

1                                   A bill to be entitled  
2           An act relating to communications services; amending  
3           s. 337.401, F.S.; removing certain communications  
4           services lines as items over which certain  
5           governmental entities are authorized to prescribe and  
6           enforce reasonable rules and regulations; removing  
7           time restrictions placed upon certain counties and  
8           municipalities for processing certain permit  
9           applications; removing provisions that specify  
10          limitations and prohibitions on municipalities and  
11          counties relating to registrations and renewals of  
12          communications services providers; removing provisions  
13          that authorize municipalities and counties to require  
14          certain information as part of a registration;  
15          removing provisions that prohibit municipalities and  
16          counties from requiring a payment of fees, costs, or  
17          charges for provider registration or renewal; removing  
18          provisions that prohibit municipalities and counties  
19          from adopting or enforcing certain ordinances, rules,  
20          or requirements; removing limitations on municipal and  
21          county authority to regulate and manage municipal and  
22          county roads or rights-of-way; removing provisions  
23          that prohibit certain municipalities and counties from  
24          imposing permit fees; removing provisions that specify  
25          activities for which permit fees may not be imposed;

26 removing the requirement that enforcement of certain  
 27 ordinances must be suspended until certain conditions  
 28 are met; removing a condition for certain in-kind  
 29 compensation; revising items over which municipalities  
 30 and counties may exercise regulatory control; removing  
 31 provisions for requirements relating to right-of-way  
 32 permits; removing provisions relating to municipal and  
 33 county authority over pass-through providers; deleting  
 34 references to, and administration and provisions of,  
 35 the Advanced Wireless Infrastructure Deployment Act;  
 36 removing a provision authorizing a civil action for  
 37 specified violations; removing certain actions a court  
 38 may take; removing provisions that require that work  
 39 in certain authority rights-of-way must comply with a  
 40 specified document; providing an effective date.

41

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

43

44 Section 1. Paragraph (a) of subsection (1), subsections  
 45 (2) and (3), paragraph (d) of subsection (6), and subsections  
 46 (7), (8), and (9) of section 337.401, Florida Statutes, are  
 47 amended to read:

48 337.401 Use of right-of-way for utilities subject to  
 49 regulation; permit; fees.—

50 (1) (a) The department and local governmental entities,

51 referred to in this section and in ss. 337.402, 337.403, and  
52 337.404 as the "authority," that have jurisdiction and control  
53 of public roads or publicly owned rail corridors are authorized  
54 to prescribe and enforce reasonable rules or regulations with  
55 reference to the placing and maintaining across, on, or within  
56 the right-of-way limits of any road or publicly owned rail  
57 corridors under their respective jurisdictions any electric  
58 transmission, voice, telegraph, ~~data,~~ or other communications  
59 services lines ~~or wireless facilities~~; pole lines; poles;  
60 railways; ditches; sewers; water, heat, or gas mains; pipelines;  
61 fences; gasoline tanks and pumps; or other structures referred  
62 to in this section and in ss. 337.402, 337.403, and 337.404 as  
63 the "utility." The department may enter into a permit-delegation  
64 agreement with a governmental entity if issuance of a permit is  
65 based on requirements that the department finds will ensure the  
66 safety and integrity of facilities of the Department of  
67 Transportation; however, the permit-delegation agreement does  
68 not apply to facilities of electric utilities as defined in s.  
69 366.02(2).

70 (2) The authority may grant to any person who is a  
71 resident of this state, or to any corporation which is organized  
72 under the laws of this state or licensed to do business within  
73 this state, the use of a right-of-way for the utility in  
74 accordance with such rules or regulations as the authority may  
75 adopt. A utility may not be installed, located, or relocated

76 unless authorized by a written permit issued by the authority.  
 77 However, for public roads or publicly owned rail corridors under  
 78 the jurisdiction of the department, a utility relocation  
 79 schedule and relocation agreement may be executed in lieu of a  
 80 written permit. The permit must require the permitholder to be  
 81 responsible for any damage resulting from the issuance of such  
 82 permit. The authority may initiate injunctive proceedings as  
 83 provided in s. 120.69 to enforce provisions of this subsection  
 84 or any rule or order issued or entered into pursuant thereto. A  
 85 ~~permit application required under this subsection by a county or~~  
 86 ~~municipality having jurisdiction and control of the right-of-way~~  
 87 ~~of any public road must be processed and acted upon in~~  
 88 ~~accordance with the timeframes provided in subparagraphs~~  
 89 ~~(7)(d)7., 8., and 9.~~

90 (3)(a) Because of the unique circumstances applicable to  
 91 providers of communications services, including, but not limited  
 92 to, the circumstances described in paragraph (e) and the fact  
 93 that federal and state law require the nondiscriminatory  
 94 treatment of providers of telecommunications services, and  
 95 because of the desire to promote competition among providers of  
 96 communications services, it is the intent of the Legislature  
 97 that municipalities and counties treat providers of  
 98 communications services in a nondiscriminatory and competitively  
 99 neutral manner when imposing rules or regulations governing the  
 100 placement or maintenance of communications facilities in the

101 public roads or rights-of-way. Rules or regulations imposed by a  
 102 municipality or county relating to providers of communications  
 103 services placing or maintaining communications facilities in its  
 104 roads or rights-of-way must be generally applicable to all  
 105 providers of communications services, ~~taking into account the~~  
 106 ~~distinct engineering, construction, operation, maintenance,~~  
 107 ~~public works, and safety requirements of the provider's~~  
 108 ~~facilities,~~ and, notwithstanding any other law, may not require  
 109 a provider of communications services to apply for or enter into  
 110 an individual license, franchise, or other agreement with the  
 111 municipality or county as a condition of placing or maintaining  
 112 communications facilities in its roads or rights-of-way. In  
 113 addition to other reasonable rules or regulations that a  
 114 municipality or county may adopt relating to the placement or  
 115 maintenance of communications facilities in its roads or rights-  
 116 of-way under this subsection ~~or subsection (7),~~ a municipality  
 117 or county may require a provider of communications services that  
 118 places or seeks to place facilities in its roads or rights-of-  
 119 way to register with the municipality or county. ~~To register, a~~  
 120 ~~provider of communications services may be required only to~~  
 121 provide its name; the name, address, and telephone number of a  
 122 contact person for the registrant; the number of the  
 123 registrant's current certificate of authorization issued by the  
 124 Florida Public Service Commission, the Federal Communications  
 125 Commission, or the Department of State; ~~a statement of whether~~

HB 6045

2022

126 ~~the registrant is a pass-through provider as defined in~~  
127 ~~subparagraph (6)(a)1.; the registrant's federal employer~~  
128 ~~identification number; and any required proof of insurance or~~  
129 ~~self-insuring status adequate to defend and cover claims. A~~  
130 ~~municipality or county may not require a registrant to renew a~~  
131 ~~registration more frequently than every 5 years but may require~~  
132 ~~during this period that a registrant update the registration~~  
133 ~~information provided under this subsection within 90 days after~~  
134 ~~a change in such information. A municipality or county may not~~  
135 ~~require the registrant to provide an inventory of communications~~  
136 ~~facilities, maps, locations of such facilities, or other~~  
137 ~~information by a registrant as a condition of registration,~~  
138 ~~renewal, or for any other purpose; provided, however, that a~~  
139 ~~municipality or county may require as part of a permit~~  
140 ~~application that the applicant identify at-grade communications~~  
141 ~~facilities within 50 feet of the proposed installation location~~  
142 ~~for the placement of at-grade communications facilities. A~~  
143 ~~municipality or county may not require a provider to pay any~~  
144 ~~fee, cost, or other charge for registration or renewal thereof.~~  
145 ~~It is the intent of the Legislature that the placement,~~  
146 ~~operation, maintenance, upgrading, and extension of~~  
147 ~~communications facilities not be unreasonably interrupted or~~  
148 ~~delayed through the permitting or other local regulatory~~  
149 ~~process. Except as provided in this chapter or otherwise~~  
150 ~~expressly authorized by chapter 202, chapter 364, or chapter~~

HB 6045

2022

151 ~~610, a municipality or county may not adopt or enforce any~~  
152 ~~ordinance, regulation, or requirement as to the placement or~~  
153 ~~operation of communications facilities in a right-of-way by a~~  
154 ~~communications services provider authorized by state or local~~  
155 ~~law to operate in a right-of-way; regulate any communications~~  
156 ~~services; or impose or collect any tax, fee, cost, charge, or~~  
157 ~~exaction for the provision of communications services over the~~  
158 ~~communications services provider's communications facilities in~~  
159 ~~a right-of-way.~~

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

175 (c) ~~Any municipality or county that, as of January 1,~~

176 | ~~2019, elected to require permit fees from any provider of~~  
 177 | ~~communications services that uses or occupies municipal or~~  
 178 | ~~county roads or rights-of-way pursuant to former paragraph (c)~~  
 179 | ~~or former paragraph (j), Florida Statutes 2018, may continue to~~  
 180 | ~~require and collect such fees. A municipality or county that~~  
 181 | ~~elected as of January 1, 2019, to require permit fees may elect~~  
 182 | ~~to forego such fees as provided herein. A municipality or county~~  
 183 | ~~that elected as of January 1, 2019, not to require permit fees~~  
 184 | ~~may not elect to impose permit fees.~~ All fees authorized under  
 185 | this paragraph must be reasonable and commensurate with the  
 186 | direct and actual cost of the regulatory activity, including  
 187 | issuing and processing permits, plan reviews, physical  
 188 | inspection, and direct administrative costs; must be  
 189 | demonstrable; and must be equitable among users of the roads or  
 190 | rights-of-way. A fee authorized under this paragraph may not be  
 191 | offset against the tax imposed under chapter 202; include the  
 192 | costs of roads or rights-of-way acquisition or roads or rights-  
 193 | of-way rental; include any general administrative, management,  
 194 | or maintenance costs of the roads or rights-of-way; or be based  
 195 | on a percentage of the value or costs associated with the work  
 196 | to be performed on the roads or rights-of-way. In an action to  
 197 | recover amounts due for a fee not authorized under this  
 198 | paragraph, the prevailing party may recover court costs and  
 199 | attorney fees at trial and on appeal. In addition to the  
 200 | limitations set forth in this section, a fee levied by a



201 municipality or charter county under this paragraph may not  
 202 exceed \$100. However, permit fees may not be imposed with  
 203 respect to permits that may be required for service drop lines  
 204 not required to be noticed under s. 556.108(5) or for any  
 205 activity that does not require the physical disturbance of the  
 206 roads or rights-of-way or does not impair access to or full use  
 207 of the roads or rights-of-way, ~~including, but not limited to,~~  
 208 ~~the performance of service restoration work on existing~~  
 209 ~~facilities, extensions of such facilities for providing~~  
 210 ~~communications services to customers, and the placement of micro~~  
 211 ~~wireless facilities in accordance with subparagraph (7)(c)3.~~

212 1. If a municipality or charter county elects to not  
 213 require permit fees, the total rate for the local communications  
 214 services tax as computed under s. 202.20 for that municipality  
 215 or charter county may be increased by ordinance or resolution by  
 216 an amount not to exceed a rate of 0.12 percent.

217 2. If a noncharter county elects to not require permit  
 218 fees, the total rate for the local communications services tax  
 219 as computed under s. 202.20 for that noncharter county may be  
 220 increased by ordinance or resolution by an amount not to exceed  
 221 a rate of 0.24 percent, to replace the revenue the noncharter  
 222 county would otherwise have received from permit fees for  
 223 providers of communications services.

224 (d) In addition to any other notice requirements, a  
 225 municipality must provide to the Secretary of State, at least 10

226 | days prior to consideration on first reading, notice of a  
 227 | proposed ordinance governing a telecommunications company  
 228 | placing or maintaining telecommunications facilities in its  
 229 | roads or rights-of-way. In addition to any other notice  
 230 | requirements, a county must provide to the Secretary of State,  
 231 | at least 15 days prior to consideration at a public hearing,  
 232 | notice of a proposed ordinance governing a telecommunications  
 233 | company placing or maintaining telecommunications facilities in  
 234 | its roads or rights-of-way. The notice required by this  
 235 | paragraph must be published by the Secretary of State on a  
 236 | designated Internet website. The failure of a municipality or  
 237 | county to provide such notice does not render the ordinance  
 238 | invalid, ~~provided that enforcement of such ordinance must be~~  
 239 | ~~suspended until 30 days after the municipality or county~~  
 240 | ~~provides the required notice.~~

241 | (e) The authority of municipalities and counties to  
 242 | require franchise fees from providers of communications  
 243 | services, with respect to the provision of communications  
 244 | services, is specifically preempted by the state because of  
 245 | unique circumstances applicable to providers of communications  
 246 | services when compared to other utilities occupying municipal or  
 247 | county roads or rights-of-way. Providers of communications  
 248 | services may provide similar services in a manner that requires  
 249 | the placement of facilities in municipal or county roads or  
 250 | rights-of-way or in a manner that does not require the placement

251 of facilities in such roads or rights-of-way. Although similar  
 252 communications services may be provided by different means, the  
 253 state desires to treat providers of communications services in a  
 254 nondiscriminatory manner and to have the taxes, franchise fees,  
 255 and other fees, ~~costs, and financial or regulatory exactions~~  
 256 paid by ~~or imposed on~~ providers of communications services be  
 257 competitively neutral. Municipalities and counties retain all  
 258 existing authority, if any, to collect franchise fees from users  
 259 or occupants of municipal or county roads or rights-of-way other  
 260 than providers of communications services, and the provisions of  
 261 this subsection shall have no effect upon this authority. The  
 262 provisions of this subsection do not restrict the authority, if  
 263 any, of municipalities or counties or other governmental  
 264 entities to receive reasonable rental fees based on fair market  
 265 value for the use of public lands and buildings on property  
 266 outside the public roads or rights-of-way for the placement of  
 267 communications antennas and towers.

268 (f) Except as expressly allowed or authorized by general  
 269 law and except for the rights-of-way permit fees subject to  
 270 paragraph (c), a municipality or county may not levy on a  
 271 provider of communications services a tax, fee, or other charge  
 272 or imposition for operating as a provider of communications  
 273 services within the jurisdiction of the municipality or county  
 274 which is in any way related to using its roads or rights-of-way.  
 275 A municipality or county may not require or solicit in-kind

276 compensation, except as otherwise provided in s. 202.24(2)(c)8. 7  
 277 ~~provided that the in-kind compensation is not a franchise fee~~  
 278 ~~under federal law. Nothing in this paragraph impairs the~~  
 279 ~~authority of a municipality or county to request public,~~  
 280 ~~educational, or governmental access channels pursuant to s.~~  
 281 610.109. Nothing in this paragraph shall impair any ordinance or  
 282 agreement in effect on May 22, 1998, or any voluntary agreement  
 283 entered into subsequent to that date, which provides for or  
 284 allows in-kind compensation by a telecommunications company.

285 (g) A municipality or county may not use its authority  
 286 over the placement of facilities in its roads and rights-of-way  
 287 as a basis for asserting or exercising regulatory control over a  
 288 provider of communications services regarding matters within the  
 289 exclusive jurisdiction of the Florida Public Service Commission  
 290 or the Federal Communications Commission, including, but not  
 291 limited to, the operations, systems, ~~equipment, technology,~~  
 292 qualifications, services, service quality, service territory,  
 293 and prices of a provider of communications services. A  
 294 ~~municipality or county may not require any permit for the~~  
 295 ~~maintenance, repair, replacement, extension, or upgrade of~~  
 296 ~~existing aerial wireline communications facilities on utility~~  
 297 ~~poles or for aerial wireline facilities between existing~~  
 298 ~~wireline communications facility attachments on utility poles by~~  
 299 ~~a communications services provider. However, a municipality or~~  
 300 ~~county may require a right-of-way permit for work that involves~~

301 ~~excavation, closure of a sidewalk, or closure of a vehicular~~  
302 ~~lane or parking lane, unless the provider is performing service~~  
303 ~~restoration to existing facilities. A permit application~~  
304 ~~required by an authority under this section for the placement of~~  
305 ~~communications facilities must be processed and acted upon~~  
306 ~~consistent with the timeframes provided in subparagraphs~~  
307 ~~(7)(d)7., 8., and 9. In addition, a municipality or county may~~  
308 ~~not require any permit or other approval, fee, charge, or cost,~~  
309 ~~or other exaction for the maintenance, repair, replacement,~~  
310 ~~extension, or upgrade of existing aerial lines or underground~~  
311 ~~communications facilities located on private property outside of~~  
312 ~~the public rights-of-way. As used in this section, the term~~  
313 ~~"extension of existing facilities" includes those extensions~~  
314 ~~from the rights-of-way into a customer's private property for~~  
315 ~~purposes of placing a service drop or those extensions from the~~  
316 ~~rights-of-way into a utility easement to provide service to a~~  
317 ~~discrete identifiable customer or group of customers.~~

318 (h) A provider of communications services that has  
319 obtained permission to occupy the roads or rights-of-way of an  
320 incorporated municipality pursuant to s. 362.01 or that is  
321 otherwise lawfully occupying the roads or rights-of-way of a  
322 municipality ~~or county~~ shall not be required to obtain consent  
323 to continue such lawful occupation of those roads or rights-of-  
324 way; however, nothing in this paragraph shall be interpreted to  
325 limit the power of a municipality ~~or county~~ to adopt or enforce

326 reasonable rules or regulations as provided in this section ~~and~~  
327 ~~consistent with chapters 202, 364, and 610. Any such rules or~~  
328 ~~regulations must be in writing, and registered providers of~~  
329 ~~communications services in the municipality or county must be~~  
330 ~~given at least 60 days' advance written notice of any changes to~~  
331 ~~the rules and regulations.~~

332 (i) Except as expressly provided in this section, this  
333 section does not modify the authority of municipalities and  
334 counties to levy the tax authorized in chapter 202 or the duties  
335 of providers of communications services under ss. 337.402-  
336 337.404. This section does not apply to building permits, pole  
337 attachments, or private roads, private easements, and private  
338 rights-of-way.

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

343 (6)

344 (d) The amounts charged pursuant to this subsection shall  
345 be based on the linear miles of roads or rights-of-way where a  
346 communications facility is placed, not based on a summation of  
347 the lengths of individual cables, conduits, strands, or fibers.  
348 The amounts referenced in this subsection may be charged only  
349 once annually and only to one person annually for any  
350 communications facility. A municipality or county shall

351 | discontinue charging such amounts to a person that has ceased to  
352 | be a pass-through provider. Any annual amounts charged shall be  
353 | reduced for a prorated portion of any 12-month period during  
354 | which the person remits taxes imposed by the municipality or  
355 | county pursuant to chapter 202. Any excess amounts paid to a  
356 | municipality or county shall be refunded to the person upon  
357 | written notice of the excess to the municipality or county. A  
358 | ~~municipality or county may require a pass-through provider to~~  
359 | ~~provide an annual notarized statement identifying the total~~  
360 | ~~number of linear miles of pass-through facilities in the~~  
361 | ~~municipality's or county's rights-of-way. Upon request from a~~  
362 | ~~municipality or county, a pass-through provider must provide~~  
363 | ~~reasonable access to maps of pass-through facilities located in~~  
364 | ~~the rights-of-way of the municipality or county making the~~  
365 | ~~request. The scope of the request must be limited to only those~~  
366 | ~~maps of pass-through facilities from which the calculation of~~  
367 | ~~the linear miles of pass-through facilities in the rights-of-way~~  
368 | ~~can be determined. The request must be accompanied by an~~  
369 | ~~affidavit that the person making the request is authorized by~~  
370 | ~~the municipality or county to review tax information related to~~  
371 | ~~the revenue and mileage calculations for pass-through providers.~~  
372 | ~~A request may not be made more than once annually to a pass-~~  
373 | ~~through provider.~~

374 |       ~~(7)(a) This subsection may be cited as the "Advanced~~  
375 | ~~Wireless Infrastructure Deployment Act."~~

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

377 ~~1. "Antenna" means communications equipment that transmits~~

378 ~~or receives electromagnetic radio frequency signals used in~~

379 ~~providing wireless services.~~

380 ~~2. "Applicable codes" means uniform building, fire,~~

381 ~~electrical, plumbing, or mechanical codes adopted by a~~

382 ~~recognized national code organization or local amendments to~~

383 ~~those codes enacted solely to address threats of destruction of~~

384 ~~property or injury to persons, and includes the National~~

385 ~~Electric Safety Code and the 2017 edition of the Florida~~

386 ~~Department of Transportation Utility Accommodation Manual.~~

387 ~~3. "Applicant" means a person who submits an application~~

388 ~~and is a wireless provider.~~

389 ~~4. "Application" means a request submitted by an applicant~~

390 ~~to an authority for a permit to collocate small wireless~~

391 ~~facilities or to place a new utility pole used to support a~~

392 ~~small wireless facility.~~

393 ~~5. "Authority" means a county or municipality having~~

394 ~~jurisdiction and control of the rights-of-way of any public~~

395 ~~road. The term does not include the Department of~~

396 ~~Transportation. Rights-of-way under the jurisdiction and control~~

397 ~~of the department are excluded from this subsection.~~

398 ~~6. "Authority utility pole" means a utility pole owned by~~

399 ~~an authority in the right-of-way. The term does not include a~~

400 ~~utility pole owned by a municipal electric utility, a utility~~



401 ~~pole used to support municipally owned or operated electric~~  
 402 ~~distribution facilities, or a utility pole located in the right-~~  
 403 ~~of-way within:~~

404 ~~a. A retirement community that:~~

405 ~~(I) Is deed restricted as housing for older persons as~~  
 406 ~~defined in s. 760.29(4)(b);~~

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

408 ~~(III) Has underground utilities for electric transmission~~  
 409 ~~or distribution.~~

410 ~~b. A municipality that:~~

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

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

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

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

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

424 ~~8. "FCC" means the Federal Communications Commission.~~

425 ~~9. "Micro wireless facility" means a small wireless~~

426 ~~facility having dimensions no larger than 24 inches in length,~~  
427 ~~15 inches in width, and 12 inches in height and an exterior~~  
428 ~~antenna, if any, no longer than 11 inches.~~

429 ~~10. "Small wireless facility" means a wireless facility~~  
430 ~~that meets the following qualifications:~~

431 ~~a. Each antenna associated with the facility is located~~  
432 ~~inside an enclosure of no more than 6 cubic feet in volume or,~~  
433 ~~in the case of antennas that have exposed elements, each antenna~~  
434 ~~and all of its exposed elements could fit within an enclosure of~~  
435 ~~no more than 6 cubic feet in volume; and~~

436 ~~b. All other wireless equipment associated with the~~  
437 ~~facility is cumulatively no more than 28 cubic feet in volume.~~  
438 ~~The following types of associated ancillary equipment are not~~  
439 ~~included in the calculation of equipment volume: electric~~  
440 ~~meters, concealment elements, telecommunications demarcation~~  
441 ~~boxes, ground-based enclosures, grounding equipment, power~~  
442 ~~transfer switches, cutoff switches, vertical cable runs for the~~  
443 ~~connection of power and other services, and utility poles or~~  
444 ~~other support structures.~~

445 ~~11. "Utility pole" means a pole or similar structure that~~  
446 ~~is used in whole or in part to provide communications services~~  
447 ~~or for electric distribution, lighting, traffic control,~~  
448 ~~signage, or a similar function. The term includes the vertical~~  
449 ~~support structure for traffic lights but does not include a~~  
450 ~~horizontal structure to which signal lights or other traffic~~

451 ~~control devices are attached and does not include a pole or~~  
452 ~~similar structure 15 feet in height or less unless an authority~~  
453 ~~grants a waiver for such pole.~~

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

462 ~~a. The structure or improvements on, under, within, or~~  
463 ~~adjacent to the structure on which the equipment is collocated;~~

464 ~~b. Wireline backhaul facilities; or~~

465 ~~c. Coaxial or fiber-optic cable that is between wireless~~  
466 ~~structures or utility poles or that is otherwise not immediately~~  
467 ~~adjacent to or directly associated with a particular antenna.~~

468 ~~13. "Wireless infrastructure provider" means a person who~~  
469 ~~has been certificated under chapter 364 to provide~~  
470 ~~telecommunications service or under chapter 610 to provide cable~~  
471 ~~or video services in this state, or that person's affiliate, and~~  
472 ~~who builds or installs wireless communication transmission~~  
473 ~~equipment, wireless facilities, or wireless support structures~~  
474 ~~but is not a wireless services provider.~~

475 ~~14. "Wireless provider" means a wireless infrastructure~~

HB 6045

2022

476 ~~provider or a wireless services provider.~~

477 ~~15. "Wireless services" means any services provided using~~  
478 ~~licensed or unlicensed spectrum, whether at a fixed location or~~  
479 ~~mobile, using wireless facilities.~~

480 ~~16. "Wireless services provider" means a person who~~  
481 ~~provides wireless services.~~

482 ~~17. "Wireless support structure" means a freestanding~~  
483 ~~structure, such as a monopole, a guyed or self-supporting tower,~~  
484 ~~or another existing or proposed structure designed to support or~~  
485 ~~capable of supporting wireless facilities. The term does not~~  
486 ~~include a utility pole, pedestal, or other support structure for~~  
487 ~~ground-based equipment not mounted on a utility pole and less~~  
488 ~~than 5 feet in height.~~

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

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

499 ~~1. An authority may not directly or indirectly require an~~  
500 ~~applicant to perform services unrelated to the collocation for~~

501 ~~which approval is sought, such as in-kind contributions to the~~  
 502 ~~authority, including reserving fiber, conduit, or pole space for~~  
 503 ~~the authority.~~

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

514 ~~3. An authority may not:~~

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

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

519 ~~c. Require a demonstration that collocation of a small~~  
 520 ~~wireless facility on an existing structure is not legally or~~  
 521 ~~technically possible as a condition for granting a permit for~~  
 522 ~~the collocation of a small wireless facility on a new utility~~  
 523 ~~pole except as provided in paragraph (i);~~

524 ~~d. Require compliance with an authority's provisions~~  
 525 ~~regarding placement of small wireless facilities or a new~~

HB 6045

2022

526 utility pole used to support a small wireless facility in  
527 rights-of-way under the control of the department unless the  
528 authority has received a delegation from the department for the  
529 location of the small wireless facility or utility pole, or  
530 require such compliance as a condition to receive a permit that  
531 is ancillary to the permit for collocation of a small wireless  
532 facility, including an electrical permit;

533 e. ~~Require a meeting before filing an application;~~

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

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

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

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

546 4. ~~Subject to paragraph (r), an authority may not limit  
547 the placement, by minimum separation distances, of small  
548 wireless facilities, utility poles on which small wireless  
549 facilities are or will be collocated, or other at-grade  
550 communications facilities. However, within 14 days after the~~

551 ~~date of filing the application, an authority may request that~~  
552 ~~the proposed location of a small wireless facility be moved to~~  
553 ~~another location in the right-of-way and placed on an~~  
554 ~~alternative authority utility pole or support structure or~~  
555 ~~placed on a new utility pole. The authority and the applicant~~  
556 ~~may negotiate the alternative location, including any objective~~  
557 ~~design standards and reasonable spacing requirements for ground-~~  
558 ~~based equipment, for 30 days after the date of the request. At~~  
559 ~~the conclusion of the negotiation period, if the alternative~~  
560 ~~location is accepted by the applicant, the applicant must notify~~  
561 ~~the authority of such acceptance and the application shall be~~  
562 ~~deemed granted for any new location for which there is agreement~~  
563 ~~and all other locations in the application. If an agreement is~~  
564 ~~not reached, the applicant must notify the authority of such~~  
565 ~~nonagreement and the authority must grant or deny the original~~  
566 ~~application within 90 days after the date the application was~~  
567 ~~filed. A request for an alternative location, an acceptance of~~  
568 ~~an alternative location, or a rejection of an alternative~~  
569 ~~location must be in writing and provided by electronic mail.~~

570 ~~5. An authority shall limit the height of a small wireless~~  
571 ~~facility to 10 feet above the utility pole or structure upon~~  
572 ~~which the small wireless facility is to be collocated. Unless~~  
573 ~~waived by an authority, the height for a new utility pole is~~  
574 ~~limited to the tallest existing utility pole as of July 1, 2017,~~  
575 ~~located in the same right-of-way, other than a utility pole for~~

576 ~~which a waiver has previously been granted, measured from grade~~  
577 ~~in place within 500 feet of the proposed location of the small~~  
578 ~~wireless facility. If there is no utility pole within 500 feet,~~  
579 ~~the authority shall limit the height of the utility pole to 50~~  
580 ~~feet.~~

581 ~~6. The installation by a communications services provider~~  
582 ~~of a utility pole in the public rights-of-way, other than a~~  
583 ~~utility pole used to support a small wireless facility, is~~  
584 ~~subject to authority rules or regulations governing the~~  
585 ~~placement of utility poles in the public rights-of-way.~~

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

593 ~~8. An application must be processed on a nondiscriminatory~~  
594 ~~basis. A complete application is deemed approved if an authority~~  
595 ~~fails to approve or deny the application within 60 days after~~  
596 ~~receipt of the application. If an authority does not use the 30-~~  
597 ~~day negotiation period provided in subparagraph 4., the parties~~  
598 ~~may mutually agree to extend the 60-day application review~~  
599 ~~period. The authority shall grant or deny the application at the~~  
600 ~~end of the extended period. A permit issued pursuant to an~~



601 ~~approved application shall remain effective for 1 year unless~~  
602 ~~extended by the authority.~~

603 ~~9. An authority must notify the applicant of approval or~~  
604 ~~denial by electronic mail. An authority shall approve a complete~~  
605 ~~application unless it does not meet the authority's applicable~~  
606 ~~codes. If the application is denied, the authority must specify~~  
607 ~~in writing the basis for denial, including the specific code~~  
608 ~~provisions on which the denial was based, and send the~~  
609 ~~documentation to the applicant by electronic mail on the day the~~  
610 ~~authority denies the application. The applicant may cure the~~  
611 ~~deficiencies identified by the authority and resubmit the~~  
612 ~~application within 30 days after notice of the denial is sent to~~  
613 ~~the applicant. The authority shall approve or deny the revised~~  
614 ~~application within 30 days after receipt or the application is~~  
615 ~~deemed approved. The review of a revised application is limited~~  
616 ~~to the deficiencies cited in the denial. If an authority~~  
617 ~~provides for administrative review of the denial of an~~  
618 ~~application, the review must be complete and a written decision~~  
619 ~~issued within 45 days after a written request for review is~~  
620 ~~made. A denial must identify the specific code provisions on~~  
621 ~~which the denial is based. If the administrative review is not~~  
622 ~~complete within 45 days, the authority waives any claim~~  
623 ~~regarding failure to exhaust administrative remedies in any~~  
624 ~~judicial review of the denial of an application.~~

625 ~~10. An applicant seeking to collocate small wireless~~

626 ~~facilities within the jurisdiction of a single authority may, at~~  
627 ~~the applicant's discretion, file a consolidated application and~~  
628 ~~receive a single permit for the collocation of up to 30 small~~  
629 ~~wireless facilities. If the application includes multiple small~~  
630 ~~wireless facilities, an authority may separately address small~~  
631 ~~wireless facility collocations for which incomplete information~~  
632 ~~has been received or which are denied.~~

633 ~~11. An authority may deny an application to collocate a~~  
634 ~~small wireless facility or place a utility pole used to support~~  
635 ~~a small wireless facility in the public rights-of-way if the~~  
636 ~~proposed small wireless facility or utility pole used to support~~  
637 ~~a small wireless facility:~~

638 ~~a. Materially interferes with the safe operation of~~  
639 ~~traffic control equipment.~~

640 ~~b. Materially interferes with sight lines or clear zones~~  
641 ~~for transportation, pedestrians, or public safety purposes.~~

642 ~~c. Materially interferes with compliance with the~~  
643 ~~Americans with Disabilities Act or similar federal or state~~  
644 ~~standards regarding pedestrian access or movement.~~

645 ~~d. Materially fails to comply with the 2017 edition of the~~  
646 ~~Florida Department of Transportation Utility Accommodation~~  
647 ~~Manual.~~

648 ~~e. Fails to comply with applicable codes.~~

649 ~~f. Fails to comply with objective design standards~~  
650 ~~authorized under paragraph (r).~~

651           ~~12. An authority may adopt by ordinance provisions for~~  
652 ~~insurance coverage, indemnification, force majeure, abandonment,~~  
653 ~~authority liability, or authority warranties. Such provisions~~  
654 ~~must be reasonable and nondiscriminatory. An authority may~~  
655 ~~require a construction bond to secure restoration of the~~  
656 ~~postconstruction rights-of-way to the preconstruction condition.~~  
657 ~~However, such bond must be time-limited to not more than 18~~  
658 ~~months after the construction to which the bond applies is~~  
659 ~~completed. For any financial obligation required by an authority~~  
660 ~~allowed under this section, the authority shall accept a letter~~  
661 ~~of credit or similar financial instrument issued by any~~  
662 ~~financial institution that is authorized to do business within~~  
663 ~~the United States, provided that a claim against the financial~~  
664 ~~instrument may be made by electronic means, including by~~  
665 ~~facsimile. A provider of communications services may add an~~  
666 ~~authority to any existing bond, insurance policy, or other~~  
667 ~~relevant financial instrument, and the authority must accept~~  
668 ~~such proof of coverage without any conditions other than consent~~  
669 ~~to venue for purposes of any litigation to which the authority~~  
670 ~~is a party. An authority may not require a communications~~  
671 ~~services provider to indemnify it for liabilities not caused by~~  
672 ~~the provider, including liabilities arising from the authority's~~  
673 ~~negligence, gross negligence, or willful conduct.~~

674           ~~13. Collocation of a small wireless facility on an~~  
675 ~~authority utility pole does not provide the basis for the~~

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

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

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

688 ~~(c) An authority may not require any permit or other~~  
689 ~~approval or require fees or other charges, costs, or other~~  
690 ~~exactions for:~~

691 ~~1. Routine maintenance, the performance of service~~  
692 ~~restoration work on existing facilities, or repair work,~~  
693 ~~including, but not limited to, emergency repairs of existing~~  
694 ~~facilities or extensions of such facilities for providing~~  
695 ~~communications services to customers;~~

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

699 ~~3. Installation, placement, maintenance, or replacement of~~  
700 ~~micro wireless facilities that are suspended on cables strung~~

701 ~~between existing utility poles in compliance with applicable~~  
702 ~~codes by or for a communications services provider authorized to~~  
703 ~~occupy the rights-of-way and who is remitting taxes under~~  
704 ~~chapter 202. An authority may require an initial letter from or~~  
705 ~~on behalf of such provider, which is effective upon filing,~~  
706 ~~attesting that the micro wireless facility dimensions comply~~  
707 ~~with the limits of this subsection. The authority may not~~  
708 ~~require any additional filing or other information as long as~~  
709 ~~the provider is deploying the same, a substantially similar, or~~  
710 ~~a smaller size micro wireless facility equipment.~~

711  
712 ~~Notwithstanding this paragraph, an authority may require a~~  
713 ~~right-of-way permit for work that involves excavation, closure~~  
714 ~~of a sidewalk, or closure of a vehicular lane or parking lane,~~  
715 ~~unless the provider is performing service restoration on an~~  
716 ~~existing facility and the work is done in compliance with the~~  
717 ~~2017 edition of the Florida Department of Transportation Utility~~  
718 ~~Accommodation Manual. An authority may require notice of such~~  
719 ~~work within 30 days after restoration and may require an after-~~  
720 ~~the-fact permit for work which would otherwise have required a~~  
721 ~~permit.~~

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

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

726 ~~authority utility poles.~~

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

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

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

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

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

753           b. ~~For an authority utility pole that supports an aerial~~  
754 ~~facility used to provide communications services or electric~~  
755 ~~service, the parties shall comply with the process for make-~~  
756 ~~ready work under 47 U.S.C. s. 224 and implementing regulations.~~  
757 ~~The good faith estimate of the person owning or controlling the~~  
758 ~~pole for any make-ready work necessary to enable the pole to~~  
759 ~~support the requested collocation must include pole replacement~~  
760 ~~if necessary.~~

761           c. ~~For an authority utility pole that does not support an~~  
762 ~~aerial facility used to provide communications services or~~  
763 ~~electric service, the authority shall provide a good faith~~  
764 ~~estimate for any make-ready work necessary to enable the pole to~~  
765 ~~support the requested collocation, including necessary pole~~  
766 ~~replacement, within 60 days after receipt of a complete~~  
767 ~~application. Make-ready work, including any pole replacement,~~  
768 ~~must be completed within 60 days after written acceptance of the~~  
769 ~~good faith estimate by the applicant. Alternatively, an~~  
770 ~~authority may require the applicant seeking to collocate a small~~  
771 ~~wireless facility to provide a make-ready estimate at the~~  
772 ~~applicant's expense for the work necessary to support the small~~  
773 ~~wireless facility, including pole replacement, and perform the~~  
774 ~~make-ready work. If pole replacement is required, the scope of~~  
775 ~~the make-ready estimate is limited to the design, fabrication,~~

776 ~~and installation of a utility pole that is substantially similar~~  
777 ~~in color and composition. The authority may not condition or~~  
778 ~~restrict the manner in which the applicant obtains, develops, or~~  
779 ~~provides the estimate or conducts the make-ready work subject to~~  
780 ~~usual construction restoration standards for work in the right-~~  
781 ~~of-way. The replaced or altered utility pole shall remain the~~  
782 ~~property of the authority.~~

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

791 ~~(g) For any applications filed before the effective date~~  
792 ~~of ordinances implementing this subsection, an authority may~~  
793 ~~apply current ordinances relating to placement of communications~~  
794 ~~facilities in the right-of-way related to registration,~~  
795 ~~permitting, insurance coverage, indemnification, force majeure,~~  
796 ~~abandonment, authority liability, or authority warranties.~~  
797 ~~Permit application requirements and small wireless facility~~  
798 ~~placement requirements, including utility pole height limits,~~  
799 ~~that conflict with this subsection must be waived by the~~  
800 ~~authority. An authority may not institute, either expressly or~~



HB 6045

2022

801 ~~de facto, a moratorium, zoning-in-progress, or other mechanism~~  
802 ~~that would prohibit or delay the filing, receiving, or~~  
803 ~~processing of registrations, applications, or issuing of permits~~  
804 ~~or other approvals for the collocation of small wireless~~  
805 ~~facilities or the installation, modification, or replacement of~~  
806 ~~utility poles used to support the collocation of small wireless~~  
807 ~~facilities.~~

808 ~~(h) Except as provided in this section or specifically~~  
809 ~~required by state law, an authority may not adopt or enforce any~~  
810 ~~regulation on the placement or operation of communications~~  
811 ~~facilities in the rights-of-way by a provider authorized by~~  
812 ~~state law to operate in the rights-of-way and may not regulate~~  
813 ~~any communications services or impose or collect any tax, fee,~~  
814 ~~or charge not specifically authorized under state law. This~~  
815 ~~paragraph does not alter any law regarding an authority's~~  
816 ~~ability to regulate the relocation of facilities.~~

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

823 ~~a. The authority, at least 90 days prior to the submission~~  
824 ~~of an application, has required all public utility lines to be~~  
825 ~~placed underground;~~

HB 6045

2022

826 ~~b. Structures that the authority allows to remain above~~  
827 ~~ground are reasonably available to wireless providers for the~~  
828 ~~collocation of small wireless facilities and may be replaced by~~  
829 ~~a wireless provider to accommodate the collocation of small~~  
830 ~~wireless facilities; and~~

831 ~~e. A wireless provider may install a new utility pole in~~  
832 ~~the designated area in the right-of-way that otherwise complies~~  
833 ~~with this subsection and it is not reasonably able to provide~~  
834 ~~wireless service by collocating on a remaining utility pole or~~  
835 ~~other structure in the right-of-way.~~

836 ~~2. For small wireless facilities installed before an~~  
837 ~~authority adopts requirements that public utility lines be~~  
838 ~~placed underground, an authority adopting such requirements~~  
839 ~~must:~~

840 ~~a. Allow a wireless provider to maintain the small~~  
841 ~~wireless facilities in place subject to any applicable pole~~  
842 ~~attachment agreement with the pole owner; or~~

843 ~~b. Allow the wireless provider to replace the associated~~  
844 ~~pole within 50 feet of the prior location in accordance with~~  
845 ~~paragraph (r).~~

846 ~~(j) A wireless infrastructure provider may apply to an~~  
847 ~~authority to place utility poles in the public rights-of-way to~~  
848 ~~support the collocation of small wireless facilities. The~~  
849 ~~application must include an attestation that small wireless~~  
850 ~~facilities will be collocated on the utility pole or structure~~

851 ~~and will be used by a wireless services provider to provide~~  
852 ~~service within 9 months after the date the application is~~  
853 ~~approved. The authority shall accept and process the application~~  
854 ~~in accordance with subparagraph (d) 6. and any applicable codes~~  
855 ~~and other local codes governing the placement of utility poles~~  
856 ~~in the public rights-of-way.~~

857 ~~(k) This subsection does not limit a local government's~~  
858 ~~authority to enforce historic preservation zoning regulations~~  
859 ~~consistent with the preservation of local zoning authority under~~  
860 ~~47 U.S.C. s. 332(c)(7), the requirements for facility~~  
861 ~~modifications under 47 U.S.C. s. 1455(a), or the National~~  
862 ~~Historic Preservation Act of 1966, as amended, and the~~  
863 ~~regulations adopted to implement such laws. An authority may~~  
864 ~~enforce local codes, administrative rules, or regulations~~  
865 ~~adopted by ordinance in effect on April 1, 2017, which are~~  
866 ~~applicable to a historic area designated by the state or~~  
867 ~~authority. An authority may enforce pending local ordinances,~~  
868 ~~administrative rules, or regulations applicable to a historic~~  
869 ~~area designated by the state if the intent to adopt such changes~~  
870 ~~has been publicly declared on or before April 1, 2017. An~~  
871 ~~authority may waive any ordinances or other requirements that~~  
872 ~~are subject to this paragraph.~~

873 ~~(l) This subsection does not authorize a person to~~  
874 ~~collocate or attach wireless facilities, including any antenna,~~  
875 ~~micro wireless facility, or small wireless facility, on a~~

HB 6045

2022

876 ~~privately owned utility pole, a utility pole owned by an~~  
877 ~~electric cooperative or a municipal electric utility, a~~  
878 ~~privately owned wireless support structure, or other private~~  
879 ~~property without the consent of the property owner.~~

880 ~~(m) The approval of the installation, placement,~~  
881 ~~maintenance, or operation of a small wireless facility pursuant~~  
882 ~~to this subsection does not authorize the provision of any~~  
883 ~~voice, data, or video communications services or the~~  
884 ~~installation, placement, maintenance, or operation of any~~  
885 ~~communications facilities other than small wireless facilities~~  
886 ~~in the right-of-way.~~

887 ~~(n) This subsection does not affect provisions relating to~~  
888 ~~pass-through providers in subsection (6).~~

889 ~~(o) This subsection does not authorize a person to~~  
890 ~~collocate or attach small wireless facilities or micro wireless~~  
891 ~~facilities on a utility pole, unless otherwise permitted by~~  
892 ~~federal law, or erect a wireless support structure in the right-~~  
893 ~~of-way located within a retirement community that:~~

894 ~~1. Is deed restricted as housing for older persons as~~  
895 ~~defined in s. 760.29(4)(b);~~

896 ~~2. Has more than 5,000 residents; and~~

897 ~~3. Has underground utilities for electric transmission or~~  
898 ~~distribution.~~

899  
900 ~~This paragraph does not apply to the installation, placement,~~

901 ~~maintenance, or replacement of micro wireless facilities on any~~  
 902 ~~existing and duly authorized aerial communications facilities,~~  
 903 ~~provided that once aerial facilities are converted to~~  
 904 ~~underground facilities, any such collocation or construction~~  
 905 ~~shall be only as provided by the municipality's underground~~  
 906 ~~utilities ordinance.~~

907 ~~(p) This subsection does not authorize a person to~~  
 908 ~~collocate or attach small wireless facilities or micro wireless~~  
 909 ~~facilities on a utility pole, unless otherwise permitted by~~  
 910 ~~federal law, or erect a wireless support structure in the right-~~  
 911 ~~of-way located within a municipality that:~~

- 912 ~~1. Is located on a coastal barrier island as defined in s.~~  
 913 ~~161.053(1)(b)3.;~~
- 914 ~~2. Has a land area of less than 5 square miles;~~
- 915 ~~3. Has fewer than 10,000 residents; and~~
- 916 ~~4. Has, before July 1, 2017, received referendum approval~~  
 917 ~~to issue debt to finance municipal-wide undergrounding of its~~  
 918 ~~utilities for electric transmission or distribution.~~

919  
 920 ~~This paragraph does not apply to the installation, placement,~~  
 921 ~~maintenance, or replacement of micro wireless facilities on any~~  
 922 ~~existing and duly authorized aerial communications facilities,~~  
 923 ~~provided that once aerial facilities are converted to~~  
 924 ~~underground facilities, any such collocation or construction~~  
 925 ~~shall be only as provided by the municipality's underground~~

926 ~~utilities ordinance.~~

927 ~~(q) This subsection does not authorize a person to~~  
 928 ~~collocate small wireless facilities or micro wireless facilities~~  
 929 ~~on an authority utility pole or erect a wireless support~~  
 930 ~~structure in a location subject to covenants, conditions,~~  
 931 ~~restrictions, articles of incorporation, and bylaws of a~~  
 932 ~~homeowners' association. This paragraph does not apply to the~~  
 933 ~~installation, placement, maintenance, or replacement of micro~~  
 934 ~~wireless facilities on any existing and duly authorized aerial~~  
 935 ~~communications facilities.~~

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

939 ~~1. A new utility pole that replaces an existing utility~~  
 940 ~~pole to be of substantially similar design, material, and color;~~

941 ~~2. Reasonable spacing requirements concerning the location~~  
 942 ~~of a ground-mounted component of a small wireless facility which~~  
 943 ~~does not exceed 15 feet from the associated support structure;~~  
 944 ~~or~~

945 ~~3. A small wireless facility to meet reasonable location~~  
 946 ~~context, color, camouflage, and concealment requirements,~~  
 947 ~~subject to the limitations in this subsection; and~~

948 ~~4. A new utility pole used to support a small wireless~~  
 949 ~~facility to meet reasonable location context, color, and~~  
 950 ~~material of the predominant utility pole type at the proposed~~

951 ~~location of the new utility pole.~~

952

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

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

963 ~~(b) The court may:~~

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

967 ~~2. Direct the recovery of full costs, including awarding~~  
 968 ~~reasonable attorney fees, to the party who prevails.~~

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

972 Section 2. This act shall take effect July 1, 2022.