

By the Committee on Comprehensive Planning, Local and Military
Affairs

316-83C-99

1 A bill to be entitled
2 An act relating to wireless emergency 911
3 telephone service; creating s. 365.172, F.S.;
4 providing a short title; providing legislative
5 findings, purposes, and intent; providing
6 definitions; providing duties of the Department
7 of Management Services; creating the Wireless
8 911 Board; providing duties and membership of
9 the board; providing powers of the board;
10 requiring the board to report to the Governor
11 and the Legislature each year; requiring
12 completion of a study for submission to the
13 Governor and the Legislature; requiring the
14 board to retain an independent accounting firm
15 for certain purposes; providing a process for
16 firm selection; imposing a monthly fee for
17 certain 911 telephone service; providing a
18 rate; providing for adjusting the rate;
19 exempting the fee from state and local taxes;
20 prohibiting local governments from imposing
21 additional fees related to such service;
22 providing procedures for collecting the fee and
23 remitting the fee to the board; providing
24 criteria for provision of certain services;
25 prohibiting certain activities relating to
26 wireless 911 telephone service; providing
27 penalties; providing that the act does not
28 preempt other laws that regulate providers of
29 telecommunications service; providing an
30 effective date.
31

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

2

3 Section 1. Section 365.172, Florida Statutes, is
4 created to read:

5 365.172 Wireless emergency telephone number "E911."

6 (1) SHORT TITLE.--This section may be cited as the
7 "Wireless Emergency Communications Act."

8 (2) FINDINGS, PURPOSE, AND LEGISLATIVE INTENT.--The
Legislature finds and declares that:

(a) The mobile nature of wireless communications
service creates complexities for providing 911 emergency
services.

(b) Wireless telephone service providers are required
by the Federal Communications Commission to provide wireless
enhanced 911 (E911) service in the form of automatic location
identification and automatic number identification pursuant to
the terms and conditions set forth in an order issued by the
Federal Communications Commission.

(c) Wireless telephone service providers and counties
that operate 911 and E911 systems require adequate funding to
recover the costs of designing, purchasing, installing,
testing, and operating enhanced facilities, systems, and
services necessary to comply with the requirements for E911
services mandated by the Federal Communications Commission and
to maximize the availability of E911 services throughout this
state.

(d) The revenues generated by the E911 fee imposed
under this section are required to fund the efforts of the
counties, the Wireless 911 Board under the Department of
Management Services, and commercial mobile radio service
providers to improve the public health, safety, and welfare

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and serve a public purpose by providing emergency telephone assistance through wireless communications.

(e) It is necessary and beneficial to levy a fee on wireless services and to create the Wireless 911 Board to administer fee proceeds as provided in this section.

(f) It is the intent of the Legislature to:

1. Establish and implement a comprehensive statewide emergency telephone number system that will provide wireless telephone users with rapid direct access to public safety agencies by dialing the telephone number "911."

2. Provide funds to local governments to pay the cost of installing and operating wireless 911 systems and to reimburse wireless telephone service providers for costs incurred to provide 911 or enhanced 911 services.

3. Levy a reasonable fee on subscribers of wireless telephone service to accomplish these purposes.

(3) DEFINITIONS.--As used in this section and ss. 365.173 and 365.174, the term:

(a) "Answering point" means the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to such calls.

(b) "Automatic location identification" means the capability of the E911 service which enables the automatic display of information that defines the approximate geographic location of the wireless telephone used to place a 911 call.

(c) "Automatic number identification" means the capability of the E911 service which enables the automatic display of the 10-digit service number used to place a 911 call.

(d) "Board" means the board of directors of the Wireless 911 Board.

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(e) "Department" means the Department of Management Services.

(f) "E911" is the designation for a wireless enhanced 911 system or wireless enhanced 911 service that is an emergency telephone system or service that provides a subscriber with wireless 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated, or as otherwise provided in the state plan under s. 365.171, and that provides for automatic number identification and automatic location-identification features in accordance with the requirements of the order.

(g) "Fee" means the E911 fee imposed under subsection (8).

(h) "Fund" means the Wireless Emergency Telephone System Fund established in s. 365.173 and maintained under this section for the purpose of recovering the costs associated with providing 911 service or E911 service, including the costs of implementing the order.

(i) "Local exchange carrier" means an "alternative local exchange telecommunications company" or a "local exchange telecommunications company" as defined in s. 364.02.

(j) "Local government" means any municipality, county, or political subdivision or agency of a municipality, county, or political subdivision.

(k) "Order" means the order of the Federal Communications Commission, FCC Docket No. 94-102, subsequently adopted orders relating to the provision of wireless 911 services, and rules adopted by the Federal Communications Commission related to such orders.

1 (l) "Provider" means a person or entity who provides
2 service and either:
3 1. Is subject to the requirements of the order; or
4 2. Elects to provide wireless 911 service or E911
5 service in this state.
6 (m) "Public agency" means the state and any
7 _____
8 governmental entity, public district, or public authority
9 located in whole or in part within this state which provides,
10 _____
11 ambulance, medical, or other emergency services.
12 (n) "Public safety agency" means a functional division
13 _____
14 enforcement, medical, or other emergency services.
15 (o) "Rural county" means any county that has a
16 _____
17 (p) "Service" means "commercial mobile radio service"
18 as provided under ss. 3(27) and 332(d) of the Federal
19 _____
20 and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No.
21 103-66, August 10, 1993, 107 Stat. 312. The term "service"
22 _____
23 wireless real-time two-way wire communication device,
24 including radio-telephone communications used in cellular
25 _____
26 functional or competitive equivalent of a radio-telephone
27 communications line used in cellular telephone service, a
28 _____
29 line. The term does not include wireless providers that offer
30 mainly dispatch service in a more localized, noncellular
31 _____

1 stored-voice services on an interconnected basis; providers of
2 air-to-ground services; or public coast stations.

3 (q) "Service number" means the unique 10-digit
4 wireless telephone number assigned to a service subscriber.

5 (r) "Wireless 911 system" or "wireless 911 service"
6 means an emergency telephone system or service that provides a
7 subscriber with the ability to reach an answering point by
8 dialing the digits "911." A wireless 911 system is
9 complementary to a wired 911 system as provided for in s.
10 365.171.

11 (4) POWERS AND DUTIES OF THE DEPARTMENT.--The
12 department shall oversee the administration of the fee imposed
13 on subscribers of statewide E911 service under subsection (8).

14 (5) THE WIRELESS 911 BOARD.--

15 (a) The Wireless 911 Board is established to
16 administer, with oversight by the department, the fee imposed
17 under subsection (8), including receiving revenues derived
18 from the fee; distributing portions of such revenues to
19 providers, counties, and the department; accounting for
20 receipts, distributions, and income derived by the funds
21 maintained in the fund; and providing annual reports to the
22 Governor and the Legislature for submission by the department
23 on amounts collected and expended, the purposes for which
24 expenditures have been made, and the status of wireless E911
25 service in this state. In order to advise and assist the
26 department in carrying out the purposes of this section, the
27 board, which shall have the power of a body corporate, shall
28 have the powers enumerated in subsection (6).

29 (b) The board shall consist of seven members, one of
30 whom must be the system director designated under s.
31 365.171(5), or his or her designee, who shall serve as the

1 chair of the board. The remaining six members of the board
2 shall be appointed by the Governor and must be composed of
3 three county 911 coordinators recommended by the Florida
4 Association of Counties and three members from the wireless
5 telecommunications industry. Not more than one member may be
6 appointed to represent any single provider on the board.

7 (c) The system director, or his or her designee, must
8 be a permanent member of the board. Each of the remaining six
9 members of the board shall be appointed to a 4-year term and
10 may not be appointed to more than two successive terms.
11 However, for the purpose of staggering terms, two of the
12 original board members shall be appointed to terms of 4 years,
13 two shall be appointed to terms of 3 years, and two shall be
14 appointed to terms of 2 years, as designated by the Governor.
15 A vacancy on the board shall be filled in the same manner as
16 the original appointment.

17 (6) AUTHORITY OF THE BOARD; ANNUAL REPORT.--

18 (a) The board shall:

19 1. Administer the E911 fee.

20 2. Implement, maintain, and oversee the fund.

21 3. Review and oversee the disbursement of the revenues
22 deposited into the fund as provided in s. 365.173. The board
23 may establish a schedule for implementing wireless E911
24 service by service area, and prioritize disbursements of
25 revenues from the fund to providers and rural counties as
26 provided in s. 365.173(2)(b) and (c) pursuant to the schedule,
27 in order to implement E911 services in the most efficient and
28 cost-effective manner.

29 4. Review documentation submitted by providers which
30 reflects current and projected funds derived from the E911
31 fee, and the expenses incurred and expected to be incurred, in

- 1 order to comply with the E911 service requirements contained
2 in the order for the purposes of:
- 3 a. Ensuring that providers receive fair and equitable
4 distributions of funds from the fund.
- 5 b. Ensuring that providers are not provided
6 disbursements from the fund which exceed the costs of
7 providing E911 service, including the costs of complying with
8 the order.
- 9 c. Ascertaining the projected costs of compliance with
10 the requirements of the order and projected collections of the
11 E911 fee.
- 12 d. Implementing changes to the allocation percentages
13 or reducing the E911 fee under paragraph (8)(c).
- 14 5. Review and approve or reject, in whole or in part,
15 applications submitted by providers for recovery of moneys
16 deposited into the fund.
- 17 6. Hire and retain employees for the purposes of
18 performing administrative functions for the board.
- 19 7. Make and enter into contracts, pursuant to chapter
20 287, and execute other instruments necessary or convenient for
21 the exercise of the powers and functions of the board.
- 22 8. Take all necessary and reasonable steps by July 1,
23 2000, to secure appropriate information and reports from
24 providers and otherwise perform all of the functions that
25 would be performed by an independent accounting firm prior to
26 completing the request-for-proposals process under subsection
27 (7).
- 28 9. Sue and be sued, and appear and defend in all
29 actions and proceedings, in its corporate name to the same
30 extent as a natural person.
- 31 10. Adopt, use, and alter a common corporate seal.

1 11. Elect or appoint the officers and agents that are
2 required by the affairs of the board.

3 12. The board may adopt rules under ss. 120.54 and
4 120.536(1) to implement this section and ss. 365.173 and
5 365.174.

6 13. Do all acts and things necessary or convenient to
7 carry out the powers granted in this section.

8 (b) Board members shall serve without compensation;
9 however, members are entitled to per diem and travel expenses
10 as provided in s. 112.061.

11 (c) By February 28 of each year, the board shall
12 prepare a report for submission by the department to the
13 Governor, the President of the Senate, and the Speaker of the
14 House of Representatives which reflects, for the immediately
15 preceding calendar year, the quarterly and annual receipts and
16 disbursements of moneys in the fund, the purposes for which
17 disbursements of moneys from the fund have been made, and the
18 availability and status of implementation of E911 service in
19 this state.

20 (d) By February 29, 2001, the board shall undertake
21 and complete a study for submission by the department to the
22 Governor, the President of the Senate, and the Speaker of the
23 House of Representatives which addresses:

24 1. The total amount of E911 fee revenues collected by
25 each provider, the total amount of expenses incurred by each
26 provider to comply with the order, and the amount of moneys on
27 deposit in the fund, all as of December 1, 2000.

28 2. Whether the amount of the E911 fee and the
29 allocation percentages set forth in s. 365.173 should be
30 adjusted to comply with the requirements of the order, and, if
31 so, a recommended adjustment to the E911 fee.

1 3. Any other issues related to providing wireless E911
2 services.

3 (7) REQUEST FOR PROPOSALS FOR INDEPENDENT ACCOUNTING
4 FIRM.--

5 (a) The board shall issue a request for proposals as
6 provided in chapter 287 for the purpose of retaining an
7 independent accounting firm. The independent accounting firm
8 shall perform all material administrative and accounting tasks
9 and functions required for administering the E911 fee. The
10 request for proposals must include, but need not be limited
11 to:

12 1. A description of the scope and general requirements
13 of the services requested.

14 2. A description of the specific accounting and
15 reporting services required for administering the fund,
16 including processing checks and distributing funds as directed
17 by the board under s. 365.173.

18 3. A description of information to be provided by the
19 proposer, including the proposer's background and
20 qualifications and the proposed cost of the services to be
21 provided.

22 (b) The board shall establish a committee to review
23 requests for proposals which must include the statewide 911
24 system director, or his or her designee, and two members of
25 the board, one of whom is a county 911 coordinator and one of
26 whom represents the wireless telecommunications industry. The
27 review committee shall review the proposals received by the
28 board and recommend an independent accounting firm to the
29 board for final selection. By agreeing to serve on the review
30 committee, each member of the review committee shall verify
31 that he or she does not have any interest or employment,

1 directly or indirectly, with potential proposers which
2 conflicts in any manner or degree with his or her performance
3 on the committee.

4 (8) WIRELESS E911 FEE.--

5 (a) Each provider shall collect a monthly fee imposed
6 on each service subscriber who has a service number that has a
7 billing address within this state. The rate of the fee shall
8 be 50 cents per month per each service number, beginning
9 August 1, 1999. The fee shall apply uniformly and be imposed
10 throughout the state.

11 (b) The fee is established to ensure full recovery for
12 providers and for counties, over a reasonable period, of the
13 costs associated with developing and maintaining an E911
14 system on a technologically and competitively neutral basis.

15 (c) After July 1, 2001, the board may adjust the
16 allocation percentages provided in s. 365.173 or reduce the
17 amount of the fee, or both, if necessary to ensure full cost
18 recovery or prevent overrecovery of costs incurred in the
19 provision of E911 service, including costs incurred or
20 projected to be incurred to comply with the order. Any new
21 allocation percentages or reduced fee may not be adjusted for
22 2 years. The fee may not exceed 50 cents per month per each
23 service number.

24 (d) State and local taxes do not apply to the fee.

25 (e) A local government may not levy any additional fee
26 on wireless providers or subscribers for the provision of E911
27 service.

28 (9) MANAGEMENT OF FUNDS.--

29 (a) Each provider, as a part of its monthly billing
30 process, shall collect the fee imposed under subsection (8).
31 The provider may list the fee as a separate entry on each

1 bill, in which case the fee must be identified as a fee for
2 E911 services. A provider shall remit the fee only if the fee
3 is paid by the subscriber. If a provider receives a partial
4 payment for a monthly bill from a subscriber, the amount
5 received shall first be applied to the payment due the
6 provider for the provision of telecommunications service.

7 (b) A provider is not obligated to take any legal
8 action to enforce collection of the fees for which any
9 subscriber is billed. The provider shall provide to the board
10 each quarter a list of the names, addresses, and service
11 numbers of all subscribers who have indicated to the provider
12 their refusal to pay the fee.

13 (c) Each provider may retain 1 percent of the amount
14 of the fees collected as reimbursement for the administrative
15 costs incurred by the provider to bill, collect, and remit the
16 fee. The remainder shall be delivered to the board and
17 deposited in the fund. The board shall distribute the
18 remainder pursuant to s. 365.173.

19 (d) Each provider shall deliver revenues from the fee
20 to the board within 60 days after the end of the month in
21 which the fee was billed, together with a monthly report of
22 the number of billing addresses of wireless subscribers in
23 each county. A provider may apply to the board for a refund
24 of, or may take a credit for, any fees remitted to the board
25 which are not collected by the provider within 6 months
26 following the month in which the fees are charged off for
27 federal income tax purposes as bad debt. The board may waive
28 the requirement that the fees and number of billing addresses
29 be submitted to the board each month and authorize a provider
30 to submit the fees and number of billing addresses quarterly
31

1 if the provider demonstrates that such waiver is necessary and
2 justified.

3 (e) As used in this subsection, the term "provider"
4 includes any person or entity that resells wireless service
5 and was not assessed the fee by its resale supplier.

6 (10) PROVISION OF SERVICES.--In accordance with the
7 order, a provider is not required to provide E911 service
8 until:

9 (a) The provider receives a request in writing for
10 such service from the county 911 coordinator and the affected
11 answering point is capable of receiving and using the data
12 elements associated with the service.

13 (b) Funds are available under s. 365.173(2)(b).

14 (c) The local exchange carrier is able to support the
15 E911 system.

16 (d) The service area has been scheduled for
17 implementation of E911 service by the board pursuant to
18 subparagraph (6)(a)3. If a county's 911 coordinator requests
19 E911 service from a provider, the coordinator shall also
20 request E911 service from all other providers in the area in a
21 nondiscriminatory and fair manner.

22 (11) MISUSE OF WIRELESS 911 SYSTEM; PENALTY.--E911
23 service must be used solely for emergency communications by
24 the public. Any person who knowingly uses or attempts to use
25 such service for a purpose other than obtaining public safety
26 assistance, or who knowingly uses or attempts to use such
27 service in an effort to avoid any charge for service, commits
28 a misdemeanor of the first degree, punishable as provided in
29 s. 775.082 or s. 775.083. After being convicted of
30 unauthorized use of such service four times, a person who
31 continues to engage in such unauthorized use commits a felony

1 of the third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084. In addition, if the value of the
3 service or the service charge obtained in a manner prohibited
4 by this subsection exceeds \$100, the person committing the
5 offense commits a felony of the third degree, punishable as
6 provided in s. 775.082, s. 775.083, or s. 775.084.

7 (12) STATE LAW NOT PREEMPTED.--This section and ss.
8 365.173 and 365.174 do not alter any state law that otherwise
9 regulates providers of telecommunications service.

10 Section 2. This act shall take effect July 1, 1999.

11 *****

12 SENATE SUMMARY

13
14 Creates the "Wireless Emergency Communications Act."
15 Establishes the Wireless 911 Board to administer the
16 Wireless Emergency Telephone System Fund. Imposes a
17 monthly fee of 50 cents per month per service number to
18 fund the provision of wireless emergency 911 service.
19 Authorizes the board to adjust the allocation of proceeds
20 from the fee or to reduce the fee. Prohibits misuse of
21 wireless emergency 911 service and provides penalties.
22 (See bill for details.)
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