invalid, provided that enforcement of such

376 ordinance must be suspended until the municipality or county
377 provides the required notice and duly considers amendments from
378 affected persons.

379 (e) The authority of municipalities and counties to
380 require franchise fees from providers of communications
381 services, with respect to the provision of communications
382 services, is specifically preempted by the state because of
383 unique circumstances applicable to providers of communications
384 services when compared to other utilities occupying municipal or
385 county roads or rights-of-way. Providers of communications
386 services may provide similar services in a manner that requires
387 the placement of facilities in municipal or county roads or
388 rights-of-way or in a manner that does not require the placement
389 of facilities in such roads or rights-of-way. Although similar
390 communications services may be provided by different means, the
391 state desires to treat providers of communications services in a
392 nondiscriminatory manner and to have the taxes, franchise fees,
393 and other fees, costs, and financial or regulatory exactions
394 paid by or imposed on providers of communications services be
395 competitively neutral. Municipalities and counties retain all
396 existing authority, if any, to collect franchise fees from users
397 or occupants of municipal or county roads or rights-of-way other
398 than providers of communications services, and the provisions of
399 this subsection shall have no effect upon this authority. The
400 provisions of this subsection do not restrict the authority, if

401 any, of municipalities or counties or other governmental
402 entities to receive reasonable rental fees based on fair market
403 value for the use of public lands and buildings on property
404 outside the public roads or rights-of-way for the placement of
405 communications antennas and towers.

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

421 (g) A municipality or county may not use its authority
422 over the placement of facilities in its roads and rights-of-way
423 as a basis for asserting or exercising regulatory control over a
424 provider of communications services regarding matters within the
425 exclusive jurisdiction of the Florida Public Service Commission

426 or the Federal Communications Commission, including, but not
427 limited to, the operations, systems, equipment, technology,
428 qualifications, services, service quality, service territory,
429 and prices of a provider of communications services. A
430 municipality or county may not require a permit for the
431 maintenance, repair, replacement, extension, or upgrade of
432 existing aerial wireline communications facilities on utility
433 poles or for aerial wireline facilities between existing
434 wireline communications facility attachments on utility poles by
435 a communications services provider. However, a municipality or
436 county may require a right-of-way permit for work that involves
437 excavation, closure of a sidewalk, or closure of a vehicular
438 lane, unless the provider is making emergency restoration or
439 repair work to existing facilities. A permit application
440 required by an authority under this section for the placement of
441 communications facilities must be processed and acted upon
442 consistent with the timeframes provided in subparagraphs
443 (7) (d) 7.-9. In addition, a municipality or county may not
444 require any permit or other approval, fee, charge, or cost, or
445 other exaction for the maintenance, repair, replacement,
446 extension, or upgrade of existing aerial or underground
447 communications facilities located on private property outside of
448 the public rights-of-way.

449 (h) A provider of communications services that has
450 obtained permission to occupy the roads or rights-of-way of an

451 incorporated municipality pursuant to s. 362.01 or that is
452 otherwise lawfully occupying the roads or rights-of-way of a
453 municipality or county shall not be required to obtain consent
454 to continue such lawful occupation of those roads or rights-of-
455 way; however, nothing in this paragraph shall be interpreted to
456 limit the power of a municipality or county to adopt or enforce
457 reasonable rules or regulations as provided in this section and
458 consistent with chapters 202, 364, and 610. Any such rules or
459 regulations must be in writing, and providers of communications
460 services in the municipality or county must be given at least 60
461 days advance written notice of any changes to the rules and
462 regulations.

463 (i) Except as expressly provided in this section, this
464 section does not modify the authority of municipalities and
465 counties to levy the tax authorized in chapter 202 or the duties
466 of providers of communications services under ss. 337.402-
467 337.404. This section does not apply to building permits, pole
468 attachments, or private roads, private easements, and private
469 rights-of-way.

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

474 ~~1.a. If a municipality or charter county changes its~~
475 ~~election under this paragraph in order to exercise its authority~~

476 ~~to require and collect permit fees in accordance with this~~
477 ~~subsection, the rate of the local communications services tax~~
478 ~~imposed by such jurisdiction pursuant to ss. 202.19 and 202.20~~
479 ~~shall automatically be reduced by the sum of 0.12 percent plus~~
480 ~~the percentage, if any, by which such rate was increased~~
481 ~~pursuant to sub-subparagraph (c)1.b.~~

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

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

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

501 ~~3.a. Any change of election pursuant to this paragraph and~~
502 ~~any tax rate change resulting from such change of election shall~~
503 ~~be subject to the notice requirements of s. 202.21; however, no~~
504 ~~such change of election shall become effective prior to January~~
505 ~~1, 2003.~~

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

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

523 (6)

524 (e) This subsection does not alter any provision of this
525 section or s. 202.24 relating to taxes, fees, or other charges

526 or impositions by a municipality or county on a dealer of
527 communications services or authorize that any charges be
528 assessed on a dealer of communications services, except as
529 specifically set forth herein. A municipality or county may not
530 charge a pass-through provider any amounts other than the
531 charges under this subsection as a condition to the placement or
532 maintenance of a communications facility in the roads or rights-
533 of-way of a municipality or county by a pass-through provider,
534 except that a municipality or county may impose permit fees on a
535 pass-through provider consistent with paragraph (3)(c) ~~if the~~
536 ~~municipality or county elects to exercise its authority to~~
537 ~~collect permit fees under paragraph (3)(c).~~

538 (f) The charges under this subsection do not apply to
539 communications facilities placed in a municipality's or county's
540 rights-of-way prior to the effective date of this subsection
541 with permission from the municipality or county, if any was
542 required, except to the extent the facilities of a pass-through
543 provider were subject to per linear foot or mile charges in
544 effect as of October 1, 2001, in which case the municipality or
545 county may only impose on a pass-through provider charges
546 consistent with paragraph (b) or paragraph (c) for such
547 facilities. Notwithstanding the foregoing, this subsection does
548 not impair any written agreement between a pass-through provider
549 and a municipality or county imposing per linear foot or mile
550 charges for communications facilities placed in municipal or

551 county roads or rights-of-way that is in effect prior to the
552 effective date of this subsection. Upon the termination or
553 expiration of any such written agreement, any charges imposed
554 must ~~shall~~ be consistent with this section ~~paragraph (b) or~~
555 ~~paragraph (c). Notwithstanding the foregoing, until October 1,~~
556 ~~2005, this subsection shall not affect a municipality or county~~
557 ~~continuing to impose charges in excess of the charges authorized~~
558 ~~in this subsection on facilities of a pass-through provider that~~
559 ~~is not a dealer of communications services in the state under~~
560 ~~chapter 202, but only to the extent such charges were imposed by~~
561 ~~municipal or county ordinance or resolution adopted prior to~~
562 ~~February 1, 2002. Effective October 1, 2005, any charges imposed~~
563 ~~shall be consistent with paragraph (b) or paragraph (c).~~

564 (7)

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

566 1. "Antenna" means communications equipment that transmits
567 or receives electromagnetic radio frequency signals used in
568 providing wireless services.

569 2. "Applicable codes" means uniform building, fire,
570 electrical, plumbing, or mechanical codes adopted by a
571 recognized national code organization or local amendments to
572 those codes enacted solely to address threats of destruction of
573 property or injury to persons, ~~or local codes or ordinances~~
574 ~~adopted to implement this subsection. The term includes~~
575 ~~objective design standards adopted by ordinance that may require~~

576 ~~a new utility pole that replaces an existing utility pole to be~~
577 ~~of substantially similar design, material, and color or that may~~
578 ~~require reasonable spacing requirements concerning the location~~
579 ~~of ground-mounted equipment. The term includes objective design~~
580 ~~standards adopted by ordinance that may require a small wireless~~
581 ~~facility to meet reasonable location context, color, stealth,~~
582 ~~and concealment requirements; however, such design standards may~~
583 ~~be waived by the authority upon a showing that the design~~
584 ~~standards are not reasonably compatible for the particular~~
585 ~~location of a small wireless facility or that the design~~
586 ~~standards impose an excessive expense. The waiver shall be~~
587 ~~granted or denied within 45 days after the date of the request.~~

588 3. "Applicant" means a person who submits an application
589 and is a wireless provider.

590 4. "Application" means a request submitted by an applicant
591 to an authority for a permit to collocate small wireless
592 facilities or to place a new utility pole used to support a
593 small wireless facility.

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

599 6. "Authority utility pole" means a utility pole owned by
600 an authority in the right-of-way. The term does not include a

601 utility pole owned by a municipal electric utility, a utility
602 pole used to support municipally owned or operated electric
603 distribution facilities, or a utility pole located in the right-
604 of-way within:

605 a. A retirement community that:

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

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

609 (III) Has underground utilities for electric transmission
610 or distribution.

611 b. A municipality that:

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

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

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

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

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

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

626 9. "Micro wireless facility" means a small wireless
627 facility having dimensions no larger than 24 inches in length,
628 15 inches in width, and 12 inches in height and an exterior
629 antenna, if any, no longer than 11 inches.

630 10. "Small wireless facility" means a wireless facility
631 that meets the following qualifications:

632 a. Each antenna associated with the facility is located
633 inside an enclosure of no more than 6 cubic feet in volume or,
634 in the case of antennas that have exposed elements, each antenna
635 and all of its exposed elements could fit within an enclosure of
636 no more than 6 cubic feet in volume; and

637 b. All other wireless equipment associated with the
638 facility is cumulatively no more than 28 cubic feet in volume.
639 The following types of associated ancillary equipment are not
640 included in the calculation of equipment volume: electric
641 meters, concealment elements, telecommunications demarcation
642 boxes, ground-based enclosures, grounding equipment, power
643 transfer switches, cutoff switches, vertical cable runs for the
644 connection of power and other services, and utility poles or
645 other support structures.

646 11. "Utility pole" means a pole or similar structure that
647 is used in whole or in part to provide communications services
648 or for electric distribution, lighting, traffic control,
649 signage, or a similar function. The term includes the vertical
650 support structure for traffic lights but does not include a

651 horizontal structure to which signal lights or other traffic
652 control devices are attached and does not include a pole or
653 similar structure 15 feet in height or less unless an authority
654 grants a waiver for such pole.

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

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

669 13. "Wireless infrastructure provider" means a person who
670 has been certificated under chapter 364 to provide
671 telecommunications service ~~in the state~~ or under chapter 610 to
672 provide cable or video services in this state, or that person's
673 affiliate, and who builds or installs wireless communication
674 transmission equipment, wireless facilities, or wireless support
675 structures but is not a wireless services provider.

676 14. "Wireless provider" means a wireless infrastructure
677 provider or a wireless services provider.

678 15. "Wireless services" means any services provided using
679 licensed or unlicensed spectrum, whether at a fixed location or
680 mobile, using wireless facilities.

681 16. "Wireless services provider" means a person who
682 provides wireless services.

683 17. "Wireless support structure" means a freestanding
684 structure, such as a monopole, a guyed or self-supporting tower,
685 or another existing or proposed structure designed to support or
686 capable of supporting wireless facilities. The term does not
687 include a utility pole, pedestal, or other support structure for
688 ground-based equipment not mounted on a utility pole that are
689 less than 10 feet in height.

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

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

700 1. An authority may not directly or indirectly require an

701 applicant to perform services unrelated to the collocation for
702 which approval is sought, such as in-kind contributions to the
703 authority, including reserving fiber, conduit, or pole space for
704 the authority.

705 2. An applicant may not be required to provide more
706 information to obtain a permit than is necessary to demonstrate
707 the applicant's compliance with applicable codes for the
708 placement of small wireless facilities in the locations
709 identified in the application. An applicant may not be required
710 to provide inventories, maps, or locations of communications
711 facilities in the right-of-way other than as necessary to avoid
712 interference with other at-grade facilities located at the
713 specific location proposed for a small wireless facility or
714 within 25 feet of such location.

715 3. An authority may not:

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

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

720 c. Require a demonstration that collocation of a small
721 wireless facility on an existing structure is not legally or
722 technically possible as a condition for granting a permit for
723 the collocation of a small wireless facility on a new utility
724 pole;

725 d. Require compliance with an authority's provisions

726 regarding placement of small wireless facilities or new utility
727 poles to support small wireless facilities in rights-of-way
728 under the control of the department unless the authority has
729 received a delegation from the department for the location of
730 the small wireless facility or utility pole, or require such
731 compliance as a condition to receive a permit that is ancillary
732 to the permit for collocation of a small wireless facility,
733 including an electrical permit;

734 e. Require a meeting before filing an application;
735 f. Require direct or indirect public notification or a
736 public meeting for the placement of communication facilities in
737 the right-of-way;

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

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

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

747 j. Require that any existing communication facility be
748 placed underground, except as provided in ss. 337.403 and
749 337.404.

750 4. Subject to sub-subparagraph (f) 6.b., an authority may

751 not limit the placement, by minimum separation distances, of
752 small wireless facilities, utility poles on which small wireless
753 facilities are or will be collocated, or other at-grade
754 communications facilities ~~by minimum separation distances.~~

755 However, within 14 days after the date of filing the
756 application, an authority may request that the proposed location
757 of a small wireless facility be moved to another location in the
758 right-of-way and placed on an alternative authority utility pole
759 or support structure or placed on ~~may place~~ a new utility pole.
760 The authority and the applicant may negotiate the alternative
761 location, including any objective design standards and
762 reasonable spacing requirements for ground-based equipment, for
763 30 days after the date of the request. At the conclusion of the
764 negotiation period, if the alternative location is accepted by
765 the applicant, the applicant must notify the authority of such
766 acceptance and the application shall be deemed granted for any
767 new location for which there is agreement and all other
768 locations in the application. If an agreement is not reached,
769 the applicant must notify the authority of such nonagreement and
770 the authority must grant or deny the original application within
771 90 days after the date the application was filed. A request for
772 an alternative location, an acceptance of an alternative
773 location, or a rejection of an alternative location must be in
774 writing and provided by electronic mail.

775 5. An authority shall limit the height of a small wireless

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

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

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

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

811 9. An authority must notify the applicant of approval or
812 denial by electronic mail. An authority shall approve a complete
813 application unless it does not meet the authority's applicable
814 codes. If the application is denied, the authority must specify
815 in writing the basis for denial, including the specific code
816 provisions on which the denial was based, and send the
817 documentation to the applicant by electronic mail on the day the
818 authority denies the application. The applicant may cure the
819 deficiencies identified by the authority and resubmit the
820 application within 30 days after notice of the denial is sent to
821 the applicant. The authority shall approve or deny the revised
822 application within 30 days after receipt or the application is
823 deemed approved. The review of a revised application is ~~Any~~
824 ~~subsequent review shall be~~ limited to the deficiencies cited in
825 the denial. The availability of any subsequent review by the

826 authority does not bar review of a denial in a court of
827 competent jurisdiction.

828 10. An applicant seeking to collocate small wireless
829 facilities within the jurisdiction of a single authority may, at
830 the applicant's discretion, file a consolidated application and
831 receive a single permit for the collocation of up to 30 small
832 wireless facilities. If the application includes multiple small
833 wireless facilities, an authority may separately address small
834 wireless facility collocations for which incomplete information
835 has been received or which are denied.

836 11. An authority may deny a proposed collocation of a
837 small wireless facility in the public rights-of-way if the
838 proposed collocation:

839 a. Materially interferes with the safe operation of
840 traffic control equipment.

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

843 c. Materially interferes with compliance with the
844 Americans with Disabilities Act or similar federal or state
845 standards regarding pedestrian access or movement.

846 d. Materially fails to comply with the 2010 edition of the
847 Florida Department of Transportation Utility Accommodation
848 Manual.

849 e. Fails to comply with applicable codes.

850 f. Fails to comply with objective design standards

851 authorized under subparagraph (f) 6.

852 12. An authority may adopt by ordinance provisions for
853 insurance coverage, indemnification, ~~performance bonds, security~~
854 ~~funds,~~ force majeure, abandonment, authority liability, or
855 authority warranties. Such provisions must be reasonable and
856 nondiscriminatory. An authority may require a construction bond
857 to secure restoration of the postconstruction rights-of-way to
858 its preconstruction condition. However, such bond may not extend
859 beyond 1 year after the construction to which the bond applies
860 is completed. For any financial obligation required by an
861 authority under this section, the authority shall accept a
862 letter of credit or similar financial instrument issued by any
863 financial institution that is authorized to do business within
864 the United States, provided that a claim against the financial
865 instrument may be made by electronic means, including by
866 facsimile. A provider of communications services may add an
867 authority to any existing bond, insurance policy, or other
868 relevant financial instrument, and the authority must accept
869 such proof of coverage without any conditions. An authority may
870 not require a communications services provider to indemnify it
871 for liabilities not caused by the provider, including
872 liabilities arising from the authority's negligence, gross
873 negligence, or willful conduct.

874 13. Collocation of a small wireless facility on an
875 authority utility pole does not provide the basis for the

876 imposition of an ad valorem tax on the authority utility pole.

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

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

888 (e) An authority may not require a permit or other
 889 approval or require fees, ~~or~~ other charges, costs, or other
 890 exactions for:

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

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

898 3. Installation, placement, maintenance, or replacement of
 899 micro wireless facilities that are suspended on cables strung
 900 between existing utility poles in compliance with applicable

901 codes by or for a communications services provider authorized to
902 occupy the rights-of-way and who is remitting taxes under
903 chapter 202. An authority may require an initial letter from or
904 on behalf of such provider, which is effective upon filing,
905 attesting that the micro wireless facility dimensions comply
906 with the limits of this subsection. The authority may not
907 require any additional filing or other information as long as
908 the provider is deploying the same, a substantially similar, or
909 a smaller size micro wireless facility equipment.

910
911 Notwithstanding this paragraph, an authority may require a
912 right-of-way permit for work that involves excavation, closure
913 of a sidewalk, or closure of a vehicular lane unless the
914 provider is making emergency restoration or repair work to
915 existing facilities.

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

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

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

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

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

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

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

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

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

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

976 | property of the authority.

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

985 | 6. An authority may require wireless providers to comply
 986 | with objective design standards adopted by ordinance. The
 987 | ordinance may require:

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

990 | b. Reasonable spacing requirements concerning the location
 991 | of a ground-mounted component of a small wireless facility which
 992 | does not exceed 15 feet from the associated support structure;
 993 | or

994 | c. A small wireless facility to meet reasonable location
 995 | context, color, camouflage, and concealment requirements,
 996 | subject to the limitations in this subsection.

997 |
 998 | Such design standards under this subparagraph may be waived by
 999 | the authority upon a showing that the design standards are not
 1000 | reasonably compatible for the particular location of a small

1001 wireless facility or are technically infeasible or that the
 1002 design standards impose an excessive expense. The waiver must be
 1003 granted or denied within 45 days after the date of the request.

1004 (g) For any applications filed before the effective date
 1005 of ordinances implementing this subsection, an authority may
 1006 apply current ordinances relating to placement of communications
 1007 facilities in the right-of-way related to registration,
 1008 permitting, insurance coverage, indemnification, ~~performance~~
 1009 ~~bonds, security funds,~~ force majeure, abandonment, authority
 1010 liability, or authority warranties. Permit application
 1011 requirements and small wireless facility placement requirements,
 1012 including utility pole height limits, that conflict with this
 1013 subsection must ~~shall~~ be waived by the authority. An authority
 1014 may not institute, either expressly or de facto, a moratorium,
 1015 zoning-in-progress, or other mechanism that would prohibit or
 1016 delay the filing, receiving, or processing of registrations,
 1017 applications, or issuing of permits or other approvals for the
 1018 collocation of small wireless facilities or the installation,
 1019 modification, or replacement of utility poles used to support
 1020 the collocation of small wireless facilities.

1021 ~~(i) A wireless provider shall, in relation to a small~~
 1022 ~~wireless facility, utility pole, or wireless support structure~~
 1023 ~~in the public rights-of-way, comply with nondiscriminatory~~
 1024 ~~undergrounding requirements of an authority that prohibit above-~~
 1025 ~~ground structures in public rights-of-way. Any such requirements~~

1026 | ~~may be waived by the authority.~~

1027 | (8) (a) A person aggrieved by a violation of this section
1028 | may bring a civil action in a United States District Court or in
1029 | any other court of competent jurisdiction.

1030 | (b) The court may:

1031 | 1. Grant temporary or permanent injunctions on terms as it
1032 | may deem reasonable to prevent or restrain violations of this
1033 | section; and

1034 | 2. Direct the recovery of full costs, including awarding
1035 | reasonable attorney fees, to the party who prevails.

1036 | Section 3. This act shall take effect July 1, 2019.