

The Florida Senate

CS/CS/CS/SB 596: Utilities

GENERAL BILL by Rules ; Governmental Oversight and Accountability ; Communications, Energy, and Public Utilities ; [Hutson](#) ; (CO-INTRODUCERS) [Young](#) ; [Broxson](#)

Utilities; Authorizing the Department of Transportation and certain local governmental entities to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining across, on, or within the right-of-way limits of any road or publicly owned rail corridors under their respective jurisdictions any voice or data communications services lines or wireless facilities; creating the “Advanced Wireless Infrastructure Deployment Act”; providing requirements for the collocation of small wireless facilities on authority utility poles; authorizing an authority to enforce local codes, administrative rules, or regulations adopted by ordinance in effect on a specified date which are applicable to a historic area designated by the state or authority, etc.

Effective Date: 7/1/2017

Last Action: 4/27/2017 Senate - Placed on 3rd reading

Location: On 3rd Reading Calendar

Bill Text: [Web Page](#) | [PDF](#)

2.

[Accountability](#) (GO)

3. [Rules](#) (RC)

Senate Committee References:

[Communications, Energy, and
Public Utilities](#) (CU)
[Governmental Oversight and](#)

BILL HISTORY

CS/CS/CS/SB 596, ENGROSSED 1 (CURRENT BILL VERSION)

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CS/CS/CS/SB 596, COMMITTEE SUBSTITUTE 3

POSTED 4/21/2017 AT 9:24 AM

CS/CS/SB 596, COMMITTEE SUBSTITUTE 2

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CS/SB 596, COMMITTEE SUBSTITUTE 1

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SB 596, ORIGINAL FILED VERSION

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1 A bill to be entitled
2 An act relating to utilities; amending s. 337.401,
3 F.S.; authorizing the Department of Transportation and
4 certain local governmental entities to prescribe and
5 enforce reasonable rules or regulations with reference
6 to the placing and maintaining across, on, or within
7 the right-of-way limits of any road or publicly owned
8 rail corridors under their respective jurisdictions
9 any voice or data communications services lines or
10 wireless facilities; providing a short title; defining
11 terms; prohibiting a county or municipality having
12 jurisdiction and control of the rights-of-way of any
13 public road, referred to as the "authority," from
14 prohibiting, regulating, or charging for the
15 collocation of small wireless facilities in public
16 rights-of-way under certain circumstances; authorizing
17 an authority to require a registration process and
18 permit fees only under certain circumstances;
19 requiring an authority to receive and process
20 applications for permits and to issue such permits,
21 subject to specified requirements; prohibiting an
22 authority from requiring approval of or imposing fees
23 or other charges for routine maintenance, the
24 replacement of certain wireless facilities, or the
25 installation, placement, maintenance, or replacement
26 of certain micro wireless facilities; providing an
27 exception; providing requirements for the collocation
28 of small wireless facilities on authority utility
29 poles; providing requirements for rates, fees, and

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30 other terms related to authority utility poles;
31 authorizing an authority to apply current ordinances
32 regulating placement of communications facilities in
33 the right-of-way, including registration, permitting,
34 insurance coverage, indemnification, performance
35 bonds, security funds, force majeure, abandonment,
36 authority liability, or authority warranties for
37 certain applications; providing that certain permit
38 application requirements and small wireless facility
39 placement requirements shall be waived by the
40 authority; prohibiting an authority from adopting or
41 enforcing any regulation on the placement or operation
42 of certain communications facilities, from regulating
43 any communications services, or from imposing or
44 collecting any tax, fee, or charge not specifically
45 authorized under state law; providing construction;
46 requiring a wireless provider to comply with certain
47 nondiscriminatory undergrounding requirements of the
48 authority; authorizing the authority to waive any such
49 requirements; authorizing a wireless infrastructure
50 provider to apply to an authority to place utility
51 poles in the public rights-of-way to support the
52 collocation of small wireless facilities; providing
53 requirements for such application; requiring the
54 authority to accept and process the application,
55 subject to certain requirements; providing
56 construction; authorizing an authority to enforce
57 local codes, administrative rules, or regulations
58 adopted by ordinance in effect on a specified date

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59 which are applicable to a historic area designated by
60 the state or authority; authorizing an authority to
61 enforce pending local ordinances, administrative
62 rules, or regulations that are applicable to a
63 historic area designated by the state if the intent to
64 adopt such changes has been publicly declared on or
65 before a specified date; providing retroactive
66 applicability; authorizing an authority to waive
67 certain ordinances or other requirements; providing an
68 effective date.

69
70 Be It Enacted by the Legislature of the State of Florida:

71
72 Section 1. Paragraph (a) of subsection (1) of section
73 337.401, Florida Statutes, is amended, and subsection (7) is
74 added to that section, to read:

75 337.401 Use of right-of-way for utilities subject to
76 regulation; permit; fees.-

77 (1)(a) The department and local governmental entities,
78 referred to in this section and in ss. 337.402, 337.403, and
79 337.404 as the "authority," that have jurisdiction and control
80 of public roads or publicly owned rail corridors are authorized
81 to prescribe and enforce reasonable rules or regulations with
82 reference to the placing and maintaining across, on, or within
83 the right-of-way limits of any road or publicly owned rail
84 corridors under their respective jurisdictions any electric
85 transmission, voice telephone, telegraph, data, or other
86 communications services lines or wireless facilities; pole
87 lines; poles; railways; ditches; sewers; water, heat, or gas

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88 mains; pipelines; fences; gasoline tanks and pumps; or other
89 structures referred to in this section and in ss. 337.402,
90 337.403, and 337.404 as the "utility." The department may enter
91 into a permit-delegation agreement with a governmental entity if
92 issuance of a permit is based on requirements that the
93 department finds will ensure the safety and integrity of
94 facilities of the Department of Transportation; however, the
95 permit-delegation agreement does not apply to facilities of
96 electric utilities as defined in s. 366.02(2).

97 (7)(a) This subsection may be cited as the "Advanced
98 Wireless Infrastructure Deployment Act."

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

100 1. "Antenna" means communications equipment that transmits
101 or receives electromagnetic radio frequency signals used in
102 providing wireless services.

103 2. "Applicable codes" means uniform building, fire,
104 electrical, plumbing, or mechanical codes adopted by a
105 recognized national code organization or local amendments to
106 those codes enacted solely to address threats of destruction of
107 property or injury to persons, or local codes or ordinances
108 adopted to implement this subsection. The term includes
109 objective design standards adopted by ordinance which may
110 require that a new utility pole replacing an existing utility
111 pole be of substantially similar design, material, and color, or
112 that ground-mounted equipment meet reasonable spacing
113 requirements. The term includes objective design standards
114 adopted by ordinance which may require a small wireless facility
115 to meet reasonable location context, color, stealth, and
116 concealment requirements; however, the authority may waive the

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117 design standards upon a showing that the design standards are
118 not reasonably compatible for the particular location of a small
119 wireless facility or that the design standards impose an
120 excessive expense. The waiver must be granted or denied within
121 45 days after the date of the waiver request.

122 3. "Applicant" means a person who submits an application
123 and is a wireless provider.

124 4. "Application" means a request submitted by an applicant
125 to an authority for a permit to collocate small wireless
126 facilities.

127 5. "Authority" means a county or municipality having
128 jurisdiction and control of the rights-of-way of any public
129 roads. The term does not include the Florida Department of
130 Transportation. The Florida Department of Transportation rights-
131 of-way are excluded from this subsection.

132 6. "Authority utility pole" means a utility pole owned by
133 an authority in the right-of-way. The term does not include a
134 utility pole owned by a municipal electric utility or any
135 utility pole used to support municipally owned or operated
136 electric distribution facilities, or a utility pole located in
137 the right-of-way within:

138 a. A retirement community that:

139 (I) Is deed-restricted as housing for older persons as
140 defined in s. 760.29(4)(b);

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

142 (III) Has underground utilities for electric transmission
143 or distribution; or

144 b. A municipality that:

145 (I) Is located on a coastal barrier island as defined in s.

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146 161.053(1)(b)3.;

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

148 (III) Has fewer than 10,000 residents; and

149 (IV) Has, before July 1, 2017, received referendum approval
150 to issue debt to finance municipality-wide underground utilities
151 for electric transmission or distribution.

152 7. "Collocate" or "collocation" means to install, mount,
153 maintain, modify, operate, or replace one or more wireless
154 facilities on, under, within, or adjacent to a wireless support
155 structure or utility pole. The term does not include the
156 installation of a new utility pole or wireless support structure
157 in the public rights-of-way.

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

159 9. "Micro wireless facility" means a small wireless
160 facility having dimensions no larger than 24 inches in length,
161 15 inches in width, and 12 inches in height and an exterior
162 antenna, if any, no longer than 11 inches.

163 10. "Small wireless facility" means a wireless facility
164 that meets the following qualifications:

165 a. Each antenna associated with the facility is located
166 inside an enclosure of no more than 6 cubic feet in volume or,
167 in the case of antennas that have exposed elements, each antenna
168 and all of its exposed elements could fit within an enclosure of
169 no more than 6 cubic feet in volume; and

170 b. All other wireless equipment associated with the
171 facility is cumulatively no more than 28 cubic feet in volume.
172 The following types of associated ancillary equipment are not
173 included in the calculation of equipment volume: electric
174 meters, concealment elements, telecommunications demarcation

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175 boxes, ground-based enclosures, grounding equipment, power
176 transfer switches, cutoff switches, vertical cable runs for the
177 connection of power and other services, and utility poles or
178 other support structures.

179 11. "Utility pole" means a pole or similar structure used
180 in whole or in part to provide communications services or for
181 electric distribution, lighting, traffic control, signage, or a
182 similar function. The term includes the vertical support
183 structure for traffic lights, but does not include any
184 horizontal structures upon which are attached signal lights or
185 other traffic control devices and does not include any pole or
186 similar structure 15 feet in height or less unless an authority
187 grants a waiver for the pole.

188 12. "Wireless facility" means equipment at a fixed location
189 which enables wireless communications between user equipment and
190 a communications network, including radio transceivers,
191 antennas, wires, coaxial or fiber-optic cable or other cables,
192 regular and backup power supplies, and comparable equipment,
193 regardless of technological configuration, and equipment
194 associated with wireless communications. The term includes small
195 wireless facilities. The term does not include:

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

198 b. Wireline backhaul facilities; or

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

202 13. "Wireless infrastructure provider" means a person who
203 has been certificated to provide telecommunications service in

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the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures, but is not a wireless services provider.

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

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

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

17. "Wireless support structure" means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

(c) Except as provided in this subsection, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way.

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

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

2. An applicant may not be required to provide more information to obtain a permit than is necessary to demonstrate

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233 the applicant's compliance with applicable codes for the
234 placement of small wireless facilities in the locations
235 identified in the application.

236 3. An authority may not require the placement of small
237 wireless facilities on any specific utility pole or category of
238 poles or require multiple antenna systems on a single utility
239 pole.

240 4. An authority may not limit the placement of small
241 wireless facilities by minimum separation distances; however,
242 within 14 days after the date of filing the application, an
243 authority may request that the proposed location of a small
244 wireless facility be moved to another location in the right-of-
245 way and placed upon an alternative authority utility pole or
246 support structure or placed upon a new utility pole. The
247 authority and applicant may negotiate the alternative location,
248 including any objective design standards, for 30 days after the
249 date of the request. At the conclusion of the negotiation
250 period, if the applicant accepts the alternative location, the
251 applicant must notify the authority, and the application shall
252 be deemed granted for any new location for which there is
253 agreement and all other locations in the application. If no
254 agreement is reached, the applicant must notify the authority,
255 and the authority must grant or deny the original application
256 within 90 days after the date the application is filed. A
257 request for an alternative location, an acceptance of an
258 alternative location, or any rejection of an alternative
259 location must be in writing and provided by electronic mail.

260 5. An authority shall limit the height of a small wireless
261 facility to no more than 10 feet above the utility pole or

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262 structure upon which the small wireless facility is to be
263 collocated. Unless waived by an authority, the height for a new
264 utility pole is limited to the tallest existing utility pole as
265 of July 1, 2017, located in the same right-of-way, other than a
266 utility pole for which a waiver has previously been granted,
267 measured from grade in place within 500 feet of the proposed
268 location of the small wireless facility. If there is no utility
269 pole within 500 feet, the authority shall limit the height of
270 the utility pole to 50 feet.

271 6. Except as provided in subparagraphs 4. and 5., the
272 installation of a utility pole in the public rights-of-way
273 designed to support a small wireless facility is subject to
274 authority rules or regulations governing the placement of
275 utility poles in the public rights-of-way and is subject to the
276 application review timeframes in this subsection.

277 7. Within 14 days after receiving an application, an
278 authority must determine and notify the applicant by electronic
279 mail as to whether the application is complete. If an
280 application is deemed incomplete, the authority must
281 specifically identify the missing information. An application is
282 deemed complete if the authority fails to provide notification
283 to the applicant within 14 days.

284 8. An application must be processed on a nondiscriminatory
285 basis. A complete application is deemed approved if an authority
286 fails to approve or deny the application within 60 days after
287 receipt of the application. If an authority does not use the 30-
288 day negotiation period provided in subparagraph 4., the parties
289 may mutually agree to extend the 60-day application review
290 period. The authority must grant or deny the application at the

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291 end of the extended period. A permit issued pursuant to an
292 approved application remains effective for 1 year unless
293 extended by the authority.

294 9. An authority must notify the applicant of approval or
295 denial by electronic mail. An authority must approve a complete
296 application unless it does not meet the authority's applicable
297 codes. If the application is denied, the authority must specify
298 in writing the basis for denial, including the specific code
299 provisions on which the denial was based, and send the
300 documentation to the applicant by electronic mail on the day the
301 authority denies the application. The applicant may cure the
302 deficiencies identified by the authority and resubmit the
303 application within 30 days after notice of the denial is sent to
304 the applicant. The authority must approve or deny the revised
305 application within 30 days after receipt or the application is
306 deemed approved. Any subsequent review shall be limited to the
307 deficiencies cited in the denial.

308 10. An applicant seeking to collocate small wireless
309 facilities within the jurisdiction of a single authority may, at
310 the applicant's discretion, file a consolidated application and
311 receive a single permit for the collocation of no more than 30
312 small wireless facilities. If the application includes multiple
313 small wireless facilities, an authority may remove small
314 wireless facility collocations from the application and treat
315 separately small wireless facility collocations for which
316 incomplete information has been received or which are denied.

317 11. An authority may deny a proposed collocation of a small
318 wireless facility in the public rights-of-way if the proposed
319 collocation:

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320 a. Materially interferes with the safe operation of traffic
321 control equipment.

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

324 c. Materially interferes with compliance with the Americans
325 with Disabilities Act or similar federal or state standards
326 regarding pedestrian access or movement.

327 d. Materially fails to comply with the 2010 edition of the
328 Florida Department of Transportation Utility Accommodation
329 Manual.

330 e. Fails to comply with applicable codes.

331 12. An authority may adopt by ordinance provisions for
332 registration, permitting, insurance coverage, indemnification,
333 performance bonds, security funds, force majeure, abandonment,
334 authority liability, or authority warranties. Such provisions
335 must be reasonable and nondiscriminatory.

336 13. Collocation of a small wireless facility on an
337 authority utility pole may not provide the basis for the
338 imposition of an ad valorem tax on the authority utility pole.

339 14. An authority may reserve space on authority utility
340 poles for future public safety uses. However, a reservation of
341 space may not preclude collocation of a small wireless facility.
342 If replacement of the authority utility pole is necessary to
343 accommodate the collocation of the small wireless facility and
344 the future public safety use, the pole replacement is subject to
345 make-ready provisions, and the replaced pole shall accommodate
346 the future public safety use.

347 15. Any structure granted a permit and installed pursuant
348 to this subsection must comply with chapter 333 and federal

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349 regulations pertaining to airport airspace protections.

350 (e) An authority may not require approval of or impose fees
351 or other charges for:

352 1. Routine maintenance;

353 2. Replacement of existing wireless facilities with
354 wireless facilities that are substantially similar or of the
355 same or smaller size; or

356 3. Installation, placement, maintenance, or replacement of
357 micro wireless facilities suspended on cables strung between
358 existing utility poles in compliance with applicable codes by a
359 communications service provider authorized to occupy the rights-
360 of-way and who is remitting taxes under chapter 202.

361
362 However, notwithstanding this paragraph, an authority may
363 require a right-of-way permit for work that involves excavation,
364 closing a sidewalk, or closing a vehicular lane.

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

367 1. An authority may not enter into an exclusive arrangement
368 with any person for the right to attach equipment to authority
369 utility poles.

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

373 3. The rate to collocate small wireless facilities on
374 authority utility poles may not exceed \$150 per pole annually.

375 4. Agreements between authorities and wireless providers
376 which are in effect on July 1, 2017, and which relate to the
377 collocation of small wireless facilities in the right-of-way,

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378 including the collocation of small wireless facilities on
379 authority utility poles, remain in effect, subject to applicable
380 termination provisions. The wireless provider may accept the
381 rates, fees, and terms established under this subsection for
382 small wireless facilities and utility poles that are the subject
383 of an application submitted after the rates, fees, and terms
384 become effective.

385 5. A person owning or controlling an authority utility pole
386 shall offer rates, fees, and other terms that comply with this
387 subsection. By the later of January 1, 2018, or 3 months after
388 receiving a request to collocate its first small wireless
389 facility on a utility pole owned or controlled by an authority,
390 the person owning or controlling the authority utility pole
391 shall make available, through ordinance or otherwise, rates,
392 fees, and terms for the collocation of small wireless facilities
393 on the authority utility pole which comply with this subsection.

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

396 b. For an authority utility pole that supports an aerial
397 facility used to provide communications services or electric
398 service, the parties shall comply with the process for make-
399 ready work under 47 U.S.C. s. 224 and implementing regulations.
400 The good faith estimate of the person owning or controlling the
401 pole for any make-ready work necessary to enable the pole to
402 support the requested collocation must include pole replacement
403 if necessary.

404 c. For an authority utility pole that does not support an
405 aerial facility used to provide communications services or
406 electric service, the authority shall provide a good faith

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407 estimate for any make-ready work necessary to enable the pole to
408 support the requested collocation, including necessary pole
409 replacement, within 60 days after receipt of a complete
410 application. Make-ready work, including any pole replacement,
411 must be completed within 60 days after written acceptance of the
412 good faith estimate by the applicant. Alternatively, an
413 authority may require the applicant seeking to collocate a small
414 wireless facility to provide a make-ready estimate at the
415 applicant's expense for the work necessary to support the small
416 wireless facility, including pole replacement, and to perform
417 the make-ready work. If pole replacement is required, the scope
418 of the make-ready estimate is limited to the design,
419 fabrication, and installation of a utility pole that is
420 substantially similar in color and composition. The authority
421 may not impose conditions on or restrict the manner in which the
422 applicant obtains, develops, or provides the estimate or
423 conducts the make-ready work subject to usual construction
424 restoration standards for work in the right-of-way. The replaced
425 or altered utility pole shall remain the property of the
426 authority.

427 d. An authority may not require more make-ready work than
428 is required to meet applicable codes or industry standards. Fees
429 for make-ready work may not include costs related to preexisting
430 damage or prior noncompliance. Fees for make-ready work,
431 including any pole replacement, may not exceed actual costs or
432 the amount charged to communications service providers other
433 than wireless services providers for similar work and may not
434 include any consultant fee or expense.

435 (g) For any applications filed before the effective dates

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436 of ordinances implementing this subsection, an authority may
437 apply current ordinances regulating the placement of
438 communications facilities in the right-of-way, including
439 registration, permitting, insurance coverage, indemnification,
440 performance bonds, security funds, force majeure, abandonment,
441 authority liability, or authority warranties. Permit application
442 requirements and small wireless facility placement requirements,
443 including utility pole height limits, which conflict with this
444 subsection shall be waived by the authority.

445 (h) Except as provided in this section or specifically
446 required by state law, an authority may not adopt or enforce any
447 regulation on the placement or operation of communications
448 facilities in the rights-of-way by a provider authorized by
449 state law to operate in the rights-of-way and may not regulate
450 any communications services or impose or collect any tax, fee,
451 or charge not specifically authorized under state law. This
452 paragraph is not intended to change state law regarding an
453 authority's ability to regulate the relocation of facilities.

454 (i) A wireless provider shall, in relation to a small
455 wireless facility, utility pole, or wireless support structure
456 in the public rights-of-way, comply with nondiscriminatory
457 undergrounding requirements of the authority which prohibit
458 above-ground structures in public rights-of-way. Any such
459 requirements may be waived by the relevant authority.

460 (j) A wireless infrastructure provider may apply to an
461 authority to place utility poles in the public rights-of-way to
462 support the collocation of small wireless facilities. The
463 application must include an attestation that small wireless
464 facilities will be collocated on the utility pole or structure

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465 and small wireless facilities will be used by a wireless
466 services provider to provide service within 9 months from the
467 date the application is granted. An authority shall accept and
468 process the application in accordance with subparagraph (d)6.
469 and any applicable codes and other local codes governing the
470 placement of utility poles in the public rights-of-way.

471 (k) This subsection does not limit a local government's
472 authority to enforce historic preservation zoning regulations
473 consistent with the preservation of local zoning authority under
474 47 U.S.C. s. 332(c)(7), the requirements for facility
475 modifications under 47 U.S.C. s. 1455(a), or the National
476 Historic Preservation Act of 1966, as amended, and the
477 regulations adopted to implement these laws. An authority may
478 enforce local codes, administrative rules, or regulations
479 adopted by ordinance in effect on April 1, 2017, which are
480 applicable to a historic area designated by the state or
481 authority. An authority may enforce pending local ordinances,
482 administrative rules, or regulations that are applicable to a
483 historic area designated by the state if the intent to adopt
484 such changes has been publicly declared on or before April 1,
485 2017. An authority may waive any ordinances or other
486 requirements that are subject to this paragraph.

487 (l) This subsection does not authorize a person to
488 collocate or attach wireless facilities, including any antenna,
489 micro wireless facility, or small wireless facility, on a
490 privately owned utility pole, a utility pole owned by an
491 electric cooperative or a municipal electric utility, a
492 privately owned wireless support structure, or other private
493 property without the consent of the property owner.

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494 (m) The approval of the installation, placement,
495 maintenance, or operation of a small wireless facility pursuant
496 to this subsection may not be construed to authorize the
497 provision of any voice, data, or video communications services
498 or the installation, placement, maintenance, or operation of any
499 communications facilities other than small wireless facilities
500 in the right-of-way.

501 (n) This subsection does not affect the provisions of
502 subsection (6) relating to pass-through providers.

503 (o) This subsection does not authorize a person to
504 collocate or attach small wireless facilities or micro wireless
505 facilities on a utility pole unless otherwise permitted by
506 federal law, or to erect a wireless support structure in the
507 right-of-way located within a retirement community that:

508 1. Is deed-restricted as housing for older persons as
509 defined in s. 760.29(4)(b);

510 2. Has more than 5,000 residents; and

511 3. Has underground utilities for electric transmission or
512 distribution.

513
514 Nothing in this paragraph applies to the installation,
515 placement, maintenance, or replacement of micro wireless
516 facilities on any existing and duly authorized aerial
517 communications facilities, provided that once aerial facilities
518 are converted to underground, any such collocation or
519 construction shall be only as provided by the municipality's
520 underground utilities ordinance.

521 (p) This subsection does not authorize a person to
522 collocate or attach small wireless facilities or micro wireless

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523 facilities on a utility pole unless otherwise permitted by
524 federal law, or to erect a wireless support structure in the
525 right-of-way located within a municipality that:

526 1. Is located on a coastal barrier island as defined in s.
527 161.053(1)(b)3.;

528 2. Has a land area of less than 5 square miles;

529 3. Has fewer than 10,000 residents; and

530 4. Which has, before July 1, 2017, received referendum
531 approval to issue debt to finance municipality-wide
532 undergrounding of its utilities for electric transmission or
533 distribution.

534
535 Nothing in this paragraph applies to the installation,
536 placement, maintenance, or replacement of micro wireless
537 facilities on any existing and duly authorized aerial
538 communications facilities, provided that once aerial facilities
539 are converted to underground, any such collocation or
540 construction shall be only as provided by the municipality's
541 underground utilities ordinance.

542 (q) This subsection does not authorize a person to
543 collocate small wireless facilities or micro wireless facilities
544 on an authority utility pole or erect a wireless support
545 structure in a location subject to covenants, conditions, and
546 restrictions; articles of incorporation; and bylaws of a home
547 owners association. Nothing in this paragraph applies to the
548 installation, placement, maintenance, or replacement of micro
549 wireless facilities on any existing and duly authorized aerial
550 communications facilities.

551 Section 2. This act shall take effect July 1, 2017.